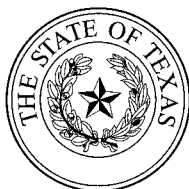


JOURNAL
OF THE
House of Representatives
OF THE
REGULAR SESSION
OF THE
Eighty-Second Legislature
OF THE
STATE OF TEXAS

BEGUN AND HELD AT
THE CITY OF AUSTIN
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VOLUME IV

VOLUME IV
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HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-THIRD DAY — MONDAY, MAY 23, 2011

The house met at 11 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 1262).

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; 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; Lucio; 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.

The invocation was offered by Dr. Ronald W. Scates, senior pastor, Highland Park Presbyterian Church, Dallas, as follows:

Almighty God, our Father and friend, you who love this world, and this nation, and the State of Texas so much that you were willing to die rather than live without us; we pray this day for what we need most as human beings and as legislators: wisdom. Your word—in the letter of James (1:5)—tells us that the only reason we don't have wisdom is because we do not ask. So we ask you now for the wisdom that you so graciously give. At a time when our state is faced with weighty economic and environmental challenges, at a time when these legislators must make difficult and crucial decisions that affect the lives of citizens along with the infrastructure and resources of cities, counties, schools, and businesses, grant wisdom that will lead to the building up of every facet of our state. Grant wisdom that leads us to knowledge of you and of your will for our lives. Don't necessarily make us rich, but make us generous. Don't make us

so much influential as good. Don't make us eloquent as much as truthful and sincere. We can't ask for everything, but we can ask for a good conscience before you, and having that, we will have the courage we need to make those tough decisions that inevitably will come our way.

As legislators working together for the common good of the people and resources of Texas, make this body kind to one another, tender-hearted, forgiving one another even as you, for Christ's sake, have forgiven us. Lord, please bless us and the great State of Texas for your glory and that we might be a blessing to others. All this we ask in Jesus' name. Amen.

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

REGULAR ORDER OF BUSINESS SUSPENDED

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

(Geren in the chair)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Harper-Brown requested permission for the Committee on Appropriations, Conference Committee on **HB 1**, to meet while the house is in session, at 10 a.m. today, in E1.030, to consider the conference committee report.

Permission to meet was granted.

HR 2191 - ADOPTED

(by Eissler)

Representative Eissler moved to suspend all necessary rules to take up and consider at this time **HR 2191**.

The motion prevailed.

The following resolution was laid before the house:

HR 2191, Honoring Dr. Kenneth Cooper for his pioneering work in physical fitness and his dedication to helping others lead healthier lives.

HR 2191 was read and was adopted.

INTRODUCTION OF GUEST

The chair recognized Representative Eissler who introduced Dr. Kenneth Cooper.

SB 738 - NOTICE GIVEN

Pursuant to the provisions of Rule 7, Section 37(c) of the House Rules, at 11:24 a.m., Representative Gutierrez announced his intention to make the motion to reconsider the vote by which **SB 738**, as amended, was passed to third reading.

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).

HR 2032 - ADOPTED
(by Kuempel, et al.)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 2032**.

The motion prevailed.

The following resolution was laid before the house:

HR 2032, In memory of renowned industrialist and philanthropist Marvin Selig.

HR 2032 was read and was unanimously adopted by a rising vote.

On motion of Representative Hilderbran, the names of all the members of the house were added to **HR 2032** as signers thereof.

HR 2117 - ADOPTED
(by J. Davis)

Representative J. Davis moved to suspend all necessary rules to take up and consider at this time **HR 2117**.

The motion prevailed.

The following resolution was laid before the house:

HR 2117, Commending Captain Eugene A. Cernan for his service as a naval pilot and astronaut.

HR 2117 was read and was adopted.

On motion of Representative Hilderbran, the names of all the members of the house were added to **HR 2117** as signers thereof.

INTRODUCTION OF GUEST

The chair recognized Representative J. Davis who introduced Captain Eugene A. Cernan.

LEAVE OF ABSENCE GRANTED

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

Brown on motion of Patrick.

HR 2142 - ADOPTED
(by Laubenberg, Madden, Paxton, and V. Taylor)

Representative Laubenberg moved to suspend all necessary rules to take up and consider at this time **HR 2142**.

The motion prevailed.

The following resolution was laid before the house:

HR 2142, Commending Ashley Donaldson, a student at Shepton High School in Plano, for reporting her discovery of an envelope containing \$2,000.

HR 2142 was read and was adopted.

On motion of Representative Paxton, the names of all the members of the house were added to **HR 2142** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Laubenberg who introduced Ashley Donaldson and members of her family.

HR 2060 - ADOPTED (by Anchia and Johnson)

Representative Anchia moved to suspend all necessary rules to take up and consider at this time **HR 2060**.

The motion prevailed.

The following resolution was laid before the house:

HR 2060, Honoring The University of Texas Southwestern Medical Center at Dallas for its contributions in research, education, and health care.

HR 2060 was read and was adopted.

On motion of Representative Johnson, the names of all the members of the house were added to **HR 2060** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Anchia who introduced representatives of The University of Texas Southwestern Medical Center.

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR CONSTITUTIONAL RULE SUSPENDED

The chair moved to suspend all necessary rules and the constitutional rule requiring bills to be read on three several days and to place the bills on today's Local, Consent, and Resolutions Calendar on third reading and final passage upon completion of second reading and passage to third reading.

The motion prevailed by (Record 1263): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; 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; Geren(C).

Absent, Excused — Brown.

Absent — Murphy; Sheets.

(Speaker pro tempore in the chair)

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR SECOND READING

The following bills were laid before the house, read second time, and passed to third reading, and the following resolutions were laid before the house on committee report and adopted (members registering votes are shown following the caption):

HCR 147 (by Button), Encouraging cities to promote long-term economic development and job growth by working together on the regional level to attract and retain business investment.

HCR 152 (by Torres, White, Quintanilla, Patrick, et al.), Designating the first full week of May as Texas Teacher Appreciation Week for a 10-year period, 2012 to 2021.

HCR 159 (by Hughes), Designating Marshall as the official Birthplace of Boogie Woogie.

HR 1978 (by Zerwas), Requesting the lieutenant governor and the speaker to create a joint interim committee to study the overall economic and systemic impact of Alzheimer's disease through 2017, including an inventory of public and private infrastructure and capacity and funds and systems to support and expand statewide planning and the activities of the Texas Alzheimer's Research Consortium.

SB 32 (Branch - House Sponsor), A bill to be entitled An Act relating to the consolidation of related higher education programs governing tuition, fee exemptions, and waivers respective to specific target populations. (Kuempel recorded voting no.)

SB 43 (Raymond - House Sponsor), A bill to be entitled An Act relating to the civil liability of an employer or former employer of a mental health services provider who engages in sexual exploitation of a patient or former patient. (Berman, Chisum, Flynn, Landtroop, Laubenberg, Perry, and Sheets recorded voting no.)

SB 54 (Eissler - House Sponsor), A bill to be entitled An Act relating to certification to teach public school students who have visual impairments.

SB 77 (Raymond - House Sponsor), A bill to be entitled An Act relating to certain requirements for certain sponsoring organizations and other institutions participating in the Child and Adult Care Food Program.

SB 86 (S. Miller - House Sponsor), A bill to be entitled An Act relating to municipal contracts for enforcement of outstanding traffic violation arrest warrants. (Berman, Cain, Flynn, Frullo, Garza, Kuempel, White, Workman, and Zedler recorded voting no.)

SB 89 (Rodriguez - House Sponsor), A bill to be entitled An Act relating to summer nutrition programs provided for by school districts. (Berman, Cain, Chisum, S. Davis, Flynn, Frullo, Keffer, Kolkhorst, Kuempel, Laubenberg, Lavender, Otto, Paxton, Perry, Phillips, Price, Schwertner, Simpson, V. Taylor, Workman, and Zedler recorded voting no.)

Amendment No. 1

Representative Rodriguez offered the following amendment to **SB 89**:

Amend **SB 89** (house committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 12.0029(j), Agriculture Code (page 4, line 5), between "legislature" and "a report", insert "by e-mail".

(2) In SECTION 1 of the bill, immediately following added Section 12.0029(j), Agriculture Code (page 4, between lines 18 and 19), insert the following:

(k) The department shall post and maintain on the department's Internet website the most recent report required by Subsection (j).

Amendment No. 1 was adopted.

Amendment No. 2

Representative Rodriguez offered the following amendment to **SB 89**:

Amend **SB 89** (house committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 12.0029(f)(1)(A), Agriculture Code (page 2, line 23), strike "department" and substitute "district".

(2) In SECTION 1 of the bill, in added Section 12.0029(f), Agriculture Code (page 2, line 18), strike "may" and substitute "shall".

(3) In SECTION 1 of the bill, in added Section 12.0029(f), Agriculture Code (page 2, line 20), strike "only".

(4) In SECTION 1 of the bill, in added Section 12.0029(f)(1)(A)(ii), Agriculture Code (page 3, line 1), strike "insurmountable".

(5) In SECTION 1 of the bill, in added Section 12.0029(f)(1)(A)(ii), Agriculture Code (page 3, lines 3 and 4), strike "despite consultation by the district with public transit providers".

(6) In SECTION 1 of the bill, in added Section 12.0029(f)(1)(A)(iii), Agriculture Code (page 3, lines 7 and 8), strike "and the unavailability of an appropriate alternate provider or site".

(7) In SECTION 1 of the bill, in added Section 12.0029(f)(2), Agriculture Code (page 3, lines 17-18), strike "the department using the criteria and methodology established under Subsection (g)" and substitute "the district".

(8) In SECTION 1 of the bill, strike added Section 12.0029(g), Agriculture Code (page 3, lines 19-23), and reletter subsequent subsections of added Section 12.0029, Agriculture Code, accordingly.

(9) In SECTION 1 of the bill, in added Section 12.0029(h), Agriculture Code (page 3, line 24), strike "one-year" and substitute "two-year".

(10) In SECTION 1 of the bill, in added Section 12.0029(i), Agriculture Code (page 3, line 27, through page 4, line 1), strike "and has been unable to provide to the department a list of possible providers for the summer nutrition program".

(11) In SECTION 1 of the bill, in added Section 12.0029(i), Agriculture Code (page 4, line 3), immediately following "nutrition program", insert "Each field office shall compile and maintain a list of possible alternate providers."

(12) In SECTION 1 of the bill, in added Section 12.0029(j)(3), Agriculture Code (page 4, lines 17 and 18), between "profit made" and "through", insert "or loss incurred".

(13) Strike SECTION 3 of the bill (page 4, lines 21-25) and renumber SECTION 4 of the bill as SECTION 3.

Amendment No. 2 was adopted.

SB 144 (Thompson, Gallego, Y. Davis, and Aliseda - House Sponsors), A bill to be entitled An Act relating to allowing a person who successfully completes a term of deferred adjudication community supervision to be eligible for a pardon. (Berman, Chisum, Craddick, Darby, Flynn, Frullo, L. Gonzales, Landtroop, Lavender, Legler, Lewis, Parker, Paxton, Perry, Price, and Shelton recorded voting no.)

Amendment No. 1

Representative Thompson offered the following amendment to **SB 144**:

Amend **SB 144** (house committee report) as follows:

(1) In SECTION 1 of the bill, in amended Article 48.01, Code of Criminal Procedure (page 1, line 8), between the period and "In", insert "(a)".

(2) In SECTION 1 of the bill, in amended Article 48.01, Code of Criminal Procedure (page 1, between lines 21 and 22), insert the following:

(b) The Board of Pardons and Paroles may recommend that the Governor grant a pardon to a person who:

(1) is placed on deferred adjudication community supervision under Section 5, Article 42.12, and subsequently receives a discharge and dismissal under Section 5(c) of that article;

(2) is not, at any time after the date of discharge and dismissal, convicted of or charged with a criminal offense, other than an offense under the Transportation Code punishable by fine only; and

(3) on or after the 10th anniversary of the date of discharge and dismissal, submits a written request to the board for a recommendation under this subsection.

Amendment No. 1 was adopted.

SB 149 was deferred until the end of today's local, consent, and resolutions calendar.

SB 150 was deferred until the end of today's local, consent, and resolutions calendar.

SB 162 (Branch - House Sponsor), A bill to be entitled An Act relating to developing a developmental education plan for students entering public institutions of higher education. (Landtroop, Lavender, and Perry recorded voting no.)

SB 167 (Veasey, Gallego, Aliseda, Rodriguez, and Y. Davis - House Sponsors), A bill to be entitled An Act relating to the automatic expunction of arrest records and files after an individual receives a pardon or a grant of certain other relief with respect to the offense for which the individual was arrested. (Craddick, Darby, Frullo, Legler, Lewis, Parker, and Shelton recorded voting no.)

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hartnett, Representative Veasey offered the following committee amendment to **SB 167**:

SECTION _____. Amend **SB 167** (engrossed) to read as follows:

Page 2, line 23 and 24, after "convicted and subsequently" strike "pardoned or otherwise subsequently granted relief" and insert "granted relief or pardoned".

Amendment No. 1 was adopted.

SB 187 (Zerwas - House Sponsor), A bill to be entitled An Act relating to human body and anatomical specimen donation.

SB 189 (Zerwas - House Sponsor), A bill to be entitled An Act relating to the eligibility of certain aliens for a license to practice medicine in this state. (S. Davis, Paxton, and Perry recorded voting no.)

SB 192 (D. Howard and Naishtat - House Sponsors), A bill to be entitled An Act relating to patient advocacy activities by nurses and certain other persons; providing an administrative penalty.

SB 193 (S. King and Naishtat - House Sponsors), A bill to be entitled An Act relating to the regulation of the practice of nursing.

CSSB 218 (Dukes - House Sponsor), A bill to be entitled An Act relating to procedures in certain suits affecting the parent-child relationship and the operation of the child protective services and foster care systems. (Chisum, S. Davis, Flynn, Landtroop, Paxton, Perry, and Phillips recorded voting no.)

CSSB 218 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE V. TAYLOR: So, Representative Dukes, we put an amendment on this bill, did we not?

REPRESENTATIVE DUKES: Yes.

V. TAYLOR: And, to establish legislative intent, can you talk about what that amendment did and why we put that in there in committee?

DUKES: Yes. The amendment is to ensure that the agency works closely with parents in developing parental plans.

V. TAYLOR: So, this amendment establishes parental rights over their children even when they are working with CPS.

DUKES: Absolutely. We want to make sure that there is not a one-sided dictation from the Department of Family and Protective Services, overly burdening families with an inability to work appropriately to reunite with their children.

V. TAYLOR: Would you agree that this amendment came out of problems with CPS giving inappropriate recommendations in their plan, without parents having input into it?

DUKES: Absolutely, as well as not giving consistent information to parents to ensure that they would know their rights, and that they would know exactly what the agency was attempting to do, and misleading some, and taking their children.

REMARKS ORDERED PRINTED

Representative V. Taylor moved to print remarks between Representative Dukes and Representative V. Taylor.

The motion prevailed.

Amendment No. 1

Representative Dukes offered the following amendment to **CSSB 218**:

Amend **CSSB 218** (house committee printing) as follows:

(1) In SECTION 2 of the bill, strike amended Section 262.010(a)(2), Family Code (page 2, lines 12 through 16), and substitute the following:

(2) file an original suit requesting an emergency order under this chapter for possession of the child unless the department determines, after taking the following actions, that emergency removal is not necessary for the protection of the child:

Amendment No. 1 was adopted.

CSSB 220 (Naishtat - House Sponsor), A bill to be entitled An Act relating to guardianships, including the assessment of prospective wards for, and the provision of, guardianship services by the Department of Aging and Disability Services.

SB 226 (T. Smith - House Sponsor), A bill to be entitled An Act relating to reporting individual student performance on a physical fitness assessment instrument to the Texas Education Agency. (R. Anderson, Berman, Cain, Chisum, Flynn, Kuempel, Landtroop, Laubenberg, Paxton, Sheets, Simpson, V. Taylor, Weber, White, and Zedler recorded voting no.)

CSSB 229 (S. King and Naishtat - House Sponsors), A bill to be entitled An Act relating to newborn hearing screenings and hearing services for certain children.

SB 266 (Harless - House Sponsor), A bill to be entitled An Act relating to notice required in connection with possessory liens on motor vehicles.

SB 290 (Hernandez Luna - House Sponsor), A bill to be entitled An Act relating to including a personal financial literacy component in public school mathematics instruction. (Cain and White recorded voting no.)

SB 422 (Frullo - House Sponsor), A bill to be entitled An Act relating to the authority of a municipality or county to contract with another entity to collect certain assessments levied by the municipality or county. (Kolkhorst recorded voting no.)

CSSB 438 (Geren - House Sponsor), A bill to be entitled An Act relating to the number of days a winery may sell wine under a winery festival permit. (Berman and Flynn recorded voting no.)

SB 461 (Huberty - House Sponsor), A bill to be entitled An Act relating to the design and issuance of license plates for United States paratroopers.

SB 462 was withdrawn.

CSSB 469 (Patrick - House Sponsor), A bill to be entitled An Act relating to the collection of unpaid tolls by a regional tollway authority. (Cain, Kolkhorst, and White recorded voting no.)

SB 471 (Parker - House Sponsor), A bill to be entitled An Act relating to public school, child-placing agency, and day-care center policies addressing sexual abuse and other maltreatment of children.

SB 480 (Gallego - House Sponsor), A bill to be entitled An Act relating to certain appeals from judgments of municipal courts of record. (Garza, Frullo, Shelton, and Zedler recorded voting no.)

Amendment No. 1 (Committee Amendment No. 1)

Representative Gallego offered the following committee amendment to **SB 480**:

Amend **SB 480** by adding appropriately numbered sections to read as follows:

SECTION ____ . Chapter 29, Government Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. RECUSAL OR DISQUALIFICATION OF MUNICIPAL JUDGES

Sec. 29.051. DEFINITIONS. In this chapter:

(1) "Active judge" means a person who holds office as a district court judge or statutory county court judge.

(2) "Presiding judge" means the presiding judge of a municipal court, including a municipal court of record.

(3) "Regional presiding judge" means the presiding judge of the administrative judicial region appointed under Section 74.005.

Sec. 29.052. MOTION FOR RECUSAL OR DISQUALIFICATION. (a) A party in a hearing or trial in a municipal court, including a municipal court of record, may file with the clerk of the court a motion stating grounds for the recusal or disqualification of the municipal judge. The grounds may include any disability of the judge to preside over the case.

(b) A motion for the recusal or disqualification of a municipal judge must:

(1) be filed at least 10 days before the date of the hearing or trial, except as provided by Subsection (c);

(2) be verified; and

(3) state with particularity the alleged grounds for recusal or disqualification of the judge based on:

(A) personal knowledge that is supported by admissible evidence;

or

(B) specifically stated grounds for belief of the allegations.

(c) A motion for recusal or disqualification must be filed at the earliest practicable time before the beginning of the trial or other hearing if a judge is assigned to a case 10 or fewer days before the date set for a trial or hearing.

Sec. 29.053. NOTICE. A party filing a motion for recusal or disqualification under this subchapter shall serve on all other parties or their counsel:

(1) copies of the motion; and

(2) notice that the movant expects the motion to be presented to the judge three days after the filing of the motion unless the judge orders otherwise.

Sec. 29.054. STATEMENT OPPOSING OR CONCURRING WITH MOTION. A party may file with the clerk of the court a statement opposing or concurring with a motion for recusal or disqualification at any time before the motion is heard.

Sec. 29.055. PROCEDURE FOLLOWING FILING OF MOTION; RECUSAL OR DISQUALIFICATION WITHOUT MOTION. (a) Before further proceedings in a case in which a motion for the recusal or disqualification of a municipal judge has been filed, the judge shall:

(1) recuse or disqualify himself or herself; or

(2) request the regional presiding judge to assign a judge to hear the motion.

(b) A municipal judge who with or without a motion recuses or disqualifies himself or herself:

(1) shall enter an order of recusal or disqualification and:

(A) if the municipal judge is not the presiding judge, request the presiding judge to assign any other judge of the municipal court, including the presiding judge, to hear the case;

(B) if the municipal judge is the presiding judge, request the regional presiding judge to assign another judge of the municipal court to hear the case; or

(C) if the municipal judge serves in a municipality with only one municipal judge, request the regional presiding judge to assign a judge of another municipal court in the county to hear the case; and

(2) may not take other action in the case, except that a judge who recuses himself or herself for good cause may take other action as stated in the order in which the action is taken.

(c) A municipal judge who does not recuse or disqualify himself or herself:

(1) shall forward, in original form or certified copy, an order of referral, the motion, and all opposing and concurring statements to the regional presiding judge; and

(2) may not take other action in the case during the time after the filing of the motion for recusal or disqualification and before a hearing on the motion, except for good cause stated in the order in which the action is taken.

Sec. 29.056. HEARING ON MOTION. (a) A regional presiding judge who receives a request for the assignment of a judge to hear a motion to recuse or disqualify shall:

(1) immediately set a hearing before the regional presiding judge, an active judge, or a judge on the list of judges who are eligible to serve on assignment under Section 74.055;

(2) cause notice of the hearing to be given to all parties or their counsel;
and

(3) make any other orders, including orders on interim or ancillary relief in the pending cause as justice may require.

(b) A judge who hears a motion for recusal or disqualification under Subsection (a) may also hear any amended or supplemented motion for recusal or disqualification filed in the case.

(c) If none of the parties to an action object, a hearing under Subsection (a) or (b) may be conducted by telephone.

Sec. 29.057. PROCEDURE FOLLOWING GRANTING OF MOTION. (a) If a motion for recusal or disqualification is granted after a hearing is conducted as provided by Section 29.056, the judge who heard the motion shall enter an order of recusal or disqualification, and:

(1) if the judge who was the subject of the motion is not the presiding judge, request that the presiding judge assign any other judge of the municipality, including the presiding judge, to hear the case;

(2) if the judge who was the subject of the motion is the presiding judge, request the regional presiding judge to assign another judge of the municipality to hear the case; or

(3) if the judge subject to recusal or disqualification is located in a municipality with only one municipal judge, request the regional presiding judge to assign a judge of another municipal court in the county to hear the case.

(b) If the presiding judge is unable to assign a judge of the municipality to hear a case when a municipal judge is recused or disqualified under Section 29.055 or 29.056 because there are not any other municipal judges in the municipality or because all the municipal judges have been recused or disqualified or are otherwise unavailable to hear the case, the presiding judge shall request the regional presiding judge to first assign a municipal judge from another municipality in the county or, if necessary, assign a municipal judge from a municipality in an adjacent county to hear the case.

(c) If the regional presiding judge is unable to assign a judge to hear a case when a municipal judge is recused or disqualified under Section 29.055 or 29.056 because there are not any other municipal judges in the county or because all the municipal judges have been recused or disqualified or are otherwise unavailable to hear the case, the regional presiding judge may assign a municipal judge from a municipality in an adjacent county to hear the case.

Sec. 29.058. APPEAL. (a) After a municipal court of record has rendered a final judgment in a case, a party may appeal an order that denies a motion for recusal or disqualification as an abuse of the court's discretion.

(b) A party may not appeal an order that grants a motion for recusal or disqualification.

Sec. 29.059. CONTEMPT. If a party files a motion to recuse or disqualify under this subchapter and it is determined by the judge hearing the motion, at the hearing and on motion of the opposing party, that the motion to recuse or disqualify is brought solely for the purpose of delay and without sufficient cause, the judge may in the interest of justice find the party filing the motion in contempt under Section 21.002(c).

Sec. 29.060. COMPENSATION. (a) An active judge who is assigned to hear a motion to recuse or disqualify a municipal judge under this subchapter is not entitled to additional compensation other than travel expenses. A judge assigned to hear a motion to recuse or disqualify who is not an active judge is entitled to:

(1) compensation of \$450 per day of service, prorated for any day for which the judge provides less than a full day of service; and

(2) travel expenses.

(b) A municipal judge assigned under this subchapter to hear a case in a court other than the one in which the judge resides or serves is entitled to compensation provided by law for judges in similar cases and travel expenses.

(c) The municipality in which a case subject to this subchapter is pending shall pay the compensation and travel expenses due or incurred under this subchapter.

SECTION _____. Subchapter A, Chapter 29, Government Code, is amended by adding Section 29.013 to read as follows:

Sec. 29.013. REPORT TO TEXAS JUDICIAL COUNCIL. (a) The secretary of the municipality in a municipality with a municipal court, including a municipal court of record, or the employee responsible for maintaining the records of the municipality's governing body shall notify the Texas Judicial Council of the name of:

(1) each person who is elected or appointed as mayor, municipal court judge, or clerk of a municipal court; and

(2) each person who vacates an office described by Subdivision (1).

(b) The secretary or employee shall notify the judicial council not later than the 30th day after the date of the person's election or appointment to office or vacancy from office.

SECTION _____. The following sections are repealed:

(1) Section 29.012, Government Code; and

(2) Section 22.073(c), Local Government Code.

SECTION _____. Subchapter A-1, Chapter 29, Government Code, as added by this Act, applies only to a hearing or trial initially filed in a municipal court on or after the effective date of this Act.

Amendment No. 1 was adopted.

SB 481 (Jackson - House Sponsor), A bill to be entitled An Act relating to the removal of a guardian of an incapacitated person ordered by a court. (Paxton and V. Taylor recorded voting no.)

SB 482 (Jackson - House Sponsor), A bill to be entitled An Act relating to authorization agreements between parents and nonparent relatives of a child.

SB 496 (Hilderbran, Gallego, Fletcher, and Rodriguez - House Sponsors), A bill to be entitled An Act relating to the punishment for the offense of evading arrest or detention.

SB 519 (Hartnett, Gallego, Christian, Y. Davis, Zedler, et al. - House Sponsors), A bill to be entitled An Act relating to the period during which a motion for a new trial in a criminal proceeding in a justice or municipal court must be made.

SB 530 (S. Miller - House Sponsor), A bill to be entitled An Act relating to granting limited state law enforcement authority to special agents of the Office of Inspector General of the United States Social Security Administration and to updating certain references related to the grant of that authority to other federal law enforcement personnel. (Simpson recorded voting no.)

SB 548 (Darby and Schwertner - House Sponsors), A bill to be entitled An Act relating to the environmental review process for transportation projects. (Kolkhorst recorded voting no.)

Amendment No. 1

Representative Darby offered the following amendment to **SB 548**:

Amend **SB 548** (house committee printing) as follows:

(1) In SECTION 2 of the bill, following added Section 201.752(d), Transportation Code (page 4, between lines 7 and 8), insert:

(e) For highway projects described in Section 201.753(a), the standards may provide a process and criteria for the prioritization of environmental review documents in the event the department makes a finding that it lacks adequate resources to timely process all documents it receives. Standards established pursuant to this subsection must provide for notification to a local government sponsor if processing of an environmental review document is to be delayed due to prioritization, and must ensure that the environmental review document for each highway project will be completed no later than one year prior to the date planned for publishing notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a commission order under Section 201.753(a)(2).

(2) In SECTION 2(c) of the bill (page 10, line 20), strike "the effective date of this Act" and substitute "September 1, 2011".

(3) In SECTION 2(c) of the bill (page 10, line 22), strike "the effective date of this Act" and substitute "September 1, 2011,".

(4) In SECTION 5 of the bill (page 12, lines 18-19), strike "the effective date of this Act" and substitute "September 1, 2011".

(5) Strike SECTION 6 of the bill (page 12, line 24) and substitute:

SECTION 6. (a) Section 222.005, Transportation Code, as added by this Act, takes effect immediately if this Act 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, Section 222.005 takes effect September 1, 2011.

(b) Except as provided by Subsection (a) of this section, this Act takes effect September 1, 2011.

Amendment No. 1 was adopted.

SB 563 (Torres - House Sponsor), A bill to be entitled An Act relating to information regarding job matching services provided by the Texas Workforce Commission; providing a criminal penalty.

Amendment No. 1

Representative Torres offered the following amendment to **SB 563**:

Amend **SB 563** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 301, Labor Code, is amended by adding Section 301.068 to read as follows:

Sec. 301.068. EFFICIENCY PILOT PROGRAM. (a) The commission shall establish a pilot program to:

(1) improve the efficiency and quality of commission operations while reducing costs; and

(2) adopt a structured approach for identifying the wasteful use of state resources and improving commission processes.

(b) In implementing the pilot program, the commission shall use:

(1) a methodology that includes a define, measure, analyze, improve, and control structure for reviewing project management;

(2) a continuous improvement technique that:

(A) identifies value and a value stream;

(B) creates a flow for activities;

(C) allows consumers to pull products or services through the process; and

(D) allows for the process to be perfected over time; and

(3) a measurement system analysis to evaluate data.

(c) The commission shall conduct an internal performance audit to assess the effectiveness of the pilot program implemented under this section.

(d) Not later than August 1, 2012, the commission shall submit a written report of the results of the performance audit to the:

(1) governor;

(2) lieutenant governor;

(3) speaker of the house of representatives;
(4) Senate Committee on Government Organization;
(5) House Government Efficiency and Reform Committee; and
(6) house and senate committees with primary jurisdiction over state affairs.

(e) The commission shall implement the pilot program from available funds that may be used for that purpose.

(f) A state agency, other than the commission, may implement the pilot program established under this section with respect to the agency. An agency that implements the pilot program shall:

(1) conduct the performance audit and submit the written report in the time and manner described by Subsections (c) and (d); and

(2) use available resources to fund the pilot program.

(g) A report required by this section may be submitted electronically.

(h) This section expires September 1, 2013.

Amendment No. 1 was adopted.

SB 578 (Hartnett, Gallego, Christian, Rodriguez, Carter, et al. - House Sponsors), A bill to be entitled An Act relating to the testimony of children in criminal cases.

SB 609 (Gonzalez - House Sponsor), A bill to be entitled An Act relating to the exemption of certain property from municipal drainage service charges and from related ordinances, resolutions, and rules. (Simpson recorded voting no.)

SB 626 (Thompson - House Sponsor), A bill to be entitled An Act relating to lottery winnings, including assignment of winnings, periodic payments of winnings, and the deduction of child support delinquency amounts from winnings paid to a prize winner.

SB 627 (Veasey - House Sponsor), A bill to be entitled An Act relating to the participation by certain taxing units in tax increment financing and the payment of tax increments into the tax increment fund for a reinvestment zone. (Berman, Cain, Carter, Craddick, Darby, Flynn, Frullo, Laubenberg, Legler, Lewis, Parker, Price, Schwertner, Shelton, White, and Workman recorded voting no.)

SB 682 (Elkins - House Sponsor), A bill to be entitled An Act relating to access to criminal history record information that relates to a person who is an applicant for appointment to an appraisal review board.

CSSB 701 (Strama, Peña, and Button - House Sponsors), A bill to be entitled An Act relating to high-value data sets of state agencies posted on the Internet.

SB 735 (Smithee - House Sponsor), A bill to be entitled An Act relating to prohibition of certain extra hazardous coverages by title insurance companies.

SB 743 (Kleinschmidt - House Sponsor), A bill to be entitled An Act relating to the designation of a segment of State Highway 71 as the 95th Division Memorial Highway.

CSSB 760 (Turner - House Sponsor), A bill to be entitled An Act relating to the term of interlocal contracts.

SB 767 (Alvarado - House Sponsor), A bill to be entitled An Act relating to the regulation of certain residential mortgage foreclosure consulting services; providing a criminal penalty.

Amendment No. 1

Representative Alvarado offered the following amendment to **SB 767**:

Amend **SB 767** (house committee printing) in SECTION 1 of the bill, by striking added Section 21.152, Business & Commerce Code (page 8, lines 8-10).

Amendment No. 1 was adopted.

SB 789 (Thompson - House Sponsor), A bill to be entitled An Act relating to the duration of a protective order against family violence.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Jackson, Representative Thompson offered the following committee amendment to **SB 789**:

Amend **SB 789** (senate engrossment) in SECTION 2 of the bill, in amended Section 85.025(b), Family Code (page 2, line 15), between "order." and "After", by inserting the following:

A person who is the subject of a protective order under Subsection (a-1) that is effective for a period that exceeds two years may file a subsequent motion requesting that the court review the protective order and determine whether there is a continuing need for the order not earlier than the first anniversary of the date on which the court rendered an order on a previous motion by the person under this subsection.

Amendment No. 1 was adopted.

SB 791 (Jackson - House Sponsor), A bill to be entitled An Act relating to electronic notification of certain state officials and agencies of certain rules and rulemaking filings.

SB 792 (Branch - House Sponsor), A bill to be entitled An Act relating to the duties of the secretary of state.

SB 796 (S. King - House Sponsor), A bill to be entitled An Act relating to reporting on and assessing programs for the prevention and treatment of diabetes in the state.

SB 799 (Geren - House Sponsor), A bill to be entitled An Act relating to the definition of "first sale" for purposes of the taxes imposed on certain liquor. (Berman and Flynn recorded voting no.)

SB 802 (Hunter - House Sponsor), A bill to be entitled An Act relating to allowing the Aransas County Commissioners Court to charge interest on assessments for certain county road improvements. (Berman, Cain, Flynn, Sheets, and White recorded voting no.)

Amendment No. 1

On behalf of Representative Hunter, Representative Scott offered the following amendment to **SB 802**:

Amend **SB 802** in SECTION 2 of the bill by striking added Section 253.008(d), Transportation Code (page 1, lines 16-17, house committee printing), and substituting the following:

(d) Beginning on the second anniversary of the date of an assessment, the Commissioners Court of Aransas County by order may require the payment of interest on the assessment at the rate determined under Section 304.003, Finance Code.

Amendment No. 1 was adopted.

CSSB 804 (Hunter - House Sponsor), A bill to be entitled An Act relating to the use of revenue from the hotel occupancy tax by certain counties. (C. Anderson, Bohac, Cain, Madden, Sheffield, and White recorded voting no.)

SB 811 (Hardcastle - House Sponsor), A bill to be entitled An Act relating to the regulation of the practice of veterinary medicine.

CSSB 812 (Raymond - House Sponsor), A bill to be entitled An Act relating to the resumption of employment by certain retirees within the Texas Municipal Retirement System. (Burkett, Cain, Price, Schwertner, and White recorded voting no.)

SB 819 (Thompson - House Sponsor), A bill to be entitled An Act relating to family violence and protective orders.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Jackson, Representative Thompson offered the following committee amendment to **SB 819**:

Amend **SB 819** in SECTION 1 of the bill, in added Section 81.010, Family Code (senate engrossment, page 1, between lines 13 and 14), by inserting the following:

(c) A motion for enforcement of a protective order rendered under this title may be filed in:

(1) any court in the county in which the order was rendered with jurisdiction of proceedings arising under this title;

(2) a county in which the movant or respondent resides; or

(3) a county in which an alleged violation of the order occurs.

Amendment No. 1 was adopted.

SB 851 (Branch - House Sponsor), A bill to be entitled An Act relating to a uniform deadline for student financial assistance for public institutions of higher education other than public junior colleges.

SB 855 (Hilderbran - House Sponsor), A bill to be entitled An Act relating to assistance provided by the Office of Public Utility Counsel to interested parties on certain electricity matters involving certificates of convenience and necessity.

SB 867 (Jackson - House Sponsor), A bill to be entitled An Act relating to testing accommodations for a person with dyslexia taking a licensing examination administered by a state agency.

SB 886 (Darby - House Sponsor), A bill to be entitled An Act relating to the execution docket and other records of certain court clerks.

SB 899 (Schwertner - House Sponsor), A bill to be entitled An Act relating to the legislature's consent or approval of a settlement of a claim or action against this state. (Flynn recorded voting no.)

CSSB 917 (D. Miller - House Sponsor), A bill to be entitled An Act relating to emergency service districts. (P. King and Kolkhorst recorded voting no.)

SB 957 (C. Anderson - House Sponsor), A bill to be entitled An Act relating to the clarification of terminology relating to the Waco Center for Youth.

SB 959 (Pickett - House Sponsor), A bill to be entitled An Act relating to toll collection and enforcement. (Craddick, Darby, Frullo, Lewis, Price, Shelton, and Workman recorded voting no.)

SB 966 (Pickett - House Sponsor), A bill to be entitled An Act relating to high school diplomas for certain military veterans. (Cain and Garza recorded voting no.)

SB 987 (Kleinschmidt - House Sponsor), A bill to be entitled An Act relating to the term of office and qualifications for a director of the Colorado County Groundwater Conservation District.

SB 993 (Rodriguez - House Sponsor), A bill to be entitled An Act relating to certain arrangements to provide care for a child during an investigation of abuse or neglect.

Amendment No. 1

Representative Thompson offered the following amendment to **SB 993**:

Amend **SB 993** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 262, Family Code, is amended by adding Section 262.1095 to read as follows:

Sec. 262.1095. INFORMATION PROVIDED TO RELATIVES AND CERTAIN INDIVIDUALS; INVESTIGATION. (a) When the Department of Family and Protective Services or another agency takes possession of a child under this chapter, the department:

(1) shall provide information as prescribed by this section to each adult the department is able to identify and locate who:

(A) is related to the child within the third degree by consanguinity as determined under Chapter 573, Government Code, or is an adult relative of the alleged father of the child who the department determines is most likely to be the child's biological father; and

(B) is identified as a potential relative or designated caregiver, as defined by Section 264.751, on the proposed child placement resources form provided under Section 261.307; and

(2) may provide information as prescribed by this section to each adult the department is able to identify and locate who has a long-standing and significant relationship with the child.

(b) The information provided under Subsection (a) must:

(1) state that the child has been removed from the child's home and is in the temporary managing conservatorship of the department;

(2) explain the options available to the individual to participate in the care and placement of the child and the support of the child's family;

(3) state that some options available to the individual may be lost if the individual fails to respond in a timely manner; and

(4) include, if applicable, the date, time, and location of the hearing under Subchapter C, Chapter 263.

(c) The department is not required to provide information to an individual if the individual has received service of citation under Section 102.009 or if the department determines providing information is inappropriate because the individual has a criminal history or a history of family violence.

(d) The department shall use due diligence to identify and locate all individuals described by Subsection (a) not later than the 30th day after the date the department files a suit affecting the parent-child relationship. In order to identify and locate the individuals described by Subsection (a), the department shall seek information from:

(1) each parent, relative, and alleged father of the child; and

(2) the child in an age-appropriate manner.

(e) The failure of a parent or alleged father of the child to complete the proposed child placement resources form does not relieve the department of its duty to seek information about the person under Subsection (d).

SECTION ____. Subchapter A, Chapter 263, Family Code, is amended by adding Section 263.007 to read as follows:

Sec. 263.007. REPORT REGARDING NOTIFICATION OF RELATIVES. Not later than the 10th day before the date set for a hearing under Subchapter C, the department shall file with the court a report regarding:

(1) the efforts the department made to identify, locate, and provide information to the individuals described by Section 262.1095;

(2) the name of each individual the department identified, located, or provided with information; and

(3) if applicable, an explanation of why the department was unable to identify, locate, or provide information to an individual described by Section 262.1095.

SECTION ____. The heading to Section 263.105, Family Code, is amended to read as follows:

Sec. 263.105. REVIEW OF SERVICE PLAN; MODIFICATION.

SECTION ____. Section 263.105, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The court may modify an original or amended service plan at any time.

SECTION _____. Section 263.201(b), Family Code, is amended to read as follows:

(b) A status hearing is not required if the court holds an initial permanency hearing under Section 262.2015 and makes findings required by Section 263.202 before the date a status hearing is required by this section.

SECTION _____. Section 263.202, Family Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1), (f), (g), and (h) to read as follows:

(a) If all persons [parties] entitled to citation and notice of a status hearing under this chapter were not served, the court shall make findings as to whether:

(1) the department or other agency has exercised due diligence to locate all necessary persons, including an alleged father of the child, regardless of whether the alleged father is registered with the registry of paternity under Section 160.402; and

(2) the child and each [custodial] parent, alleged father, or relative of the child before the court have [has] furnished to the department all available information necessary to locate an [another] absent parent, alleged father, or relative of the child through exercise of due diligence.

(b) Except as otherwise provided by this subchapter [Subsection (e)], a status hearing shall be limited to matters related to the contents and execution of the service plan filed with the court. The court shall review the service plan that the department or other agency filed under this chapter for reasonableness, accuracy, and compliance with requirements of court orders and make findings as to whether:

(1) a plan that has the goal of returning the child to the child's parents adequately ensures that reasonable efforts are made to enable the child's parents to provide a safe environment for the child; [and]

(2) the child's parents have reviewed and understand the [service] plan and have been advised that unless the parents are willing and able to provide the child with a safe environment, even with the assistance of a service plan, within the reasonable period of time specified in the plan, the parents' parental and custodial duties and rights may be subject to restriction or to termination under this code or the child may not be returned to the parents;

(3) the plan is reasonably tailored to address any specific issues identified by the department or other agency; and

(4) the child's parents and the representative of the department or other agency have signed the plan.

(b-1) After reviewing the service plan and making any necessary modifications, the court shall incorporate the service plan into the orders of the court and may render additional appropriate orders to implement or require compliance with the plan.

(f) The court shall review the report filed by the department under Section 263.007 and inquire into the sufficiency of the department's efforts to identify, locate, and provide information to each adult described by Section 262.1095(a).

The court shall order the department to make further efforts to identify, locate, and provide information to each adult described by Section 262.1095(a) if the court determines that the department's efforts have not been sufficient.

(g) The court shall give the child's parents an opportunity to comment on the service plan.

(h) If a proposed child placement resources form as described by Section 261.307 has not been submitted, the court shall require each parent, alleged father, or other person to whom the department is required to provide a form to submit a completed form.

SECTION _____. Subchapter C, Chapter 263, Family Code, is amended by adding Section 263.203 to read as follows:

Sec. 263.203. APPOINTMENT OF ATTORNEY AD LITEM; ADMONISHMENTS. (a) The court shall advise the parties of the provisions regarding the mandatory appointment of an attorney ad litem under Subchapter A, Chapter 107, and shall appoint an attorney ad litem to represent the interests of any person eligible if the appointment is required by that subchapter.

(b) The court shall advise the parties that progress under the service plan will be reviewed at all subsequent hearings, including a review of whether the parties have acquired or learned any specific skills or knowledge stated in the plan.

SECTION _____. Sections 263.202(c) and (d), Family Code, are repealed.

SECTION _____. The changes in law made by this Act to Chapters 262 and 263, Family Code, apply only to a child taken into possession by the Department of Family and Protective Services or another agency on or after the effective date of this Act. A child taken into possession before that date is governed by the law in effect on the date the child is taken into possession, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted.

SB 1002 (Menendez - House Sponsor), A bill to be entitled An Act relating to the designation of program costs for providing bill payment assistance to certain military veterans as a necessary operating expense that is a first lien against revenue of certain electric and gas utilities' revenue securing certain public securities or obligations.

SB 1003 was deferred until the end of today's local, consent, and resolutions calendar.

CSSB 1026 (Naishtat - House Sponsor), A bill to be entitled An Act relating to the powers and duties of an attorney ad litem appointed for a parent or an alleged father in certain suits affecting the parent-child relationship.

SB 1043 (Martinez - House Sponsor), A bill to be entitled An Act relating to the criminal penalty for the discarding of certain burning materials. (Berman, Craddick, Darby, Flynn, Frullo, Legler, Lewis, Nash, Price, and Shelton recorded voting no.)

SB 1044 (Ritter - House Sponsor), A bill to be entitled An Act relating to authorizing counties to finance the acquisition of conservation easements. (Cain, Garza, Kolkhorst, Simpson, White, and Zedler recorded voting no.)

SB 1046 (Peña - House Sponsor), A bill to be entitled An Act relating to information regarding deceased registered voters.

CSSB 1068 (Guillen - House Sponsor), A bill to be entitled An Act relating to the lease of certain state parking facilities to other persons. (Kolkhorst recorded voting no.)

SB 1069 (J. Davis - House Sponsor), A bill to be entitled An Act relating to the Texas emerging technology fund reporting requirement.

Representative J. Davis moved to postpone consideration of **SB 1069** until 8 a.m. Wednesday, June 1.

The motion prevailed.

CSSB 1094 (Strama - House Sponsor), A bill to be entitled An Act relating to the availability of online testing for high school equivalency examinations. (Flynn, Landtroop, Laubenberg, Lavender, Paxton, and Perry recorded voting no.)

SB 1098 was withdrawn and, pursuant to Rule 6, Section 24 of the House Rules, was returned to the Committee on Calendars.

SB 1103 (Carter, Y. Davis, Zedler, Rodriguez, Christian, et al. - House Sponsors), A bill to be entitled An Act relating to the venue for prosecution of certain theft offenses.

SB 1114 (T. Smith - House Sponsor), A bill to be entitled An Act relating to the regulation of driver training schools and instructors.

Amendment No. 1

Representative T. Smith offered the following amendment to **SB 1114**:

Amend **SB 1114** (house committee printing) as follows:

(1) In SECTION 3 of the bill, in amended Section 1001.055(a), Education Code (page 2, lines 2-3), between "enable the school" and "to print", insert "and each approved parent-taught course provider (approved by the Texas Department of Public Safety under Section 521.205 of the Transportation Code)".

(2) In SECTION 3 of the bill, in added Section 1001.055(a-1), Education Code (page 2, line 9), between "school" and "must", insert "or Department of Public Safety approved course provider".

(3) In SECTION 3 of the bill, in added Section 1001.055(a-1)(2), Education Code (page 2, line 13), between "driver education school" and the underlined period, insert "or Department of Public Safety approved course provider".

(4) In SECTION 3 of the bill, in added Section 1001.055(a-2), Education Code (page 2, line 14), between "driver education school" and "that purchases", insert "or Department of Public Safety approved course provider".

(5) In SECTION 3 of the bill, in added Section 1001.055(a-2), Education Code (page 2, line 19), between "school" and "shall electronically", insert "or Department of Public Safety approved course provider".

(6) In SECTION 4 of the bill, in added Section 1001.2511(b), Education Code (page 3, lines 15-17), strike "and who has not previously submitted fingerprints to the Department of Public Safety or been subject to a national criminal history record information review".

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

SECTION _____. Section 1001.253, Education Code, is amended by amending Subsection (d) and adding Subsection (g) to read as follows:

(d) Except as provided by Subsection (g) or Section 1001.254, a driver education instructor license authorizing a person to teach or provide classroom training may not be issued unless the person:

(1) has completed nine semester hours of driver and traffic safety education or a program of study in driver education approved by the commissioner from an approved driver education school; and

(2) holds a teaching certificate and any additional certification required to teach driver education.

(g) A driver education instructor license authorizing a person to teach or provide classroom training may be issued to a person who satisfies the requirements of Subsection (d)(1) but does not satisfy the requirements of Subsection (d)(2), except that such a license may authorize the license holder to teach or provide classroom training only for a driver education school that is located in a county that has a population of at least 275,000 but not more than 285,000 and is operated by a private primary or secondary school or open-enrollment charter school. This section does not affect any law or school policy that requires a review of criminal history record information.

Amendment No. 1 was adopted.

SB 1159 (Jackson - House Sponsor), A bill to be entitled An Act relating to an exception to the residency requirements for filing a suit for dissolution of a marriage in this state for certain spouses of military personnel.

CSSB 1169 (Hamilton - House Sponsor), A bill to be entitled An Act relating to the regulation of providers, administrators, and sellers of service contracts and identity recovery service contracts; providing penalties.

SB 1176 (J. Davis - House Sponsor), A bill to be entitled An Act relating to the definition of a postsecondary program in regard to non-baccalaureate career schools and colleges.

SB 1179 (Harper-Brown - House Sponsor), A bill to be entitled An Act relating to the elimination of certain required reports prepared by state agencies and institutions of higher education and other obsolete provisions of law. (Kolkhorst and Morrison recorded voting no.)

Amendment No. 1

Representative Harper-Brown offered the following amendment to **SB 1179**:

Amend **SB 1179** (house committee report) as follows:

(1) Strike Section 20 of the bill, amending Section 122.0095(a), Human Resources Code (page 13, lines 3-13).

(2) In Section 26 of the bill, strike Subdivision (124) of that section repealing Sections 122.0095(b)-(e), Human Resources Code (page 23, lines 12 and 13).

(3) Renumber the SECTIONS of the bill and the subdivisions within those sections accordingly.

Amendment No. 1 was adopted.

CSSB 1185 (Gooden - House Sponsor), A bill to be entitled An Act relating to the authority of certain counties to impose a hotel occupancy tax for the operation and maintenance of a fairground in the county. (C. Anderson, Berman, Bohac, Burkett, Cain, Carter, Flynn, P. King, Lavender, Madden, Sheffield, Weber, and White recorded voting no.)

SB 1196 (Hartnett - House Sponsor), A bill to be entitled An Act relating to guardianships and alternatives to guardianship for persons who have physical disabilities or who are incapacitated.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Madden, Representative Hartnett offered the following committee amendment to **SB 1196**:

Amend **SB 1196** (senate engrossed version) as follows:

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

SECTION _____. Subpart E, Part 2, Chapter XIII, Texas Probate Code, is amended by adding Section 652 to read as follows:

Sec. 652. LOCATION OF HEARING. (a) Except as provided by Subsection (b) of this section, the judge may hold a hearing on a guardianship matter involving an adult ward or adult proposed ward at any suitable location in the county in which the guardianship matter is pending. The hearing should be held in a physical setting that is not likely to have a harmful effect on the ward or proposed ward.

(b) On the request of the adult proposed ward, the adult ward, or the attorney of the proposed ward or ward, the hearing may not be held under the authority of this section at a place other than the courthouse.

(2) Immediately following SECTION 42(b) of the bill (page 32, between lines 5 and 6), insert the following appropriately lettered subsection and reletter subsequent subsections of SECTION 42 accordingly:

(____) Section 652, Texas Probate Code, as added by this Act, applies to a guardianship matter that is pending or commenced on or after the effective date of this Act.

Amendment No. 1 was adopted.

SB 1198 (Hartnett - House Sponsor), A bill to be entitled An Act relating to decedents' estates.

Amendment No. 1 (Committee Amendment No. 1)

Representative Hartnett offered the following committee amendment to **SB 1198**:

Amend **SB 1198** (senate engrossed version) as follows:

(1) Add the following appropriately numbered SECTION to Article 1 of the bill and renumber subsequent SECTIONS of Article 1 as appropriate:

SECTION 1. _____. Section 83(a), Texas Probate Code, is amended to read as follows:

(a) Where Original Application Has Not Been Heard. If, after an application for the probate of a will or for the appointment of a general personal representative has been filed, and before such application has been heard, an application for the probate of a will of the decedent, not theretofore presented for probate, is filed, the court shall hear both applications together and determine what instrument, if any, should be admitted to probate, or whether the decedent died intestate. The court may not sever or bifurcate the proceeding on the applications.

(2) In SECTION 1.24 of the bill, strike Subdivisions (5) and (6) in amended Section 149C(a), Texas Probate Code (page 42, line 24, through page 43, line 3), and substitute the following:

(5) the independent executor is proved to have been guilty of gross misconduct or gross mismanagement in the performance of the independent executor's duties; ~~or~~

(6) the independent executor becomes an incapacitated person, or is sentenced to the penitentiary, or from any other cause becomes legally incapacitated from properly performing the independent executor's fiduciary duties; or

(7) the independent executor becomes incapable of properly performing the independent executor's fiduciary duties due to a material conflict of interest.

(3) In SECTION 1.42 of the bill, between Subsections (d) and (e) of that section (page 61, between lines 4 and 5), insert the following:

(d-1) The changes in law made by this article to Section 83(a), Texas Probate Code, apply only to an application for the probate of a will or administration of the estate of a decedent that is pending or filed on or after the effective date of this Act.

(4) Add the following appropriately numbered SECTION to Article 2 of the bill and renumber subsequent SECTIONS of Article 2 as appropriate:

SECTION 2. _____. Section 256.101, Estates Code, as effective January 1, 2014, is amended to read as follows:

Sec. 256.101. PROCEDURE ON FILING OF SECOND APPLICATION WHEN ORIGINAL APPLICATION HAS NOT BEEN HEARD. (a) If, after an application for the probate of a decedent's will or the appointment of a personal

representative for the decedent's estate has been filed but before the application is heard, an application is filed for the probate of a will of the same decedent that has not previously been presented for probate, the court shall:

- (1) hear both applications together; and
- (2) determine:

(A) if both applications are for the probate of a will, which will should be admitted to probate, if either, or whether the decedent died intestate; or

(B) if only one application is for the probate of a will, whether the will should be admitted to probate or whether the decedent died intestate.

(b) The court may not sever or bifurcate the proceeding on the applications described in Subsection (a).

(5) In SECTION 2.52 of the bill, strike added Sections 404.003(a)(5) and (6), Estates Code (page 121, lines 12 through 18), and substitute the following:

(5) the independent executor is proved to have been guilty of gross misconduct or gross mismanagement in the performance of the independent executor's duties;

(6) the independent executor becomes an incapacitated person, or is sentenced to the penitentiary, or from any other cause becomes legally incapacitated from properly performing the independent executor's fiduciary duties; or

(7) the independent executor becomes incapable of properly performing the independent executor's fiduciary duties due to a material conflict of interest.

(6) In SECTION 2.53(b) of the bill, strike Subdivisions (1), (2), and (3) (page 136, lines 18-23) and substitute the following:

(1) Sections 4D, 4H, 48, 49, 59, 64, 67, 83(a), 84, 250, 260, 436, 439, 452, 471, 472, and 473, as amended by Article 1 of this Act; and

(2) Sections 6A, 6B, 6C, 6D, 8A, 8B, 145A, 145B, and 145C, as added by Article 1 of this Act.

Amendment No. 1 was adopted.

SB 1209 (Marquez, Madden, Allen, Perry, Workman, et al. - House Sponsors), A bill to be entitled An Act relating to the detention of certain juvenile offenders. (Carter recorded voting no.)

Amendment No. 1

Representative Marquez offered the following amendment to **SB 1209**:

Amend **SB 1209** (house committee printing) as follows:

(1) Strike SECTION 3 of the bill, adding Section 152.0007(c), Human Resources Code (page 2, lines 20 through 25) and substitute the following:

SECTION 3. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.0015 to read as follows:

Sec. 152.0015. PRETRIAL DETENTION POLICY FOR CERTAIN JUVENILES. A juvenile board shall establish a policy that specifies whether a person who has been transferred for criminal prosecution under Section 54.02, Family Code, and is younger than 17 years of age may be detained in a juvenile facility pending trial as provided by Section 51.12, Family Code.

(2) In SECTION 4 of the bill, in amended Section 54.02(h), Family Code (page 3, lines 11 through 12), strike "Section 152.0007(c)" and substitute "Section 152.0015".

Amendment No. 1 was adopted.

SB 1216 was deferred until the end of today's local, consent, and resolutions calendar.

SB 1220 (V. Gonzales - House Sponsor), A bill to be entitled An Act relating to the advisory committee on Medicaid and child health plan program rate and expenditure disparities between the Texas-Mexico border region and other areas of the state. (C. Anderson, Berman, Bohac, Cain, Carter, S. Davis, Flynn, Landtroop, Laubenberg, Lavender, Madden, Paxton, Perry, Price, Schwertner, Sheffield, Simpson, V. Taylor, Weber, White, and Zedler recorded voting no.)

SB 1228 (Jackson - House Sponsor), A bill to be entitled An Act relating to the duties of district clerks regarding certain electronic filing systems.

SB 1231 was deferred until the end of today's local, consent, and resolutions calendar.

CSSB 1233 (Coleman - House Sponsor), A bill to be entitled An Act relating to the promotion of efficiencies in and the administration of certain district court and county services and functions. (Burkett and Carter recorded voting no.)

Amendment No. 1

Representative Coleman offered the following amendment to **CSSB 1233**:

Amend **CSSB 1233** (house committee report) by striking SECTION 10 of the bill, amending Section 43.007(i), Election Code (page 5, lines 15 through 20), and renumbering the remaining SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

CSSB 1234 (Dutton - House Sponsor), A bill to be entitled An Act relating to municipal management districts. (Bohac, Carter, Craddick, Darby, Frullo, Lewis, Madden, Price, Sheffield, Shelton, Simpson, and Workman recorded voting no.)

CSSB 1271 (Perry - House Sponsor), A bill to be entitled An Act relating to alternative dispute resolution systems established by counties.

SB 1273 (Hamilton, Gallego, Coleman, Hartnett, Christian, et al. - House Sponsors), A bill to be entitled An Act relating to the lawful manufacture, distribution, and possession of and prescriptions for controlled substances under the Texas Controlled Substances Act.

SB 1292 (Fletcher, Peña, and S. Miller - House Sponsors), A bill to be entitled An Act relating to the issuance of a driver's license to a peace officer that includes an alternative to the officer's residence address.

SB 1308 (McClendon, Gallego, Rodriguez, Hartnett, and Zedler - House Sponsors), A bill to be entitled An Act relating to the standards for attorneys representing indigent defendants in capital cases.

SB 1322 (Hilderbran - House Sponsor), A bill to be entitled An Act relating to the operation of the Kimble County, McCulloch County, Mason County, and Menard County Juvenile Boards.

SB 1330 (Naishtat - House Sponsor), A bill to be entitled An Act relating to driving safety courses for individuals younger than 25 years of age receiving deferred disposition for certain traffic offenses. (Craddick, Darby, Frullo, Lewis, Price, Shelton, and Simpson recorded voting no.)

SB 1361 was deferred until the end of today's local, consent, and resolutions calendar.

SB 1404 (Y. Davis - House Sponsor), A bill to be entitled An Act relating to the deadline for filing a suit to compel an appraisal review board to change an appraisal roll.

CSSB 1413 (Kleinschmidt - House Sponsor), A bill to be entitled An Act relating to the authority of certain counties to impose a county hotel occupancy tax and to the rate of the tax. (C. Anderson, Berman, Bohac, Burkett, Cain, Flynn, Madden, Sheffield, Simpson, V. Taylor, Weber, and White recorded voting no.)

SB 1421 (Schwertner and S. Davis - House Sponsors), A bill to be entitled An Act relating to the awarding of grants provided by the Cancer Prevention and Research Institute of Texas.

SB 1438 (Hopson - House Sponsor), A bill to be entitled An Act relating to the program for impaired pharmacists and disciplinary proceedings conducted by the Texas State Board of Pharmacy.

SB 1441 (Y. Davis - House Sponsor), A bill to be entitled An Act relating to the correction of an ad valorem tax appraisal roll. (Berman recorded voting no.)

CSSB 1449 (Raymond - House Sponsor), A bill to be entitled An Act relating to an alternative method of satisfying certain licensing requirements for chemical dependency treatment facilities.

SB 1480 (Darby - House Sponsor), A bill to be entitled An Act relating to the regulation of exotic aquatic species by the Parks and Wildlife Department; providing penalties.

SB 1493 (Farias - House Sponsor), A bill to be entitled An Act relating to the directors of a defense base management authority and to a study on the effectiveness of the authority.

SB 1521 (Gallego, Castro, Hartnett, Aliseda, and Rodriguez - House Sponsors), A bill to be entitled An Act relating to the distribution of money appropriated from a municipal court building security fund.

SB 1521 - HOUSE SPONSOR AUTHORIZED

On motion of Representative Gallego, Representative Garza was authorized as a house sponsor to **SB 1521**.

SB 1522 (Madden, Gallego, Carter, Burkett, and Aliseda - House Sponsors), A bill to be entitled An Act relating to the entering of a plea in a criminal case by a defendant confined in a penal institution.

SB 1557 (Strama - House Sponsor), A bill to be entitled An Act relating to the Texas High Performance Schools Consortium. (Cain, Paxton, and White recorded voting no.)

CSSB 1600 (P. King and S. Miller - House Sponsors), A bill to be entitled An Act relating to the registration of peace officers as private security officers.

SB 1610 (Hamilton - House Sponsor), A bill to be entitled An Act relating to seat belt requirements for certain vehicles.

SB 1613 (Brown - House Sponsor), A bill to be entitled An Act relating to the application of the public meetings and public information laws to public power utilities.

SB 1616 (Gallego, Anchia, Hartnett, Christian, and Zedler - House Sponsors), A bill to be entitled An Act relating to the collection, storage, preservation, analysis, retrieval, and destruction of biological evidence.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hartnett, Representative Gallego offered the following committee amendment to **SB 1616**:

SECTION _____. Amend **SB 1616** (engrossed version) with the following:

(1) Section 1 Article 38.43, Code of Criminal Procedure (page 3, line 20 and 21) unstrike "~~described by Subsection (b)~~"

(2) On page 3, line 21, replace "~~(b)~~" with "(a)".

(3) On page 3, line 21 and 22, strike "after expiration of the retention period specified by Subsection (c)".

(4) On page 3, line 22, unstrike "~~, but only~~".

Amendment No. 1 was adopted.

CSSB 1636 (McClendon - House Sponsor), A bill to be entitled An Act relating to the collection, analysis, and preservation of sexual assault or DNA evidence. (Berman, Craddick, Darby, Flynn, Frullo, Lewis, Nash, and Shelton recorded voting no.)

SB 1638 (Geren - House Sponsor), A bill to be entitled An Act relating to the exception of certain personal information from required disclosure under the public information law.

SB 1649 (Margo - House Sponsor), A bill to be entitled An Act relating to a grant program to support the prosecution of certain crimes. (Simpson recorded voting no.)

Amendment No. 1

Representative Margo offered the following amendment to **SB 1649**:

Amend **SB 1649** (house committee report) in SECTION 1 of the bill by striking proposed Section 772.0071(a)(2), Government Code (page 2, lines 1 through 12), and substituting the following:

(2) "Border region" means the portion of this state that is located in a county that is adjacent to:

(A) an international border; or

(B) a county described by Paragraph (A).

Amendment No. 1 was adopted.

SB 1686 (Anchia - House Sponsor), A bill to be entitled An Act relating to group health benefits coverage for persons wrongfully imprisoned. (Price and Workman recorded voting no.)

Amendment No. 1

Representative Anchia offered the following amendment to **SB 1686**:

Amend **SB 1686** (house committee printing), in SECTION 6 of the bill, on page 3, line 8, by striking "2012" and substituting "2011".

Amendment No. 1 was adopted.

SB 1698 (Callegari - House Sponsor), A bill to be entitled An Act relating to reporting concerning inmates who are confined in county jails and subject to federal immigration detainees.

SB 1726 (Branch - House Sponsor), A bill to be entitled An Act relating to the development of measurable learning outcomes for undergraduate courses at public institutions of higher education. (Cain, Schwertner, and White recorded voting no.)

CSSB 1733 (Menendez - House Sponsor), A bill to be entitled An Act relating to the occupational licensing of spouses of members of the military.

SB 1737 (Flynn - House Sponsor), A bill to be entitled An Act relating to accrual and use of leave of absence for certain training or duty, including military training or duty, by public employees and officers.

SB 1751 (Thompson - House Sponsor), A bill to be entitled An Act relating to calculation of the net resources of a person ordered to pay child support.

SB 1760 (Oliveira - House Sponsor), A bill to be entitled An Act relating to notice of water and wastewater requirements before certain sales of certain residential properties. (Berman, Flynn, Landtroop, Laubenberg, Lavender, Paxton, Perry, Simpson, and V. Taylor recorded voting no.)

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Oliveira, Representative Lozano offered the following committee amendment to **SB 1760**:

Amend **SB 1760** (engrossed), on page 1, lines 19 and 20 by striking "THE (NAME OF COUNTY) AND THE SHERIFF'S DEPARTMENT ARE ACTING ONLY AS CONDUITS OF INFORMATION.".

Amendment No. 1 was adopted.

SB 1787 (Martinez Fischer - House Sponsor), A bill to be entitled An Act relating to the information provided by a peace officer before requesting a specimen to determine intoxication.

SB 1789 (Bohac - House Sponsor), A bill to be entitled An Act relating to platting requirements affecting subdivision golf courses in certain counties.

SB 1796 was withdrawn.

SB 1807 (Lozano - House Sponsor), A bill to be entitled An Act relating to the composition of the 444th Judicial District.

SB 1812 (Hamilton - House Sponsor), A bill to be entitled An Act relating to criminal history record information of certain applicants for a certificate of registration issued by the Texas Real Estate Commission.

SB 1816 (Raymond - House Sponsor), A bill to be entitled An Act relating to county and municipal land development regulation.

Representative Raymond moved to postpone consideration of **SB 1816** until 3 p.m. today.

The motion prevailed.

SB 1857 (Truitt - House Sponsor), A bill to be entitled An Act relating to the administration of medication for persons with intellectual and developmental disabilities. (Simpson recorded voting no.)

SB 1875 (Muñoz - House Sponsor), A bill to be entitled An Act relating to the governing body and the powers of the Agua Special Utility District.

SB 1880 (C. Howard - House Sponsor), A bill to be entitled An Act relating to the powers and duties of the Imperial Redevelopment District; providing authority to impose a tax and issue bonds. (Berman and P. King recorded voting no.)

SB 1887 (T. Smith - House Sponsor), A bill to be entitled An Act relating to the appointment of bailiffs in certain county criminal courts of Tarrant County.

SB 1907 (Geren - House Sponsor), A bill to be entitled An Act relating to access to certain archaic information. (Simpson recorded voting no.)

SB 1914 (Rodriguez - House Sponsor), A bill to be entitled An Act relating to the creation of the Southeast Travis County Municipal Utility District No. 2; providing authority to impose a tax and issue bonds. (Berman, Flynn, and P. King recorded voting no.)

SB 1915 (Rodriguez - House Sponsor), A bill to be entitled An Act relating to the creation of the Southeast Travis County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds. (Berman, Flynn, and P. King recorded voting no.)

SB 1927 (Garza - House Sponsor), A bill to be entitled An Act relating to the authority of certain volunteer firefighter and emergency services organizations to hold tax-free sales or auctions.

SB 1928 (Allen - House Sponsor), A bill to be entitled An Act relating to an African American Texans memorial monument on the Capitol grounds. (S. Davis, Landtroop, Perry, and Sheffield recorded voting no.)

SCR 35 (D. Miller - House Sponsor), Designating western swing as the official State Music of Texas.

SCR 51 (Allen - House Sponsor), Expressing the legislature's support for the construction of a monument to African American Texans on the grounds of the State Capitol at the location approved by the State Preservation Board for a Juneteenth monument. (S. Davis, Fletcher, Flynn, Landtroop, Perry, Riddle, and Sheffield recorded voting no.)

SCR 51 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE DUKES: Representative Allen, could you—for many years, it seems like almost every session, we have discussed a monument to commemorate African Americans, and at one point in time there was a monument that had some design to it that was sort of placed on hold. So tell me, what does your bill do?

REPRESENTATIVE ALLEN: This just continues it. This simply—

DUKES: And will it be the same design, same faces, same characters?

ALLEN: No. No, I don't think the intent is that.

DUKES: No, I don't want to know if you think the intent is that, I want to know absolutely what the intent is.

ALLEN: This just continues the process.

DUKES: To create a different design of the statue?

ALLEN: I don't think it has anything to do with the design of the statue, but this just continues the process.

DUKES: Well, if it doesn't have anything to do with the design of the statue, I intend to talk for 10 minutes.

ALLEN: Okay, I understand there's a new design, and it is nothing like the previous one. I understand what you're talking about.

DUKES: It is going to be a new design?

ALLEN: Yes.

REMARKS ORDERED PRINTED

Representative Dukes moved to print remarks between Representative Allen and Representative Dukes.

The motion prevailed.

SB 149 (Castro - House Sponsor), A bill to be entitled An Act relating to rules adopted and reporting required under the school district college credit program. (Paxton recorded voting no.)

SB 150 (S. Miller - House Sponsor), A bill to be entitled An Act relating to granting limited state law enforcement authority to special agents of the Office of Inspector General of the United States Department of Veterans Affairs and to updating certain references related to the grant of that authority to other federal law enforcement personnel. (Simpson recorded voting no.)

SB 150 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BURNAM: Earlier when we were visiting about this, I was a little incredulous that this was let out on local and consent, but it is on local and consent. Could you explain the four, or answer the four following questions? Which vital officers are we authorizing to arrest for state criminal offenses under this bill?

REPRESENTATIVE S. MILLER: The only one under this bill is the Veterans Affairs Office of Inspector General. It's very specific, very limited.

BURNAM: Does the authority apply to commission of any state criminal offense, or only to certain types of offenses?

S. MILLER: Only felony offenses.

BURNAM: Can you explain to me what change with regard to that authority is a result of the federal Homeland Security Act of 2002?

S. MILLER: Well, the OIG previously had law enforcement authority under the U.S. Marshals Service through being deputized. That changed in '03 with the Homeland Security Act and granted separate law enforcement authority to them.

BURNAM: How does the bill affect the arrest powers of border patrol agents in Texas?

S. MILLER: It doesn't. They're not in it. They're not a part of it.

BURNAM: It doesn't affect that at all?

S. MILLER: No.

BURNAM: We are not increasing the risk of people returning from Mexico and being arrested for public intoxication, or anything like that?

S. MILLER: No, it's limited just to the Veterans Affairs Office of the Inspector General.

REMARKS ORDERED PRINTED

Representative Burnam moved to print remarks between Representative S. Miller and Representative Burnam.

The motion prevailed.

SB 1003 was withdrawn.

CSSB 1216 (Hartnett - House Sponsor), A bill to be entitled An Act relating to determination of the validity and enforceability of a contract containing an arbitration agreement in suits for dissolution of marriage and certain suits affecting the parent-child relationship.

SB 1231 (Laubenberg - House Sponsor), A bill to be entitled An Act relating to the regulation of health spas by the secretary of state. (Berman, Flynn, and Simpson recorded voting no.)

SB 1361 (Hardcastle - House Sponsor), A bill to be entitled An Act relating to the audit report exemption for certain general and special law districts. (L. Gonzales recorded voting no.)

RECESS

At 1:46 p.m., the chair announced that the house would stand recessed until 2:50 p.m. today.

AFTERNOON SESSION

The house met at 2:50 p.m. and was called to order by the speaker pro tempore.

OBJECTIONS WITHDRAWN

Objections were withdrawn to **SB 304**, **SB 335**, **SB 489**, and **SB 494** which were withdrawn from the previous third reading local, consent, and resolutions calendar on May 20.

RULES SUSPENDED

Representative Thompson moved to suspend all necessary rules to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered earlier today and **SB 304**, **SB 335**, **SB 489**, and **SB 494** which were considered on the local, consent, and resolutions calendar on May 20.

The motion prevailed.

MOTION FOR ONE RECORD VOTE

On motion of Representative Thompson and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

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).

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR THIRD READING

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by the following record vote (members registering votes and the results of the vote are shown following bill number).

(Record 1264): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; 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; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; 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(C); Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Brown.

Absent — Creighton; Legler; Martinez; Martinez Fischer; Miller, S.; Pitts.

STATEMENTS OF VOTE

When Record No. 1264 was taken, my vote failed to register. I would have voted yes.

Creighton

When Record No. 1264 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

When Record No. 1264 was taken, my vote failed to register. I would have voted yes.

Pitts

SB 32 (Kuempel - no) (141 - 1 - 1)

SB 43 (Berman, Chisum, Flynn, Landtroop, Laubenberg, Perry, and Sheets - no) (135 - 7 - 1)

SB 54

SB 77

SB 86 (Berman, Cain, Flynn, Frullo, Garza, Kuempel, White, Workman, and Zedler - no) (133 - 9 - 1)

SB 89 (Berman, Cain, Chisum, S. Davis, Flynn, Frullo, Keffer, Kolkhorst, Kuempel, Laubenberg, Lavender, Otto, Paxton, Perry, Phillips, Price, Schwertner, Simpson, V. Taylor, Workman, and Zedler - no) (121 - 21 - 1)

SB 144 (Berman, Chisum, Craddick, Darby, Flynn, Frullo, L. Gonzales, Landtroop, Lavender, Legler, Lewis, Parker, Paxton, Perry, Price, and Shelton - no) (126 - 16 - 1)

SB 149 (Paxton - no) (141 - 1 - 1)

SB 150 (Simpson - no) (141 - 1 - 1)

SB 162 (Landtroop, Lavender, and Perry - no) (139 - 3 - 1)

SB 167 (Craddick, Darby, Frullo, Legler, Lewis, Parker, and Shelton - no) (135 - 7 - 1)

SB 187

SB 189 (S. Davis, Paxton, and Perry - no) (139 - 3 - 1)

SB 192

SB 193

SB 218 (Chisum, S. Davis, Flynn, Landtroop, Paxton, Perry, and Phillips - no) (135 - 7 - 1)

SB 220

SB 226 (R. Anderson, Berman, Cain, Chisum, Flynn, Kuempel, Landtroop, Laubenberg, Paxton, Sheets, Simpson, V. Taylor, Weber, White, and Zedler - no) (127 - 15 - 1)

SB 229

SB 266

SB 290 (Cain and White - no) (140 - 2 - 1)

SB 422 (Kolkhorst - no) (141 - 1 - 1)

SB 438 (Berman and Flynn - no) (140 - 2 - 1)

SB 461

SB 469 (Cain, Kolkhorst, and White - no) (139 - 3 - 1)

SB 471

SB 480 (Garza, Frullo, Shelton, and Zedler - no) (138 - 4 - 1)

SB 481 (Paxton and V. Taylor - no) (140 - 2 - 1)

SB 482

SB 496

SB 519

SB 530 (Simpson - no) (141 - 1 - 1)

SB 548 (Kolkhorst - no) (141 - 1 - 1)

SB 563

SB 578

SB 609 (Simpson - no) (141 - 1 - 1)

SB 626

SB 627 (Berman, Cain, Carter, Craddick, Darby, Flynn, Frullo, Laubenberg, Legler, Lewis, Parker, Price, Schwertner, Shelton, White, and Workman - no) (126 - 16 - 1)

SB 682

SB 701

SB 735

SB 743

SB 760

SB 767

SB 789

SB 791

SB 792

SB 796

SB 799 (Berman and Flynn - no) (140 - 2 - 1)

SB 802 (Berman, Cain, Flynn, Sheets, and White - no) (137 - 5 - 1)

SB 804 (C. Anderson, Bohac, Cain, Madden, Sheffield, and White - no) (136 - 6 - 1)

SB 811

SB 812 (Burkett, Cain, Price, Schwertner, and White - no) (137 - 5 - 1)

SB 819

SB 851

SB 855

SB 867

SB 886

SB 899 (Flynn - no) (141 - 1 - 1)

SB 917 (P. King and Kolkhorst - no) (140 - 2 - 1)

SB 957

SB 959 (Craddick, Darby, Frullo, Lewis, Price, Shelton, and Workman - no)
(135 - 7 - 1)

SB 966 (Cain and Garza - no) (140 - 2 - 1)

SB 987

SB 993

SB 1002

SB 1026

SB 1043 (Berman, Craddick, Darby, Flynn, Frullo, Legler, Lewis, Nash, Price, and Shelton - no) (132 - 10 - 1)

SB 1044 (Cain, Garza, Kolkhorst, Simpson, White, and Zedler - no)
(136 - 6 - 1)

SB 1046

SB 1068 (Kolkhorst - no) (141 - 1 - 1)

SB 1094 (Flynn, Landtroop, Laubenberg, Lavender, Paxton, and Perry - no)
(136 - 6 - 1)

SB 1103

SB 1114

SB 1159

SB 1169

SB 1176

SB 1179 (Kolkhorst and Morrison - no) (140 - 2 - 1)

SB 1185 (C. Anderson, Berman, Bohac, Burkett, Cain, Carter, Flynn, P. King, Lavender, Madden, Sheffield, Weber, and White - no) (129 - 13 - 1)

SB 1196

SB 1198

SB 1209 (Carter - no) (141 - 1 - 1)

SB 1216

SB 1220 (C. Anderson, Berman, Bohac, Cain, Carter, S. Davis, Flynn, Landtroop, Laubenberg, Lavender, Madden, Paxton, Perry, Price, Schwertner, Sheffield, Simpson, V. Taylor, Weber, White, and Zedler - no) (121 - 21 - 1)

SB 1228

SB 1231 (Berman, Flynn, and Simpson - no) (139 - 3 - 1)

SB 1233 (Burkett and Carter - no) (140 - 2 - 1)

SB 1234 (Bohac, Carter, Craddick, Darby, Frullo, Lewis, Madden, Price, Sheffield, Shelton, Simpson, and Workman - no) (130 - 12 - 1)

SB 1271

SB 1273

SB 1292

SB 1308

SB 1322

SB 1330 (Craddick, Darby, Frullo, Lewis, Price, Shelton, and Simpson - no) (135 - 7 - 1)

SB 1361 (L. Gonzales - no) (141 - 1 - 1)

SB 1404

SB 1413 (C. Anderson, Berman, Bohac, Burkett, Cain, Flynn, Madden, Sheffield, Simpson, V. Taylor, Weber, and White - no) (130 - 12 - 1)

SB 1421

SB 1438

SB 1441 (Berman - no) (141 - 1 - 1)

SB 1449

SB 1480

SB 1493

SB 1521

SB 1522

SB 1557 (Cain, Paxton, and White - no) (139 - 3 - 1)

SB 1600

SB 1610

SB 1613

SB 1616

SB 1636 (Berman, Craddick, Darby, Flynn, Frullo, Lewis, Nash, and Shelton - no) (134 - 8 - 1)

SB 1638

SB 1649 (Simpson - no) (141 - 1 - 1)

SB 1686 (Price and Workman - no) (140 - 2 - 1)

SB 1698

SB 1726 (Cain, Schwertner, and White - no) (139 - 3 - 1)

SB 1733

SB 1737

SB 1751

SB 1760 (Berman, Flynn, Landtroop, Laubenberg, Lavender, Paxton, Perry, Simpson, and V. Taylor - no) (133 - 9 - 1)

SB 1787

SB 1789

SB 1807

SB 1812

SB 1857 (Simpson - no) (141 - 1 - 1)

SB 1875

SB 1880 (Berman and P. King - no) (140 - 2 - 1)

SB 1887

SB 1907 (Simpson - no) (141 - 1 - 1)

SB 1914 (Berman, Flynn, and P. King - no) (139 - 3 - 1)

SB 1915 (Berman, Flynn, and P. King - no) (139 - 3 - 1)

SB 1927

SB 1928 (S. Davis, Landtroop, Perry, and Sheffield - no) (138 - 4 - 1)

SB 304

SB 335

SB 489

SB 494

The following resolutions which were laid out on the previous legislative day on the local, consent, and resolutions calendar were adopted by the above referenced vote (Record 1264): 142 Yeas, 0 Nays, 1 Present, not voting (members registering votes and the results of the vote are shown following bill number).

HCR 147

HCR 152

HCR 159

HR 1978

SCR 35

SCR 51 (S. Davis, Fletcher, Flynn, Landtroop, Perry, Riddle, and Sheffield - no) (135 - 7 - 1)

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, House List No. 35).

POSTPONED BUSINESS

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

SB 1816 (Raymond - House Sponsor), A bill to be entitled An Act relating to county and municipal land development regulation.

SB 1816 was read second time earlier today and was postponed until this time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Kleinschmidt, Representative Raymond offered the following committee amendment to **SB 1816**:

Amend **SB 1816** (engrossed version) as follows:

(1) Strike SECTION 5 of the bill, adding Section 233.902, Local Government Code, and renumber subsequent SECTIONS of the bill accordingly.

(2) In SECTION 6 of the bill, strike added Section 16.343(f), Water Code (page 3, line 21, through page 4, line 1) and substitute the following:

(f) To augment regulatory compliance by political subdivisions, the model rules may impose requirements for platting, replatting, or any other method authorized by law. Notwithstanding any other law to the contrary and except as may be required by an agreement developed under Chapter 242, Local Government Code, a municipality that has adopted the model rules under this section may impose the platting requirements of Chapter 212, Local Government Code, and a county that has adopted the model rules under this section may impose the applicable platting requirements of Chapter 232, Local Government Code, to a division of real property that is required to be platted or replatted by the provisions of the model rules.

Amendment No. 1 was adopted.

SB 1816, as amended, was passed to third reading. (Berman, Cain, S. Davis, Flynn, Landtroop, Lavender, Paxton, Perry, Simpson, V. Taylor, and White recorded voting no.)

(Marquez in the chair)

MAJOR STATE CALENDAR SENATE BILLS THIRD READING

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

SB 20 ON THIRD READING (Strama, Keffer, Chisum, C. Howard, and Anchia - House Sponsors)

SB 20, A bill to be entitled An Act relating to a grant program for certain natural gas motor vehicles.

SB 20 was passed by (Record 1265): 133 Yeas, 6 Nays, 5 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Berman; Bohac; Bonnen; Branch; 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; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Laubenberg; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; 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.; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Beck; Harper-Brown; Landtroop; Lavender; Paxton; Perry.

Present, not voting — Mr. Speaker; Huberty; Kolkhorst; Marquez(C); Thompson.

Absent, Excused — Brown.

Absent — Eiland; Giddings; Miller, S.; Morrison; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1265. I intended to vote no.

Laubenberg

When Record No. 1265 was taken, I was temporarily out of the house chamber. I would have voted yes.

S. Miller

When Record No. 1265 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

I was shown voting yes on Record No. 1265. I intended to vote no.

Simpson

GENERAL STATE CALENDAR SENATE BILLS THIRD READING

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

SB 350 ON THIRD READING**(Truitt - House Sponsor)**

SB 350, A bill to be entitled An Act relating to the restructuring of fund obligations and accounts of the Texas Municipal Retirement System and related actuarial and accounting procedures.

SB 350 was passed by (Record 1266): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Brown.

Absent — Deshotel; Eiland; Miller, S.; Walle.

STATEMENTS OF VOTE

When Record No. 1266 was taken, I was in the house but away from my desk. I would have voted yes.

Deshotel

When Record No. 1266 was taken, I was temporarily out of the house chamber. I would have voted yes.

S. Miller

SB 889 ON THIRD READING**(S. Davis - House Sponsor)**

SB 889, A bill to be entitled An Act relating to assignment of rents to holders of certain security interests in real property.

SB 889 was passed by (Record 1267): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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.

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

Absent, Excused — Brown.

Absent — Johnson.

SB 181 ON THIRD READING
(Laubenberg, Creighton, and Branch - House Sponsors)

SB 181, A bill to be entitled An Act relating to the calculation and reporting of water usage by municipalities and water utilities for state water planning and other purposes.

Amendment No. 1

Representatives Laubenberg and Ritter offered the following amendment to **SB 181**:

Amend **SB 181** on third reading by striking the SECTION of the bill amending Water Code Section 16.053(c), as added on second reading by House Floor Amendment No. 1, and renumbering the remaining sections appropriately.

Amendment No. 1 was adopted.

SB 181, as amended, was passed by (Record 1268): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; Lucio; 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; 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; Marquez(C).

Absent, Excused — Brown.

Absent — Paxton.

SB 267 ON THIRD READING
(Elkins - House Sponsor)

SB 267, A bill to be entitled An Act relating to a joint statement regarding the transfer of a motor vehicle as the result of a gift.

SB 267 was passed by (Record 1269): 142 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; 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; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; 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 — Landtroop; Perry.

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

Absent, Excused — Brown.

Absent — Eiland; Hancock; Mallory Caraway.

STATEMENT OF VOTE

When Record No. 1269 was taken, I was in the house but away from my desk. I would have voted yes.

Hancock

SB 367 ON THIRD READING

(Cook - House Sponsor)

SB 367, A bill to be entitled An Act relating to the review by the attorney general of invoices related to legal services provided to state agencies by outside counsel.

SB 367 was passed by (Record 1270): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; 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; Lucio; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Brown.

Absent — Eiland; Villarreal.

SB 859 ON THIRD READING

(Smithee - House Sponsor)

SB 859, A bill to be entitled An Act relating to small and large employer health group cooperatives.

Amendment No. 1

Representative Chisum offered the following amendment to **SB 859**:

Amend **SB 859** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 1501, Insurance Code, is amended by adding Section 1501.068 to read as follows:

Sec. 1501.068. EMPLOYER CONTRIBUTIONS TO CERTAIN HEALTH BENEFIT PLANS. The commissioner may adopt rules and procedures to allow an employer participating in a cooperative to make financial contributions to an employee's or retiree's individual consumer directed health benefit plan offered through the cooperative in a manner that does not jeopardize the employer's state or federal tax benefit status.

Amendment No. 1 was withdrawn.

Amendment No. 2

Representatives Hughes and Phillips offered the following amendment to **SB 859**:

Amend **SB 859** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Title 8, Insurance Code, is amended by adding Subtitle K to read as follows:

SUBTITLE K. FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT
CHAPTER 1671. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1671.001. DEFINITIONS. In this chapter:

(1) "Abortion" has the meaning assigned by Section 171.002, Health and Safety Code.

(2) "Qualified health plan" has the meaning assigned by Section 1301(a) of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148). The term includes a health plan offered through a health group cooperative in accordance with Subchapter B, Chapter 1501.

Sec. 1671.002. PROHIBITED COVERAGE. (a) A qualified health plan may not provide coverage for an abortion other than coverage for an abortion performed when a life-threatening physical condition is aggravated by, caused by, or arises from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

(b) Subsection (a) does not authorize coverage for an abortion based on a potential future medical condition that may result from a voluntary act of the woman or minor after the abortion is performed.

(c) Except as provided by Subsection (a), the issuer of a qualified health plan may provide coverage for an abortion only if:

(1) the coverage is provided to an enrollee separate from other health benefit plan coverage provided by the qualified health plan issuer;

(2) the enrollee pays for coverage for abortion separate from, and in addition to, the premium for coverage under the qualified health plan; and

(3) the enrollee provides a signature for coverage for abortion, separate and distinct from the signature required for coverage under the qualified health plan.

SECTION _____. The change in law made by Chapter 1671, Insurance Code, as added by this Act, applies only to a qualified health plan that is delivered, issued for delivery, or renewed on or after January 1, 2012. A qualified health plan offered that is 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. 2 - Point of Order

Representative Anchia raised a point of order against further consideration of Amendment No. 2 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. 2 was withdrawn.

Representative Smithee moved to postpone consideration of **SB 859** until 4:30 p.m. today.

The motion prevailed.

SB 1167 ON THIRD READING (Hernandez Luna - House Sponsor)

SB 1167, A bill to be entitled An Act relating to cemeteries and perpetual care cemetery corporations; providing a penalty.

SB 1167 was passed by (Record 1271): 145 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; 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; 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 — Simpson.

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

Absent, Excused — Brown.

Absent — Miller, S.

STATEMENT OF VOTE

When Record No. 1271 was taken, my vote failed to register. I would have voted yes.

S. Miller

SB 29 ON THIRD READING (Branch - House Sponsor)

SB 29, A bill to be entitled An Act relating to the eligibility of certain postdoctoral fellows and graduate students to participate in health benefit programs at public institutions of higher education.

SB 29 was passed by (Record 1272): 145 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycocck; Beck; Berman; Bohac; Bonnen; Branch; 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; 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; Lucio; 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; White; Woolley; Workman; Zedler; Zerwas.

Nays — Weber.

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

Absent, Excused — Brown.

Absent — Hochberg.

SB 385 ON THIRD READING**(Otto, W. Smith, Chisum, Anchia, and Burkett - House Sponsors)**

SB 385, A bill to be entitled An Act relating to the creation of an alternative fuel program to be funded by the Texas emissions reduction plan fund.

Amendment No. 1

Representative Strama offered the following amendment to **SB 385**:

Amend **SB 385** on third reading as follows:

(1) In SECTION 1 of the bill, strike added Paragraphs (D) and (E) in amended Section 386.252(a)(1), Health and Safety Code (page 1, line 22, through page 2, line 1), and substitute the following:

(D) five percent shall be used for the clean fleet program;

(E) two percent may be used for the Texas alternative fueling facilities program;

(F) not less than 16 percent shall be used for the natural gas vehicle grant program; and

(G) not more than four percent may be used to provide grants for natural gas fueling stations under Section 394.010;

(2) In the recital to SECTION 2 of the bill, amending Section 386.252, Health and Safety Code (page 3, line 2), strike "Subsection (e)" and substitute "Subsections (e), (f), and (g)".

(3) In SECTION 2 of the bill, immediately following added Section 386.252(e), Health and Safety Code (page 3, between lines 7 and 8), add the following:

(f) Notwithstanding Subsection (a), the commission may reallocate money in the fund if:

(1) the commission, in consultation with the governor and the advisory board, determines that the use of the money in the fund for the program established under Chapter 394 will cause the state to be in noncompliance with the state implementation plan to the extent that federal action is likely; and

(2) the commission finds that the reallocation of some or all of the funding for the program established under Chapter 394 would resolve the noncompliance.

(g) Under Subsection (f), the commission may not reallocate more than the minimum amount of money necessary to resolve the noncompliance.

(4) In the recital to SECTION 3 of the bill, adding Chapter 393 to Subtitle C, Title 5, Health and Safety Code (page 3, line 9), strike "Chapter 393" and substitute "Chapters 393 and 394".

(5) In SECTION 3 of the bill, immediately following added Chapter 393, Health and Safety Code (page 5, between lines 12 and 13), add the following:

CHAPTER 394. TEXAS NATURAL GAS VEHICLE GRANT PROGRAM

Sec. 394.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the Texas Emissions Reduction Plan Advisory Board.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Executive director" means the executive director of the Texas Commission on Environmental Quality.

(4) "Heavy-duty motor vehicle" means a motor vehicle with:

(A) a gross vehicle weight rating of more than 8,500 pounds; and

(B) an engine certified to the United States Environmental Protection Agency's standards for heavy-duty engines.

(5) "Incremental cost" means the difference between the manufacturer's suggested retail price of a baseline vehicle, the documented dealer price of a baseline vehicle, cost to lease or otherwise commercially finance a baseline vehicle, cost to repower with a baseline engine, or other appropriate baseline cost established by the commission, and the actual cost of the natural gas vehicle purchase, lease, or other commercial financing, or repower.

(6) "Medium-duty motor vehicle" means a motor vehicle with a gross vehicle weight rating of more than 8,500 pounds that:

(A) is certified to the United States Environmental Protection Agency's light-duty emissions standard; or

(B) has an engine certified to the United States Environmental Protection Agency's light-duty emissions standard.

(7) "Motor vehicle" has the meaning assigned by Section 386.151.

(8) "Natural gas vehicle" means a motor vehicle that receives not less than 75 percent of its power from compressed or liquefied natural gas.

(9) "Program" means the Texas natural gas vehicle grant program established under this chapter.

Sec. 394.002. PROGRAM. The commission shall establish and administer the Texas natural gas vehicle grant program to encourage an entity that has a heavy-duty or medium-duty motor vehicle to repower the vehicle with a natural gas engine or replace the vehicle with a natural gas vehicle. Under the program, the commission shall provide grants for eligible heavy-duty motor vehicles and medium-duty motor vehicles to offset the incremental cost for the entity of repowering or replacing the heavy-duty or medium-duty motor vehicle.

Sec. 394.003. QUALIFYING VEHICLES. (a) A vehicle is a qualifying vehicle that may be considered for a grant under the program if during the calendar year the entity:

(1) purchased, leased, or otherwise commercially financed the vehicle as a new on-road heavy-duty or medium-duty motor vehicle that:

(A) is a natural gas vehicle;

(B) is certified to current federal emissions standards;

(C) replaces an on-road heavy-duty or medium-duty motor vehicle of the same weight classification and use; and

(D) is powered by an engine certified to:

(i) emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; or

(ii) meet or exceed the United States Environmental Protection Agency's Bin 5 standard for light-duty engines when powering the vehicle; or

(2) repowered the on-road motor vehicle to a natural gas vehicle powered by a natural gas engine that:

(A) is certified to current federal emissions standards; and

(B) is:

(i) a heavy-duty engine that is certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; or

(ii) certified to meet or exceed the United States Environmental Protection Agency's Bin 5 standard for light-duty engines when powering the vehicle.

(b) A heavy-duty or medium-duty motor vehicle is not a qualifying vehicle if the vehicle or the natural gas engine powering the vehicle:

(1) has been awarded a grant under this chapter for a previous reporting period; or

(2) has received a similar grant or tax credit in another jurisdiction if that grant or tax credit program is relied on for credit in the state implementation plan.

Sec. 394.004. APPLICATION FOR GRANT. (a) Only an entity operating in this state that operates a heavy-duty or medium-duty motor vehicle may apply for and receive a grant under this chapter.

(b) An application for a grant under this chapter must be made on a form provided by the commission and must contain the information required by the commission.

(c) The commission, after consulting stakeholders, shall:

(1) simplify the application form; and

(2) minimize, to the maximum extent possible, documentation required for an application.

Sec. 394.005. ELIGIBILITY FOR GRANTS. (a) The commission by rule shall establish criteria for prioritizing qualifying vehicles eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate after consultation with the advisory board.

(b) To be eligible for a grant under the program:

(1) the use of the qualifying vehicle must be projected to result in a reduction in emissions of nitrogen oxides of at least 25 percent as compared to the motor vehicle or engine being replaced, based on:

(A) the baseline emission level set by the commission under Subsection (g); and

(B) the certified emission rate of the new vehicle; and

(2) the qualifying vehicle must:

(A) replace a heavy-duty or medium-duty motor vehicle that:

(i) is an on-road vehicle that has been owned, leased, or otherwise commercially financed and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(ii) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(iii) satisfies any minimum percentage of annual usage requirements established by the commission; and

(iv) is in operating condition and has at least two years of remaining useful life, as determined in accordance with criteria established by the commission; or

(B) be a heavy-duty or medium-duty motor vehicle repowered with a natural gas engine that:

(i) is installed in an on-road vehicle that has been owned, leased, or otherwise commercially financed and registered and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(ii) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(iii) satisfies any minimum percentage of annual usage requirements established by the commission; and

(iv) is installed in an on-road vehicle that, at the time of the vehicle's repowering, was in operating condition and had at least two years of remaining useful life, as determined in accordance with criteria established by the commission.

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, leased, or otherwise commercially financed and registered and operated in the state by the grant recipient until the earlier of the fourth anniversary of the date of reimbursement of the grant-funded expenses or until the date the vehicle has been in operation for 400,000 miles after the date of reimbursement. Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in:

(1) the counties any part of which are included in the area described by Section 394.010(a); or

(2) counties designated as nonattainment areas within the meaning of Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407).

(d) The commission shall include and enforce the usage provisions in the grant contracts. The commission shall monitor compliance with the ownership, leasing, and usage requirements, including submission of reports on at least an annual basis, or more frequently as determined by the commission.

(e) The commission by contract may require the return of all or a portion of grant funds for a grant recipient's noncompliance with the usage and percentage of use requirements under this section.

(f) A heavy-duty or medium-duty motor vehicle replaced under this program must be rendered permanently inoperable by crushing the vehicle, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another method approved by the commission that permanently removes the vehicle from operation in this state. The commission shall establish criteria for ensuring the permanent destruction of the engine or vehicle. The commission shall enforce the destruction requirements.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road heavy-duty or medium-duty motor vehicles being replaced by using the emission certification for the engine or vehicle being

replaced. The commission may consider deterioration of the emission performance of the engine of the vehicle being replaced in establishing the baseline emission level. The commission may consider and establish baseline emission rates for additional pollutants of concern, as determined by the commission after consultation with the advisory board.

(h) Mileage or fuel use requirements established by the commission under Subsection (b)(2)(A)(ii) may differ by vehicle weight categories and type of use.

(i) The executive director shall waive the requirements of Subsection (b)(2)(A)(i) on a finding of good cause, which may include short lapses in registration or operation due to economic conditions, seasonal work, or other circumstances.

Sec. 394.006. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter shall use the grant to pay the incremental costs of the replacement for which the grant is made, which may include the initial cost of the natural gas vehicle or natural gas engine and the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. The recipient may not use the grant to pay the recipient's administrative expenses.

Sec. 394.007. AMOUNT OF GRANT. (a) The commission shall develop a grant schedule that:

(1) assigns a standardized grant in an amount between 60 and 90 percent of the incremental cost of a natural gas vehicle purchase, lease, other commercial finance, or repowering;

(2) is based on:

(A) the certified emission level of nitrogen oxides, or other pollutants as determined by the commission, of the engine powering the natural gas vehicle; and

(B) the usage of the natural gas vehicle; and

(3) may take into account the overall emissions reduction achieved by the natural gas vehicle.

(b) Not less than 60 percent of the total amount of grants awarded under this chapter for the purchase and repowering of motor vehicles must be awarded to motor vehicles with a gross vehicle weight rating of at least 33,001 pounds. The minimum grant requirement under this subsection does not apply if the commission does not receive enough grant applications to satisfy the requirement for motor vehicles described by this subsection that are eligible to receive a grant under this chapter.

(c) A person may not receive a grant under this chapter that, when combined with any other grant, tax credit, or other governmental incentive, exceeds the incremental cost of the vehicle for which the grant is awarded. A person shall return to the commission the amount of a grant awarded under this chapter that, when combined with any other grant, tax credit, or other governmental incentive, exceeds the incremental cost of the vehicle for which the grant is awarded.

(d) The commission shall reduce the amount of a grant awarded under this chapter as necessary to keep the combined incentive total at or below the incremental cost of the vehicle for which the grant is awarded if the grant recipient is eligible to receive an automatic incentive at or before the time a grant is awarded under this chapter.

Sec. 394.008. GRANT PROCEDURES. (a) The commission shall adopt procedures for:

(1) awarding grants under this chapter in the form of rebates; and
(2) streamlining the grant application, contracting, reimbursement, and reporting process for qualifying natural gas vehicle purchases or repowers.

(b) Procedures adopted under this section must:

(1) provide for the commission to compile and regularly update a listing of preapproved natural gas vehicles:

(A) powered by natural gas engines certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; or

(B) certified to the United States Environmental Protection Agency's light-duty Bin 5 standard or better;

(2) if a federal standard for the calculation of emissions reductions exists, provide a method to calculate the reduction in emissions of nitrogen oxides, volatile organic compounds, carbon monoxide, particulate matter, and sulfur compounds for each replacement or repowering;

(3) assign a standardized rebate amount for each qualifying vehicle under Section 394.007;

(4) allow for processing rebates on an ongoing first-come, first-served basis;

(5) provide for contracts between the commission and participating dealers under Section 394.009;

(6) allow grant recipients to assign their grant funds to participating dealers to offset the purchase or lease price;

(7) require grant applicants to identify natural gas fueling stations that are available to fuel the qualifying vehicle in the area of its use;

(8) provide for payment not later than the 30th day after the date the request for reimbursement for an approved grant is received;

(9) provide for application submission and application status checks to be made over the Internet; and

(10) consolidate, simplify, and reduce the administrative work for applicants and the commission associated with grant application, contracting, reimbursement, and reporting requirements.

(c) The commission, or its designee, shall oversee the grant process and is responsible for final approval of any grant.

(d) Grant recipients are responsible for meeting all grant conditions, including reporting and monitoring as required by the commission through the grant contract.

Sec. 394.009. PARTICIPATING DEALERS. (a) In this section, "participating dealer" means a person who:

(1) sells, leases, or otherwise commercially finances on-road heavy-duty or medium-duty natural gas vehicles or heavy-duty or medium-duty natural gas engines; and

(2) has satisfied all requirements established by the commission for participation in the program as a dealer.

(b) A participating dealer must agree to the terms and conditions of a standardized contract developed by the commission.

(c) A participating dealer shall:

(1) provide information regarding natural gas vehicle grants to fleet operators;

(2) assist an applicant who purchases, leases, or otherwise commercially finances a natural gas vehicle or engine from the dealer with the completion of the application; and

(3) submit completed applications and documentation to the commission on behalf of an applicant who purchases, leases, or otherwise commercially finances a natural gas vehicle or engine from the dealer.

(d) A participating dealer may not approve a grant.

(e) The commission shall:

(1) maintain and make available to the public online a list of all qualified dealers; and

(2) establish requirements for participation in the program by sellers of on-road heavy-duty or medium-duty natural gas vehicles and heavy-duty or medium-duty natural gas engines.

Sec. 394.010. CLEAN TRANSPORTATION TRIANGLE. (a) To ensure that natural gas vehicles purchased, leased, or otherwise commercially financed or repowered under the program have access to fuel, and to build the foundation for a self-sustaining market for natural gas vehicles in Texas, the commission shall award grants to support the development of a network of natural gas vehicle fueling stations along the interstate highways connecting Houston, San Antonio, Dallas, and Fort Worth. In awarding the grants, the commission shall provide for:

(1) strategically placed natural gas vehicle fueling stations in and between the Houston, San Antonio, and Dallas-Fort Worth areas to enable a natural gas vehicle to travel along that triangular area relying solely on natural gas fuel;

(2) grants to be dispersed through a competitive bidding process to offset a portion of the cost of installation of the natural gas dispensing equipment;

(3) contracts that require the recipient stations to meet operational, maintenance, and reporting requirements as specified by the commission; and

(4) a listing, to be maintained by the commission and made available to the public online, of all natural gas vehicle fueling stations that have received grant funding, including location and hours of operation.

(b) The commission may not award more than:

(1) three station grants to any entity; or

(2) one grant for each station.

(c) Grants awarded under this section may not exceed:

(1) \$100,000 for a compressed natural gas station;

(2) \$250,000 for a liquefied natural gas station; or

(3) \$400,000 for a station providing both liquefied and compressed natural gas.

(d) Stations funded by grants under this section must be publicly accessible and located not more than three miles from an interstate highway system. The commission shall give preference to:

(1) stations providing both liquefied natural gas and compressed natural gas at a single location; and

(2) stations located not more than one mile from an interstate highway system.

(e) To meet the goals of this section, the commission may solicit grant applications under this section for a new fueling station in a specific area or location.

(f) Grants made under this section are not subject to the requirements of Sections 394.002 through 394.008. The commission shall develop an application package and review applications in accordance with Sections 386.110 and 386.111.

(g) The commission, in consultation with the natural gas industry, shall determine the most efficient use of funding for the station grants under this section to maximize the availability of natural gas fueling stations.

Sec. 394.011. ADMINISTRATION OF PROGRAM. The commission may contract with one or more entities for administration of the program.

Sec. 394.012. EXPIRATION. This chapter expires August 31, 2017.

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

SECTION ____. The Texas Commission on Environmental Quality shall adopt rules and establish procedures under Chapter 394, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION ____. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

Amendment No. 1 was adopted.

SB 385 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BURNAM: On Saturday, with regard to both bills, and again today, we just want to have this clarifying conversation. It is intended that biodiesel fuels are included and considered as an alternative fuel, contrary to what the HRO reported.

REPRESENTATIVE OTTO: That is correct.

REMARKS ORDERED PRINTED

Representative Burnam moved to print remarks between Representative Otto and Representative Burnam.

The motion prevailed.

SB 385, as amended, was passed by (Record 1273): 112 Yeas, 27 Nays, 4 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Aycock; Berman; Bohac; Branch; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Christian; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Legler; Lewis; Lozano; Lucio; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Torres; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, R.; Beck; Bonnen; Cain; Cook; Craddick; Creighton; Fletcher; Flynn; Harper-Brown; Hartnett; Landtroop; Laubenberg; Lavender; Lyne; Parker; Paxton; Perry; Riddle; Sheffield; Simpson; Smith, T.; Solomons; Truitt; Weber; White; Zedler.

Present, not voting — Mr. Speaker; Huberty; Kolkhorst; Marquez(C).

Absent, Excused — Brown.

Absent — Anderson, C.; Coleman; Hughes; King, P.; Murphy; Thompson.

STATEMENTS OF VOTE

When Record No. 1273 was taken, I was in the house but away from my desk. I would have voted no.

C. Anderson

When Record No. 1273 was taken, I was temporarily out of the house chamber. I would have voted no.

P. King

When Record No. 1273 was taken, I was in the house but away from my desk. I would have voted yes.

Murphy

SB 1000 ON THIRD READING

(Geren, Thompson, Hamilton, Darby, Otto, et al. - House Sponsors)

SB 1000, A bill to be entitled An Act relating to self-directed and semi-independent status of the Texas Real Estate Commission; making an appropriation.

SB 1000 was passed by (Record 1274): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; Lucio; 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.

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

Absent, Excused — Brown.

The chair stated that **SB 1000** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

SB 1030 ON THIRD READING **(Anchia - House Sponsor)**

SB 1030, A bill to be entitled An Act relating to notice by sign requirement for sexually oriented businesses.

SB 1030 was passed by (Record 1275): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; 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; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; 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; Marquez(C).

Absent, Excused — Brown.

Absent — Burnam; Creighton; Larson; Nash.

SB 1035 ON THIRD READING
(Harless - House Sponsor)

SB 1035, A bill to be entitled An Act relating to motor vehicle title services; providing penalties.

SB 1035 was passed by (Record 1276): 134 Yeas, 11 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Burkett; Burnam; Button; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; 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; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Bonnen; Cain; Carter; Hughes; Kolkhorst; Landtroop; Perry; Simpson; Weber; White; Zedler.

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

Absent, Excused — Brown.

Absent — Creighton; Dukes.

STATEMENTS OF VOTE

When Record No. 1276 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

I was shown voting yes on Record No. 1276. I intended to vote no.

Flynn

SB 1124 ON THIRD READING
(Truitt and Solomons - House Sponsors)

SB 1124, A bill to be entitled An Act relating to licensing and regulation of certain persons involved in residential mortgage lending pursuant to the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009; providing penalties.

Amendment No. 1

Representative Truitt offered the following amendment to **SB 1124**:

Amend **SB 1124** on third reading as follows:

(1) Strike the recital to SECTION 14 of the bill, as amended by Amendment No. 1 by Truitt on second reading, and substitute the following:

SECTION 14. Section 156.202, Finance Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (c) to read as follows:

(2) In SECTION 14 of the bill, between added Section 156.202(a-1), Finance Code, and added Section 156.202(c), Finance Code, as added by Amendment No. 1 by Truitt on second reading, insert the following:

(a-2) A person is not required to obtain a license or registration under this chapter to originate a loan subject to Chapter 342 or a loan governed by Section 50(a)(6), Article XVI, Texas Constitution, if the person:

(1) is enrolled in the Nationwide Mortgage Licensing System and Registry;

(2) is licensed under Chapter 342; and

(3) makes consumer loans subject to:

(A) Subchapter G, Chapter 342; and

(B) Subchapter E or F, Chapter 342.

Amendment No. 1 was adopted.

SB 1124, as amended, was passed by (Record 1277): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; 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; Lucio; 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.

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

Absent, Excused — Brown.

Absent — Geren.

STATEMENT OF VOTE

When Record No. 1277 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

SB 1534 ON THIRD READING (J. Davis - House Sponsor)

SB 1534, A bill to be entitled An Act relating to the operation and certification of career schools or colleges.

Amendment No. 1

Representative J. Davis offered the following amendment to **SB 1534**:

Amend **SB 1534** on third reading as follows:

1. In SECTION 1 of the bill (page 2, line 2), after "by a", strike "national" and substitute "regional".

Amendment No. 1 was adopted.

SB 1534, as amended, was passed by (Record 1278): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; 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; Lucio; 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; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Brown.

Absent — Coleman; Weber.

SB 1732 ON THIRD READING
(Guillen - House Sponsor)

SB 1732, A bill to be entitled An Act relating to authorizing the adjutant general to operate post exchanges on state military property.

SB 1732 was passed by (Record 1279): 146 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Brown.

Absent — Coleman.

SB 1010 ON THIRD READING
(Workman, Lucio, and Gallego - House Sponsors)

SB 1010, A bill to be entitled An Act relating to providing a victim, guardian of a victim, or close relative of a deceased victim with notice of a plea bargain agreement in certain criminal cases.

SB 1010 was passed by (Record 1280): 145 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Brown.

Absent — Coleman; Crownover.

SB 1596 ON THIRD READING
(Isaac - House Sponsor)

SB 1596, A bill to be entitled An Act relating to changes in participation in public utility agencies.

SB 1596 was passed by (Record 1281): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; 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; Lucio; 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; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Brown.

Absent — Coleman; Shelton; Torres.

SB 1134 ON THIRD READING
(Craddick - House Sponsor)

SB 1134, A bill to be entitled An Act relating to the issuance of permits for certain facilities regulated by the Texas Commission on Environmental Quality.

Amendment No. 1

Representative Craddick offered the following amendment to **SB 1134**:

Amend **SB 1134** on third reading in added Section 382.051964, Health and Safety Code, as added by Amendment No. 1 by Wayne Smith, as follows:

(1) In added Section 382.051964(2), Health and Safety Code, between "same" and "two-digit", insert "first".

(2) In added Section 382.051964(4), Health and Safety Code, strike "tank battery, separator, or combustion facility" and substitute "condensate tank, oil tank, produced water storage tank, or combustion facility that:

(A) is under the control of the same person who controls the facilities being aggregated or is under the control of persons under common control;

(B) belongs to the same first two-digit major grouping of Standard Industrial Classification Codes as the facilitates being aggregated; and

(C) is operationally dependant on the facilities being aggregated".

Amendment No. 1 was adopted.

SB 1134, as amended, was passed by (Record 1282): 129 Yeas, 17 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; 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; Lucio; Lyne; Madden; Margo; 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; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Dukes; Dutton; Farrar; Giddings; Gutierrez; Johnson; Mallory Caraway; McClendon; Reynolds; Turner; Villarreal.

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

Absent, Excused — Brown.

Absent — Coleman.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1282. I intended to vote no.

Naishtat

I was shown voting yes on Record No. 1282. I intended to vote no.

Rodriguez

**SB 449 ON THIRD READING
(Ritter - House Sponsor)**

SB 449, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of open-space land devoted to water stewardship purposes on the basis of its productive capacity.

SB 449 was passed by (Record 1283): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; 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.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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.

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

Absent, Excused — Brown.

Absent — Coleman; King, T.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1283. I intended to vote no.

Garza

SB 479 ON THIRD READING
(S. Miller - House Sponsor)

SB 479, A bill to be entitled An Act relating to limiting the liability of certain persons for farm animal activities.

Amendment No. 1

Representative S. Miller offered the following amendment to **SB 479**:

Amend **SB 479** on third reading as follows:

(1) In SECTION 2 of the bill, in amended Section 87.001(1), Civil Practice and Remedies Code, strike "transporting,".

(2) In SECTION 2 of the bill, in amended Section 87.001(3)(D), Civil Practice and Remedies Code, strike "unloading, or transporting" and substitute "or unloading".

(3) In SECTION 2 of the bill, in amended Section 87.001(3)(D), Civil Practice and Remedies Code, strike "unload, or transport" and substitute "or unload".

Amendment No. 1 was adopted.

SB 479, as amended, was passed by (Record 1284): 137 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; 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; 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; Lucio; Lyne; Madden; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; 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 — Castro; Dutton; Farrar; Hartnett; Mallory Caraway; Miles; Reynolds.

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

Absent, Excused — Brown.

Absent — Coleman; Deshotel; Ritter.

SB 554 ON THIRD READING**(Lozano - House Sponsor)**

SB 554, A bill to be entitled An Act relating to contracts between dentists and health maintenance organizations or insurers.

SB 554 was passed by (Record 1285): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Brown.

Absent — Coleman; Eiland; Martinez Fischer; Veasey; Villarreal.

STATEMENTS OF VOTE

When Record No. 1285 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

When Record No. 1285 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

SB 577 ON THIRD READING**(Frullo - House Sponsor)**

SB 577, A bill to be entitled An Act relating to the use of facsimile signatures for certain documents involving certain municipalities.

SB 577 was passed by (Record 1286): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; 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; Lucio; 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; 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; Marquez(C).

Absent, Excused — Brown.

Absent — Coleman; Lyne; Rodriguez.

SB 1489 ON THIRD READING
(Madden - House Sponsor)

SB 1489, A bill to be entitled An Act relating to educational, juvenile justice, and criminal justice responses to truancy.

SB 1489 was passed by (Record 1287): 139 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; 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; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Sheets; Sheffield; Shelton; Simpson;

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

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

Absent, Excused — Brown.

Absent — Coleman; Hochberg; Larson; Lyne; Scott; Thompson; Veasey.

STATEMENT OF VOTE

When Record No. 1287 was taken, I was in the house but away from my desk. I would have voted yes.

Thompson

SB 958 ON THIRD READING

(Larson - House Sponsor)

SB 958, A bill to be entitled An Act relating to the regulation of dangerous wild animals.

SB 958 was passed by (Record 1288): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; 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; Lucio; Lyne; Madden; Mallory Caraway; 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; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Simpson.

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

Absent, Excused — Brown.

Absent — Coleman; Margo; Thompson.

STATEMENT OF VOTE

When Record No. 1288 was taken, I was in the house but away from my desk. I would have voted yes.

Thompson

SB 1020 ON THIRD READING
(Marquez - House Sponsor)

SB 1020, A bill to be entitled An Act relating to a feasibility study regarding the establishment of a dental school at the Texas Tech University Health Sciences Center at El Paso.

SB 1020 was passed by (Record 1289): 138 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; 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; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Aycock; Cain; Davis, S.; Geren; Isaac; Simpson; White.

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

Absent, Excused — Brown.

Absent — Allen; Coleman.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1289. I intended to vote no.

Callegari

I was shown voting present, not voting on Record No. 1289. I intended to vote yes.

Marquez

I was shown voting yes on Record No. 1289. I intended to vote no.

Paxton

I was shown voting yes on Record No. 1289. I intended to vote no.

Schwertner

I was shown voting no on Record No. 1289. I intended to vote yes.

White

I was shown voting yes on Record No. 1289. I intended to vote no.

Zedler

**SB 249 ON THIRD READING
(Orr - House Sponsor)**

SB 249, A bill to be entitled An Act relating to the composition of the Finance Commission of Texas.

Amendment No. 1

Representative Harless offered the following amendment to **SB 249**:

Amend **SB 249** on third reading as follows:

(1) In the recital to SECTION 2 of the bill, strike "Subsections (b) and (c), Section 11.102, Finance Code, are" and substitute "Subsection (b), Section 11.102, Finance Code, is".

(2) In SECTION 2 of the bill, in amended Section 11.102(b), Finance Code, between "consumer credit executive," and "and one member of", insert "one member of the finance commission must be a motor vehicle seller finance licensee,".

(3) In SECTION 2 of the bill, strike amended Subsection (c), Section 11.102, Finance Code.

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

SECTION _____. Subsection (e), Section 11.102, Finance Code, is amended by adding Subdivision (5) to read as follows:

(5) "Motor vehicle seller finance licensee" means a person who:

(A) holds a license issued under Chapter 348;

(B) has had five years' or more experience as a Texas automobile dealer retailing motor vehicles during the seven-year period preceding the person's appointment; and

(C) is a dealer as defined by Section 503.001, Transportation Code.

Amendment No. 1 was adopted.

SB 249, as amended, was passed by (Record 1290): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; Lucio; 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; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Castro.

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

Absent, Excused — Brown.

Absent — Coleman; Garza; Quintanilla; Thompson; White; Zedler.

STATEMENT OF VOTE

When Record No. 1290 was taken, I was in the house but away from my desk. I would have voted yes.

White

SB 594 ON THIRD READING (Zerwas - House Sponsor)

SB 594, A bill to be entitled An Act relating to certain procedures applicable to electronic prescriptions for Schedule II controlled substances.

SB 594 was passed by (Record 1291): 145 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Brown.

Absent — Berman; Coleman.

SB 762 ON THIRD READING
(Paxton - House Sponsor)

SB 762, A bill to be entitled An Act relating to the transfer of an ad valorem tax lien; providing for the imposition of an administrative penalty.

SB 762 was passed by (Record 1292): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; 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, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; 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 — Castro.

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

Absent, Excused — Brown.

Absent — Coleman; Howard, C.; King, S.; Lewis; Murphy; Pitts.

SB 898 ON THIRD READING
(Cook - House Sponsor)

SB 898, A bill to be entitled An Act relating to energy efficiency programs in institutions of higher education and certain governmental entities.

SB 898 was passed by (Record 1293): 139 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; Larson; Laubenberg; Legler; Lewis; Lozano; Lucio; 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; 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.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Cain; Garza; Landtroop; Lavender; Perry; Taylor, V.; White.

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

Absent, Excused — Brown.

Absent — Coleman.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1293. I intended to vote no.

Paxton

I was shown voting yes on Record No. 1293. I intended to vote no.

Zedler

SB 924 ON THIRD READING

(Keffer - House Sponsor)

SB 924, A bill to be entitled An Act relating to energy efficiency reports by municipally owned utilities and electric cooperatives.

Amendment No. 1

Representative Phillips offered the following amendment to **SB 924**:

Amend **SB 924** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter H, Chapter 418, Government Code, is amended by adding Section 418.192 to read as follows:

Sec. 418.192. COMMUNICATIONS BY PUBLIC SERVICE PROVIDERS DURING DISASTERS AND EMERGENCIES. (a) In this section:

(1) "Emergency" means a temporary, sudden, and unforeseen occurrence that requires action by a public service provider to correct the occurrence, inform others of the occurrence, protect lives or property, or temporarily reduce demand for or allocate supply of the provider's products or services to ensure public safety or preserve the integrity of service delivery mechanisms.

(2) "Public service provider" means any person or entity that provides essential products or services to the public that are regulated under the Natural Resources Code, Utilities Code, or Water Code, including:

(A) common carriers under Section 111.002, Natural Resources Code;

(B) telecommunications providers as defined by Section 51.002, Utilities Code; and

(C) any other person or entity providing or producing heat, light, power, or water.

(b) A public service provider may enter into a contract for an emergency notification system described by this section for use in informing the provider's customers, governmental entities, and other affected persons regarding:

(1) notice of a disaster or emergency; and

(2) any actions a recipient is required to take during a disaster or emergency.

(c) The emergency notification system for which a contract is entered into under Subsection (b) must rely on a dynamic information database that:

(1) is capable of simultaneous transmission of emergency messages to all recipients through at least two industry-standard gateways to one or more telephones or electronic devices owned by a recipient in a manner that does not negatively impact the existing communications infrastructure;

(2) allows the public service provider to:

(A) store prewritten emergency messages in the dynamic information database for subsequent use; and

(B) generate emergency messages in real time based on provider inputs;

(3) allows a recipient to select the language in which the recipient would prefer to receive messages;

(4) transmits the message in the recipient's language of choice to that recipient;

(5) converts text messages to sound files and transmits those sound files to the appropriate device;

(6) assigns recipients to priority groups for notification;

(7) allows for the collection and verification of responses by recipients of emergency messages; and

(8) reads or receives alerts from a commercial mobile alert system established by the Federal Communications Commission or complies with standards adopted for a commercial mobile alert system established by the Federal Communications Commission.

(d) The dynamic information database must comply with:

(1) the Telecommunications Service Priority program established by the Federal Communications Commission; and

(2) the Federal Information Processing Standard 140-2 governing compliant cryptographic modules for encryption and security issued by the National Institute of Standards and Technology.

(e) Before sending a notice described by Subsection (b), a public service provider must:

(1) provide a copy of the notice to the emergency management director designated under Section 418.1015, for each political subdivision for which the public service provider provides services at the time of the notice; and

(2) during a disaster declared by the governor or United States government, obtain approval of the notice from the emergency management director designated under Section 418.1015, for each political subdivision for which the public service provider provides services during the disaster.

(f) A customer of a public service provider may decline to receive the notices described by Subsection (b) by providing written notice of that decision to the public service provider.

(g) A public service provider shall cooperate with emergency management officials of each political subdivision in which the public service provider provides services to survey the number of notification systems in place.

(h) The requirements of this section do not apply to an emergency notification system that is in use by a public service provider on June 1, 2011.

(b) This section takes effect immediately if this Act 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 section takes effect September 1, 2011.

Amendment No. 1 was adopted.

SB 924, as amended, was passed by (Record 1294): 143 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishat; 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 — Garza; Hartnett.

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

Absent, Excused — Brown.

Absent — Coleman; Flynn.

STATEMENT OF VOTE

When Record No. 1294 was taken, I was in the house but away from my desk. I would have voted yes.

Flynn

SB 1681 ON THIRD READING

(Thompson, Gallego, and Alonzo - House Sponsors)

SB 1681, A bill to be entitled An Act relating to the appointment of counsel and the rights of an accused and other requirements for the purposes of appellate proceedings or community supervision revocation proceedings.

SB 1681 was passed by (Record 1295): 145 Yeas, 0 Nays, 3 Present, not voting.

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

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

Absent, Excused — Brown.

Absent — Coleman.

**SB 901 ON THIRD READING
(Kolkhorst - House Sponsor)**

SB 901, A bill to be entitled An Act relating to approval from the Department of State Health Services for disposal of ambulances purchased with certain grant funds.

SB 901 was passed by (Record 1296): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; 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; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Brown.

Absent — Coleman; Deshotel; Keffer; Taylor, V.

**SB 1133 ON THIRD READING
(Harless - House Sponsor)**

SB 1133, A bill to be entitled An Act relating to a report by the Public Utility Commission of Texas on the ability of electric generators to respond to abnormal weather conditions.

SB 1133 was passed by (Record 1297): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; Lucio; 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.

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

Absent, Excused — Brown.

Absent — Alonzo.

SB 19 ON THIRD READING
(W. Smith - House Sponsor)

SB 19, A bill to be entitled An Act relating to the development, financing, construction, and operation of certain toll projects.

SB 19 was passed by (Record 1298): 135 Yeas, 10 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycoc; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crossover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; 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; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Peña; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; 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 — Carter; Castro; Farias; Garza; Isaac; Landtroop; Paxton; Perry; Simpson; Weber.

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

Absent, Excused — Brown.

Absent — Quintanilla.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1298. I intended to vote no.

Bohac

I was shown voting yes on Record No. 1298. I intended to vote no.

Christian

I was shown voting yes on Record No. 1298. I intended to vote no.

Frullo

I was shown voting yes on Record No. 1298. I intended to vote no.

Kleinschmidt

I was shown voting yes on Record No. 1298. I intended to vote no.

Kolkhorst

I was shown voting yes on Record No. 1298. I intended to vote no.

Larson

I was shown voting yes on Record No. 1298. I intended to vote no.

Schwertner

SB 1484 ON THIRD READING
(Strama - House Sponsor)

SB 1484, A bill to be entitled An Act relating to authorizing open-enrollment charter schools to be awarded academic distinction designations.

SB 1484 was passed by (Record 1299): 139 Yeas, 8 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; 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; Lucio; 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; Peña; Perry; Phillips; 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; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Christian; Creighton; Flynn; Hardcastle; Paxton; Sheffield; Torres; Weber.

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

Absent, Excused — Brown.

**SB 1342 ON THIRD READING
(Geren - House Sponsor)**

SB 1342, A bill to be entitled An Act relating to the use of bingo proceeds by licensed authorized organizations, including the use of proceeds to provide health insurance or health insurance benefits to certain employees.

SB 1342 was passed by (Record 1300): 145 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; 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; Lucio; 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; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter; Weber.

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

Absent, Excused — Brown.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1300. I intended to vote no.

Callegari

I was shown voting yes on Record No. 1300. I intended to vote no.

Schwertner

SB 1368 ON THIRD READING
(Deshotel - House Sponsor)

SB 1368, A bill to be entitled An Act relating to the authority of a co-owner of residential property to encumber the property.

SB 1368 was passed by (Record 1301): 144 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; 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 — Burkett.

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

Absent, Excused — Brown.

Absent — Davis, S.; Menendez.

SB 738 - VOTE RECONSIDERED

Representative Villarreal moved to reconsider the vote by which **SB 738**, as amended, was passed to third reading on May 21.

The motion to reconsider prevailed by (Record 1302): 118 Yeas, 27 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Berman; Bonnen; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Isaac; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Margo; Martinez; Martinez Fischer; McClendon;

Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zedler; Zerwas.

Nays — Anderson, C.; Beck; Bohac; Branch; Carter; Cook; Creighton; Driver; Fletcher; Gonzales, L.; Hardcastle; Harper-Brown; Hartnett; Hunter; Jackson; Landtroop; Laubenberg; Lyne; Madden; Paxton; Peña; Perry; Schwertner; Sheffield; Simpson; Weber; White.

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

Absent, Excused — Brown.

Absent — Gonzalez; Mallory Caraway.

SB 738 ON SECOND READING

(Villarreal - House Sponsor)

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

SB 738, A bill to be entitled An Act relating to a parental role in determining sanctions applied to a public school campus under certain circumstances.

SB 738 was read second time on May 21 and was passed to third reading, as amended.

Representative Villarreal moved to postpone consideration of **SB 738** until 5:40 p.m. today.

The motion prevailed.

GENERAL STATE CALENDAR

(consideration continued)

SB 425 ON THIRD READING

(Hancock - House Sponsor)

SB 425, A bill to be entitled An Act relating to property and casualty certificates of insurance and approval of property and casualty certificate of insurance forms by the Texas Department of Insurance; providing penalties.

Amendment No. 1

Representative Hancock offered the following amendment to **SB 425**:

Amend **SB 425** as follows:

On page 11, line 23, strike "shall" and insert "may"

Amendment No. 1 was adopted.

SB 425, as amended, was passed by (Record 1303): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; 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; Lucio; 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; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Castro.

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

Absent, Excused — Brown.

Absent — Eissler; Scott; Smith, T.

STATEMENT OF VOTE

When Record No. 1303 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

HR 2293 - ADOPTED (by T. King)

Representative T. King moved to suspend all necessary rules to take up and consider at this time **HR 2293**.

The motion prevailed.

The following resolution was laid before the house:

HR 2293, Congratulating Adolfo Alvarez, Sr., of Pearsall on his 80th birthday.

HR 2293 was adopted.

SB 341 ON THIRD READING (Menendez and Larson - House Sponsors)

SB 341, A bill to be entitled An Act relating to authorizing the dissolution of the Bexar Metropolitan Water District; providing a penalty.

SB 341 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GARZA: Representative Menendez, I just had a couple of questions. In your opinion, do you agree this bill, as amended, was a fair bill?

REPRESENTATIVE MENENDEZ: I do believe the bill is a fair bill. I believe some of the amendments we took, we did in order to save this body over two hours on Saturday afternoon, and I don't know if it will stay on the bill when it comes back.

GARZA: Well, do you agree that the amendments that were added provided adequate protection for rural and suburban ratepayers?

MENENDEZ: I'll repeat what I said. Some of the amendments will survive. Some of them will not survive.

GARZA: Okay. So, do you agree then that the amendments—such as the bifurcated election, the permanent rural advisory committee, the rural infrastructure fund, the declared valuation on the election, the TCEQ complaint process to honor all current contracts, and to have a contract review board—that all of those amendments that were accepted would strengthen the position of rural ratepayers who may lose their right to vote under this bill?

MENENDEZ: Representative Garza, every single ratepayer, whether they live inside the city limits, outside the city limits, in the county, or whichever part you deem to define rural—or not rural—every one of them has an equal vote. Therefore, I believe that this bill, in whatever form it comes back—it's going to go to conference, the senate's going to appoint five conferees, the house will appoint five conferees. We'll debate the value and the worth of the amendments, and we'll bring it back to the body so that the body as a whole can determine its value, up or down.

GARZA: So, in your opinion, do you agree with me that stripping these amendments will weaken the bill?

MENENDEZ: No. You know, representative, I do not believe that we're going to weaken the bill by removing any one amendment, or any two amendments, or any three amendments. There were 11 amendments left on the table when I chose to accept all the amendments because it was Saturday afternoon at 2:15, and I did not want to waste two hours of the membership's, of the body's, time.

GARZA: So do you, in your opinion, agree to support this bill, as amended, in conference committee, if we should have one?

MENENDEZ: Well, I do believe that this will have a conference committee, and I plan to bring this bill back. So I will support this bill in whatever shape the conferees choose as the best form of this bill. I don't make any commitments to any of the amendments that were made.

REMARKS ORDERED PRINTED

Representative Garza moved to print remarks between Representative Menendez and Representative Garza.

The motion prevailed.

REPRESENTATIVE MARTINEZ FISCHER: Representative Menendez, I know that this is a big bill that we've dealt with many sessions, and there's been draft, after draft, after draft, after draft. And would you agree with me that the bill that you brought to the floor un-amended represents the best work product that the delegation has been able to bring together, only bringing some finality to the ratepayers—Bexar Metropolitan Water District?

MENENDEZ: I definitely would agree that after hours and hours of having input from the public at large, from every one of our colleagues, that we have brought together a bill that represents good protections for all the ratepayers, and I do believe it was a good work product. There was an amendment by Representative Larson that was going to take into consideration some protections that we accepted early on in the process, and I had an amendment that was also made in order to provide all protections, as far as voting rights are concerned. And I do plan to make sure that those two amendments remain on the bill.

MARTINEZ FISCHER: At the committee level, I offered language concerning voting rights and it was adopted, and it was adopted in the committee substitute.

MENENDEZ: Correct.

MARTINEZ FISCHER: And so, I guess my point is, I mean, anybody that wanted to have meaningful input on this bill had the opportunity to do that at the member level, dealing with you directly, at the committee level in both the house and the senate. And so the amendments that were left on the table weren't the last resort. I mean, anybody could have talked to you in good faith about making the bill better. You taking those amendments is not your commitment to accepting those amendments. It was really a courtesy to the body that's had to deal with this issue, not just this session, but the last three or four.

MENENDEZ: Without a doubt. And as you know, Representative Martinez Fischer, we took a vote on the first amendment, and the first amendment that we took a vote on that was not acceptable went down with over 80 votes against it. But instead of having a two-hour debate on every single one of the amendments, I made the decision to take every amendment in order to save this body over two hours on a Saturday afternoon.

MARTINEZ FISCHER: That's my recollection. I just wanted to make sure that we're clear on that.

REMARKS ORDERED PRINTED

Representative Martinez Fischer moved to print remarks between Representative Menendez and Representative Martinez Fischer.

The motion prevailed.

SB 341 was passed by (Record 1304): 129 Yeas, 11 Nays, 5 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; 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; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; 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; Weber; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Aycock; Beck; Cain; Fletcher; Garza; Hardcastle; Kleinschmidt; Miller, S.; White; Zedler.

Present, not voting — Mr. Speaker; Marquez(C); Otto; Reynolds; Sheffield.

Absent, Excused — Brown.

Absent — Callegari; Hernandez Luna; King, P.; Lucio.

STATEMENTS OF VOTE

When Record No. 1304 was taken, I was in the house but away from my desk. I would have voted yes.

Hernandez Luna

When Record No. 1304 was taken, I was in the house but away from my desk. I would have voted yes.

Lucio

SB 377 ON THIRD READING

(Riddle, Gallego, Burkett, Hartnett, and Carter - House Sponsors)

SB 377, A bill to be entitled An Act relating to the murder of a child as a capital offense.

SB 377 was passed by (Record 1305): 141 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; Hilderbran; Hochberg; Hopson; Howard, C.; 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; 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 — Howard, D.

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

Absent, Excused — Brown.

Absent — Castro; Coleman; Hernandez Luna; Lucio; Mallory Caraway.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1305. I intended to vote no.

Burnam

When Record No. 1305 was taken, I was in the house but away from my desk. I would have voted present, not voting.

Castro

When Record No. 1305 was taken, I was in the house but away from my desk. I would have voted yes.

Hernandez Luna

When Record No. 1305 was taken, I was in the house but away from my desk. I would have voted yes.

Lucio

I was shown voting present, not voting on Record No. 1305. I intended to vote no.

Marquez

REASON FOR VOTE

I was present, not voting on **SB 377** because I cannot support a measure that would expand the death penalty in Texas prior to a thorough examination of our current conviction and exoneration processes.

Castro

POSTPONED BUSINESS

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

SB 859 ON THIRD READING

(Smithee - House Sponsor)

SB 859, A bill to be entitled An Act relating to small and large employer health group cooperatives.

SB 859 was read third time earlier today, amendments were offered and disposed of, and **SB 859** was postponed until this time.

Amendment No. 3

Representative Chisum offered the following amendment to **SB 859**:

Amend **SB 859** on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE ____ EMPLOYER CONTRIBUTIONS TO INDIVIDUAL
HEALTH INSURANCE POLICIES

SECTION ____ .01. Subtitle A, Title 8, Insurance Code, is amended by adding Chapter 1221 to read as follows:

CHAPTER 1221. EMPLOYER CONTRIBUTIONS TO INDIVIDUAL
HEALTH INSURANCE POLICIES

Sec. 1221.001. RULES; EMPLOYER CONTRIBUTIONS. The commissioner by rule, unless it would violate state or federal law, may develop procedures to allow an employer to make financial contributions to or premium payments for an employee or retiree's individual consumer directed health insurance policy in a manner that eliminates or minimizes the state or federal tax consequences, or provides positive state or federal tax consequences, to the employer.

Amendment No. 3 was adopted.

SB 859, as amended, was passed by (Record 1306): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; 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; Lucio; 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.

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

Absent, Excused — Brown.

Absent — Anderson, C.

SB 303 ON SECOND READING
(Scott and White - House Sponsors)

SB 303, A bill to be entitled An Act relating to health care services provided or paid by a hospital district.

SB 303 was read second time on May 20 and was postponed until 8 a.m. today.

Amendment No. 1

Representative Scott offered the following amendment to **SB 303**:

Amend **SB 303** (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 281, Health and Safety Code, is amended by adding Section 281.0286 to read as follows:

Sec. 281.0286. TARRANT COUNTY HOSPITAL DISTRICT; EMPLOYMENT OF PHYSICIANS. (a) The board of the Tarrant County Hospital District may appoint, contract for, or employ physicians as the board considers necessary for the efficient operation of the district.

(b) The term of an employment contract entered into under this section may not exceed four years.

(c) This section may not be construed as authorizing the board of the Tarrant County Hospital District to supervise or control the practice of medicine, as prohibited by Subtitle B, Title 3, Occupations Code.

(d) The authority granted to the board of the Tarrant County Hospital District under Subsection (a) to employ physicians shall apply as necessary for the district to fulfill the district's statutory mandate to provide medical care for the indigent and needy residents of the district as provided by Section 281.046.

(e) The medical executive committee of the Tarrant County Hospital District shall adopt, maintain, and enforce policies to ensure that a physician employed by the district exercises the physician's independent medical judgment in providing care to patients.

(f) The policies adopted by the medical executive committee under this section must include:

(1) policies relating to:

(A) governance of the medical executive committee;

(B) credentialing;

(C) quality assurance;

(D) utilization review;

(E) peer review;

(F) medical decision-making; and

(G) due process; and

(2) rules requiring the disclosure of financial conflicts of interest by a member of the medical executive committee.

(g) The medical executive committee and the board of the Tarrant County Hospital District shall jointly develop and implement a conflict management process to resolve any conflict between a policy adopted by the medical executive committee under this section and a policy of the Tarrant County Hospital District.

(h) A member of the medical executive committee who is a physician shall provide biennially to the chair of the medical executive committee a signed, verified statement indicating that the member of the medical executive committee:

(1) is licensed by the Texas Medical Board;

(2) will exercise independent medical judgment in all medical executive committee matters, including matters relating to:

(A) credentialing;

(B) quality assurance;

(C) utilization review;

(D) peer review;

(E) medical decision-making; and

(F) due process;

(3) will exercise the committee member's best efforts to ensure compliance with the policies that are adopted or established by the medical executive committee; and

(4) will report immediately to the Texas Medical Board any action or event that the committee member reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

(i) For all matters relating to the practice of medicine, each physician employed by the Tarrant County Hospital District shall ultimately report to the chair of the medical executive committee for the district.

Amendment No. 1 was adopted. (Berman recorded voting no.)

SB 303, as amended, was passed to third reading. (Truitt recorded voting present, not voting.)

SB 499 ON SECOND READING
(Guillen - House Sponsor)

SB 499, A bill to be entitled An Act relating to the identification of breeder deer by microchips.

SB 499 was read second time on May 20 and was postponed until 8 a.m. today.

Representative Guillen moved to postpone consideration of **SB 499** until 5:30 p.m. today.

The motion prevailed.

SB 1543 ON SECOND READING
(Larson - House Sponsor)

SB 1543, A bill to be entitled An Act relating to the authority of an independent school district to invest in corporate bonds.

SB 1543 was read second time on May 20, an amendment was offered and disposed of, and **SB 1543** was postponed until 8 a.m. today.

Representative Larson moved to postpone consideration of **SB 1543** until 6 p.m. today.

The motion prevailed.

SB 271 ON SECOND READING
(Menendez and Larson - House Sponsors)

SB 271, A bill to be entitled An Act relating to the board of directors of the Bexar Metropolitan Water District.

SB 271 was read second time on May 21 and was postponed until 8 a.m. today.

SB 271 was passed to third reading.

SB 680 ON SECOND READING
(Woolley - House Sponsor)

SB 680, A bill to be entitled An Act relating to a fee collected by a district clerk for certain certified copies.

SB 680 was read second time on May 21 and was passed to third reading. The vote was reconsidered later that day, and **SB 680** was postponed until 10 a.m. today.

Representative Woolley moved to postpone consideration of **SB 680** until 12 a.m. Sunday, June 5.

The motion prevailed.

(Speaker in the chair)

MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING

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

CSSB 1581 ON SECOND READING
(Aycock - House Sponsor)

CSSB 1581, A bill to be entitled An Act relating to state fiscal matters, and certain administrative and business matters, related to public and higher education.

Representative Aycock moved to postpone consideration of **CSSB 1581** until 8 p.m. today.

The motion prevailed.

CSSB 1717 ON SECOND READING
(Lewis and Jackson - House Sponsors)

CSSB 1717, A bill to be entitled An Act relating to the operation and administration of the judicial branch of state government.

Amendment No. 1

Representative Lewis offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) as follows:

(1) Strike SECTION 4.01 of the bill (page 46, line 22, through page 47, line 21) and substitute the following:

SECTION 4.01. (a) Section 27.005(a), Government Code, is amended to read as follows:

(a) For purposes of removal under Chapter 87, Local Government Code, "incompetency" in the case of a justice of the peace includes the failure of the justice to successfully complete:

(1) within one year after the date the justice is first elected, an 80-hour course in the performance of the justice's duties; and

(2) each following year, a 20-hour course in the performance of the justice's duties, including not less than 10 hours of instruction regarding substantive, procedural, and evidentiary law in civil matters.

(b) Section 27.005(a), Government Code, as amended by this section, applies to a justice of the peace serving on or after the effective date of this article, regardless of the date the justice was elected or appointed.

(2) Strike Section 6.02 of the bill (page 102, line 8, through page 104, line 5) and substitute the following:

SECTION 6.02. Section 74.050, Government Code, is amended to read as follows:

Sec. 74.050. SUPPORT STAFF [~~ADMINISTRATIVE ASSISTANT~~]. (a) The presiding judge may employ, directly or through a contract with another governmental entity, a full-time or part-time administrative assistant.

(b) An administrative assistant [~~must have the qualifications established by rule of the supreme court.~~

~~(c) An administrative assistant~~] shall aid the presiding judge in carrying out the judge's duties under this chapter. The administrative assistant shall:

(1) perform the duties that are required by the presiding judge and by the rules of administration;

(2) conduct correspondence for the presiding judge;

(3) under the direction of the presiding judge, make an annual report of the activities of the administrative region and special reports as provided by the rules of administration to the supreme court, which shall be made in the manner directed by the supreme court; and

(4) attend to other matters that are prescribed by the council of judges.

(c) [~~(d)~~] An administrative assistant, with the approval of the presiding judge, may purchase the necessary office equipment, stamps, stationery, and supplies and employ additional personnel as authorized by the presiding judge.

(d) [~~(e)~~] An administrative assistant is entitled to receive the compensation from the state provided by the General Appropriations Act, from county funds, or from any public or private grant.

(3) In SECTION 7.01 of the bill, in added Section 72.029, Government Code (page 110, following line 27), add a new Subsection (e) to read as follows:

(e) The office may accept gifts, grants, and donations for purposes of this section. The office may not use state funds to provide a grant under this section or to administer the grant program.

(4) In SECTION 7.02 of the bill, in added Section 22.017, Government Code (page 111, between lines 21 and 22), add a new Subsection (e) to read as follows:

(e) The commission may accept gifts, grants, and donations for purposes of this section. The commission may not use state funds to provide a grant under this section or to administer the grant program.

(5) In SECTION 9.02 of the bill (page 114, between lines 23 and 24) add a new Subsection (c) to read as follows:

(c) The office of court administration may accept gifts, grants, and donations to conduct the study under this section. The office of court administration may not use state funds to conduct the study and, notwithstanding Subsection (a) of this section, is required to conduct the study only to the extent gifts, grants, and donations are available for that purpose.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Lewis and Naishtat offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE ____ SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP

SECTION ____ .01. Section 263.601, Family Code, is amended by amending Subdivision (1) and adding Subdivision (3-a) to read as follows:

(1) "Foster care" means a voluntary residential living arrangement with a foster parent or other residential child-care provider that is:

(A) licensed or approved by the department or verified by a licensed child-placing agency; and

(B) paid under a contract with the department.

(3-a) "Trial independence period" means a period of not less than six months, or a longer period as a court may order not to exceed 12 months, during which a young adult exits foster care with the option to return to foster care under the continuing extended jurisdiction of the court.

SECTION ____ .02. Section 263.602, Family Code, is amended to read as follows:

Sec. 263.602. EXTENDED JURISDICTION. (a) A court that had continuing, exclusive jurisdiction over a young adult on the day before [may, at] the young adult's 18th birthday continues to have extended [request, render an order that extends the court's] jurisdiction over the young adult and shall retain the case on the court's docket while the young adult remains in extended foster care and during a trial independence period described [as provided] by this section [subchapter].

(b) A court with extended jurisdiction over a young adult who remains in extended foster care shall conduct extended foster care review hearings every six months for the purpose of reviewing and making findings regarding:

(1) whether the young adult's living arrangement is safe and appropriate and whether the department has made reasonable efforts to place the young adult in the least restrictive environment necessary to meet the young adult's needs;

(2) whether the department is making reasonable efforts to finalize the permanency plan that is in effect for the young adult, including a permanency plan for independent living;

(3) whether, for a young adult whose permanency plan is independent living:

(A) the young adult participated in the development of the plan of service;

(B) the young adult's plan of service reflects the independent living skills and appropriate services needed to achieve independence by the projected date; and

(C) the young adult continues to make reasonable progress in developing the skills needed to achieve independence by the projected date; and

(4) whether additional services that the department is authorized to provide are needed to meet the needs of the young adult [The extended jurisdiction of the court terminates on the earlier of:

(1) the young adult's 21st birthday; or

(2) the date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court].

(c) Not later than the 10th day before the date set for a hearing under this section, the department shall file with the court a copy of the young adult's plan of service and a report that addresses the issues described by Subsection (b).

(d) Notice of an extended foster care review hearing shall be given as provided by Rule 21a, Texas Rules of Civil Procedure, to the following persons, each of whom has a right to present evidence and be heard at the hearing:

(1) the young adult who is the subject of the suit;

(2) the department;

(3) the foster parent with whom the young adult is placed and the administrator of a child-placing agency responsible for placing the young adult, if applicable;

(4) the director of the residential child-care facility or other approved provider with whom the young adult is placed, if applicable;

(5) each parent of the young adult whose parental rights have not been terminated and who is still actively involved in the life of the young adult;

(6) a legal guardian of the young adult, if applicable; and

(7) the young adult's attorney ad litem, guardian ad litem, and volunteer advocate, the appointment of which has not been previously dismissed by the court.

(e) If, after reviewing the young adult's plan of service and the report filed under Subsection (c), and any additional testimony and evidence presented at the review hearing, the court determines that the young adult is entitled to additional services, the court may order the department to take appropriate action to ensure that the young adult receives those services.

(f) A court with extended jurisdiction over a young adult as described in Subsection (a) shall continue to have jurisdiction over the young adult and shall retain the case on the court's docket until the earlier of:

(1) the last day of the:

(A) sixth month after the date the young adult leaves foster care; or

(B) 12th month after the date the young adult leaves foster care if

specified in a court order, for the purpose of allowing the young adult to pursue a trial independence period; or

(2) the young adult's 21st birthday.

(g) A court with extended jurisdiction described by this section is not required to conduct periodic hearings for a young adult during a trial independence period and may not compel a young adult who has exited foster care to attend a court hearing.

SECTION ____.03. Subchapter G, Chapter 263, Family Code, is amended by adding Section 263.6021 to read as follows:

Sec. 263.6021. VOLUNTARY EXTENDED JURISDICTION FOR YOUNG ADULT RECEIVING TRANSITIONAL LIVING SERVICES.

(a) Notwithstanding Section 263.602, a court that had continuing, exclusive jurisdiction over a young adult on the day before the young adult's 18th birthday may, at the young adult's request, render an order that extends the court's jurisdiction beyond the end of a trial independence period if the young adult receives transitional living services from the department.

(b) The extended jurisdiction of the court under this section terminates on the earlier of:

(1) the young adult's 21st birthday; or

(2) the date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court.

(c) At the request of a young adult who is receiving transitional living services from the department and who consents to voluntary extension of the court's jurisdiction under this section, the court may hold a hearing to review the services the young adult is receiving.

(d) Before a review hearing scheduled under this section, the department must file with the court a report summarizing the young adult's transitional living services plan, services being provided to the young adult under that plan, and the young adult's progress in achieving independence.

(e) If, after reviewing the report and any additional testimony and evidence presented at the hearing, the court determines that the young adult is entitled to additional services, the court may order the department to take appropriate action to ensure that the young adult receives those services.

SECTION ____.04. Subsections (a) and (c), Section 263.603, Family Code, are amended to read as follows:

(a) Notwithstanding Section 263.6021 [~~263.602~~], if the court believes that a young adult may be incapacitated as defined by Section 601(14)(B), Texas Probate Code, the court may extend its jurisdiction on its own motion without the young adult's consent to allow the department to refer the young adult to the Department of Aging and Disability Services for guardianship services as required by Section 48.209, Human Resources Code.

(c) If the Department of Aging and Disability Services determines a guardianship is not appropriate, or the court with probate jurisdiction denies the application to appoint a guardian, the court under Subsection (a) may continue to extend its jurisdiction over the young adult only as provided by Section 263.602 or 263.6021.

SECTION ____ .05. Section 263.609, Family Code, is repealed.

SECTION ____ .06. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Fletcher offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee report) as follows:

(1) In the recital to SECTION 4.05 of the bill (page 49, line 12), between "by" and "adding", insert "amending Subsection (a) and".

(2) In SECTION 4.05 of the bill, before proposed Article 4.12(e), Code of Criminal Procedure (page 49, between lines 12 and 13), insert the following:

(a) Except as otherwise provided by this article, a misdemeanor case to be tried in justice court shall be tried:

(1) in the precinct in which the offense was committed;

(2) in the precinct in which the defendant or any of the defendants reside; [or]

(3) with the written consent of the state and each defendant or the defendant's attorney, in any other precinct within the county; or

(4) if the offense was committed in a county with a population of 3.3 million or more, in any precinct in the county that is adjacent to the precinct in which the offense was committed.

(3) Add the following appropriately numbered SECTION to ARTICLE 4 of the bill and renumber the remaining SECTIONS of the bill accordingly:

SECTION ____ . Article 4.12(a), Code of Criminal Procedure, as amended by this article, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Alonzo offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ PRETRIAL HEARINGS IN CRIMINAL CASES

SECTION ____ .01. Article 28.01, Code of Criminal Procedure, is amended by adding Section 4 to read as follows:

Sec. 4. A court shall set a pre-trial hearing in a criminal case other than a case involving only an offense punishable as a Class C misdemeanor, if not later than the 60th day before the date on which trial commences, the state or the defendant requests the hearing. The court must:

(1) hold the requested hearing not later than the 30th day before the date on which trial commences; and

(2) to the extent feasible, rule at the hearing on all pre-trial motions filed in the case.

SECTION ____ .02 The change in law made by this article applies only to a criminal case in which the indictment or information is presented to the court on or after the effective date of this Act. A criminal case in which the indictment or information is presented to the court before the effective date of this Act is governed by the law in effect when the indictment or information is presented, and the former law is continued in effect for that purpose.

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Weber offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** as follows:

(1) In Article 4 of the bill, strike SECTION 4.02 (page 47 line 22 through line 27) and (page 48 line 1 through line 25).

(2) In Article 4 of the bill, strike SECTION 4.03 (page 48 line 26 through line 27) and (page 49 line 1 through line 3).

(3) In Article 4 of the bill, strike SECTION 4.04 (page 49 line 4 through line 10).

(4) In Article 4 of the bill, strike SECTION 4.05 (page 49 line 11 through line 16).

(5) In Article 4 of the bill, strike SECTION 4.06 (page 49 line 17 through line 20).

(6) In Article 4 of the bill, strike SECTION 4.07 (page 49 line 21 through line 27) and (page 50 line 1).

(7) In Article 4 of the bill, strike SECTION 4.08 (page 50 line 2 through line 15).

(8) In Article 4 of the bill, strike SECTION 4.09 (page 50 line 16 through line 17).

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Alonzo offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . MANAGED ASSIGNED COUNSEL PROGRAMS

SECTION ____ .01. Article 26.04, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (f-1) to read as follows:

(a) The judges of the county courts, statutory county courts, and district courts trying criminal cases in each county, by local rule, shall adopt and publish written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for or charged with a misdemeanor punishable by confinement or a felony. The procedures must be consistent with this article and Articles 1.051, 15.17, 26.05, and 26.052. A court shall appoint an attorney from a public appointment list using a system of rotation, unless the court appoints an attorney under Subsection (f), (f-1), (h), or (i). The court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys' names appear on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

(f-1) In a county in which a managed assigned counsel program is operated in accordance with Article 26.047, the managed assigned counsel program may appoint counsel to represent the defendant in accordance with guidelines established for the program.

SECTION ____ .02. Chapter 26, Code of Criminal Procedure, is amended by adding Article 26.047 to read as follows:

Art. 26.047. MANAGED ASSIGNED COUNSEL PROGRAM. (a) In this article:

(1) "Governmental entity" has the meaning assigned by Article 26.044.

(2) "Managed assigned counsel program" or "program" means a program operated with public funds:

(A) by a governmental entity, nonprofit corporation, or bar association under a written agreement with a governmental entity, other than an individual judge or court; and

(B) for the purpose of appointing counsel under Article 26.04 or Section 51.10, Family Code.

(b) The commissioners court of any county, on written approval of a judge of the juvenile court of a county or a county court, statutory county court, or district court trying criminal cases in the county, may appoint a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program. The commissioners courts of two or more counties may enter

into a written agreement to jointly appoint and fund a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program. In appointing an entity to operate a managed assigned counsel program under this subsection, the commissioners court shall specify or the commissioners courts shall jointly specify:

(1) the types of cases in which the program may appoint counsel under Article 26.04 or Section 51.10, Family Code, and the courts in which the counsel appointed by the program may be required to appear; and

(2) the term of any agreement establishing a program and how the agreement may be terminated or renewed.

(c) The commissioners court or commissioners courts shall require a written plan of operation from an entity operating a program under this article. The plan of operation must include:

(1) a budget for the program, including salaries;

(2) a description of each personnel position, including the program's director;

(3) the maximum allowable caseload for each attorney appointed by the program;

(4) provisions for training personnel of the program and attorneys appointed under the program;

(5) a description of anticipated overhead costs for the program;

(6) a policy regarding licensed investigators and expert witnesses used by attorneys appointed under the program;

(7) a policy to ensure that appointments are reasonably and impartially allocated among qualified attorneys; and

(8) a policy to ensure that an attorney appointed under the program does not accept appointment in a case that involves a conflict of interest for the attorney that has not been waived by all affected clients.

(d) A program under this article must have a director. Unless the program uses a review committee appointed under Subsection (e), a program under this article must be directed by a person who:

(1) is a member of the State Bar of Texas;

(2) has practiced law for at least three years; and

(3) has substantial experience in the practice of criminal law.

(e) The governmental entity, nonprofit corporation, or bar association appointed under Subsection (b) may appoint a review committee of three or more individuals to appoint attorneys to the program's public appointment list described by Subsection (f). Each member of the committee:

(1) must meet the requirements described by Subsection (d);

(2) may not be employed as a prosecutor; and

(3) may not be included on or apply for inclusion on the public appointment list described by Subsection (f).

(f) The program's public appointment list from which an attorney is appointed must contain the names of qualified attorneys, each of whom:

(1) applies to be included on the list;

(2) meets any applicable requirements specified by the procedure for appointing counsel adopted under Article 26.04(a) and the Task Force on Indigent Defense; and

(3) is approved by the program director or review committee, as applicable.

(g) A court may replace an attorney appointed by the program for the same reasons and in the same manner described by Article 26.04(k).

(h) A managed assigned counsel program is entitled to receive funds for personnel costs and expenses incurred in amounts fixed by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the program serves more than one county.

(i) A managed assigned counsel program may employ personnel and enter into contracts necessary to perform the program's duties as specified by the commissioners court or commissioners courts under this article.

SECTION ____ .03. Article 26.05(c), Code of Criminal Procedure, is amended to read as follows:

(c) Each fee schedule adopted shall state reasonable fixed rates or minimum and maximum hourly rates, taking into consideration reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates, and shall provide a form for the appointed counsel to itemize the types of services performed. No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or, if the county operates a managed assigned counsel program under Article 26.047, the director of the program, and the judge or director, as applicable, approves the payment. If the judge or director disapproves the requested amount of payment, the judge or director shall make written findings stating the amount of payment that the judge or director approves and each reason for approving an amount different from the requested amount. An attorney whose request for payment is disapproved or is not otherwise acted on by the 60th day after the date the request for payment is submitted may appeal the disapproval or failure to act by filing a motion with the presiding judge of the administrative judicial region. On the filing of a motion, the presiding judge of the administrative judicial region shall review the disapproval of payment or failure to act and determine the appropriate amount of payment. In reviewing the disapproval or failure to act, the presiding judge of the administrative judicial region may conduct a hearing. Not later than the 45th day after the date an application for payment of a fee is submitted under this article, the commissioners court shall pay to the appointed counsel the amount that is approved by the presiding judge of the administrative judicial region and that is in accordance with the fee schedule for that county.

SECTION ____ .04. Section 71.001, Government Code, is amended by adding Subdivision (8-a) to read as follows:

(8-a) "Managed assigned counsel program" has the meaning assigned by Article 26.047, Code of Criminal Procedure.

SECTION ____ .05. Section 71.060(a), Government Code, is amended to read as follows:

(a) The Task Force on Indigent Defense shall develop policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings. The policies and standards may include:

(1) performance standards for counsel appointed to represent indigent defendants;

(2) qualification standards under which attorneys may qualify for appointment to represent indigent defendants, including:

(A) qualifications commensurate with the seriousness of the nature of the proceeding;

(B) qualifications appropriate for representation of mentally ill defendants and noncitizen defendants;

(C) successful completion of relevant continuing legal education programs approved by the council; and

(D) testing and certification standards;

(3) standards for ensuring appropriate appointed caseloads for counsel appointed to represent indigent defendants;

(4) standards for determining whether a person accused of a crime or juvenile offense is indigent;

(5) policies and standards governing the organization and operation of an assigned counsel program;

(6) policies and standards governing the organization and operation of a public defender consistent with recognized national policies and standards;

(7) standards for providing indigent defense services under a contract defender program consistent with recognized national policies and standards;

(8) standards governing the reasonable compensation of counsel appointed to represent indigent defendants;

(9) standards governing the availability and reasonable compensation of providers of indigent defense support services for counsel appointed to represent indigent defendants;

(10) standards governing the operation of a legal clinic or program that provides legal services to indigent defendants and is sponsored by a law school approved by the supreme court;

(11) policies and standards governing the appointment of attorneys to represent children in proceedings under Title 3, Family Code; ~~and~~

(12) policies and standards governing the organization and operation of a managed assigned counsel program consistent with nationally recognized policies and standards; and

(13) other policies and standards for providing indigent defense services as determined by the task force to be appropriate.

Amendment No. 6 was adopted.

Amendment No. 7

Representative P. King offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____ . STATE COSTS FOR ATTORNEYS AD LITEM AND GUARDIANS AD LITEM APPOINTED TO REPRESENT MINORS IN JUDICIAL BYPASS ABORTION PROCEEDINGS

SECTION ____ .01. (a) Not later than December 1, 2011, the supreme court by rule shall establish procedures for the supreme court and each county court at law, court having probate jurisdiction, district court, and court of appeals in this state to conduct a financial audit to determine for the state fiscal year beginning September 1, 2011, the amount of state funds used to pay the costs of attorneys ad litem and guardians ad litem appointed to represent minors under Section 33.003 or 33.004, Family Code.

(b) In the procedures adopted under Subsection (a) of this section, the supreme court must require each state court to submit to the supreme court a report on the results of the financial audit conducted by the court not later than November 1, 2012.

(c) Not later than January 1, 2013, the supreme court shall submit to the lieutenant governor and the speaker of the house of representatives a report that summarizes the results of financial audits conducted in the state courts and includes the total amount of state funds used in the state fiscal year beginning September 1, 2011, to pay the costs of attorneys ad litem and guardians ad litem appointed to represent minors under Section 33.003 or 33.004, Family Code.

SECTION ____ . Section 33.003(e), Family Code, is amended to read as follows:

(e) The court shall appoint a guardian ad litem for the minor. If the minor has not retained an attorney, the court shall appoint an attorney to represent the minor. The [If the guardian ad litem is an attorney admitted to the practice of law in this state, the] court may not appoint the guardian ad litem to serve as the minor's attorney. The court may not appoint the minor's attorney to be the guardian ad litem for the minor.

SECTION ____ . The change in law made by this Act to Section 33.003(e), Family Code, applies only to an application for a court order authorizing a minor to consent to an abortion filed under Section 33.003, Family Code, as amended by this Act, on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect at the time the application was filed, and that law is continued in effect for that purpose.

AMENDMENT NO. 7 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CASTRO: For purposes of legislative intent, is it correct to say that it's not your intent, once we get this accounting of how much state money is spent on judicial bypass issues, to ask that those funds be terminated in the future?

REPRESENTATIVE P. KING: Absolutely, because if you don't have those appointments and those funds paid then the law becomes unconstitutional. It would be stricken.

CASTRO: Okay. So, that's not your intent?

P. KING: That is not my intent. I actually believe if you struck those dollars, the judicial bypass would then be unconstitutional and would be struck.

CASTRO: Okay.

P. KING: So it is certainly not my intent by any measure.

REMARKS ORDERED PRINTED

Representative Castro moved to print remarks between Representative P. King and Representative Castro.

The motion prevailed.

Amendment No. 7 was adopted.

Amendment No. 8

Representative Hartnett offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION ____ . Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.018 to read as follows:

Sec. 22.018. PUBLIC INFORMATION REGARDING CERTAIN PETITIONS AND MOTIONS. (a) The supreme court shall adopt rules governing the collection of statistical information relating to applications and appeals granted under Sections 33.003(h) and 33.004(b), Family Code. The information collected by the supreme court must include:

(1) the number of judicial bypass cases in which the court appointed a guardian ad litem;

(2) the number of judicial bypass cases in which the court appointed counsel;

(3) whether or not the guardian ad litem and counsel are the same individual;

(4) the number of judicial bypass cases in which the judge issued an order authorizing an abortion without notification; and

(5) the number of judicial bypass cases in which the judge denied an order, the number of appeals filed as a result of a denial, the number of denials that were affirmed, and the number of denials that were reversed.

(b) The information collected under this section must be available to the public in aggregate form on an administrative judicial region basis, as determined by the court.

(c) Statistical information collected under this section may not include the minor's name or any other confidential information of the minor.

Amendment No. 8 was adopted.

Amendment No. 9

Representative Hartnett offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 6 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 6. _____. (a) Section 74.141, Government Code, is amended to read as follows:

Sec. 74.141. DEFENSE OF JUDGES. The attorney general shall defend a state district judge, a presiding judge of an administrative region, the presiding judge of the statutory probate courts, or an active, retired, or former judge assigned under this chapter in any action or suit in any court in which the judge is a defendant because of his office as judge if the judge requests the attorney general's assistance in the defense of the suit.

(b) Section 74.141, Government Code, as amended by this Act, applies to a cause of action filed on or after the effective date of this Act. A cause of action filed 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. 9 was adopted.

Amendment No. 10

Representative Hughes offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. COURT REPORTERS

SECTION _____.01. Section 52.047, Government Code, is amended by adding Subsection (h) to read as follows:

(h) A court reporter may not be required to file an official transcript of a trial before the 60th day after the date a notice of appeal is filed. To the extent this subsection conflicts with the Texas Rules of Appellate Procedure or other rules of procedure, this subsection controls. Notwithstanding Sections 22.003, 22.004, and 22.108, the supreme court or the court of criminal appeals may not amend or adopt a rule in conflict with this section. This subsection does not apply to an official transcript required for an accelerated appeal or an interlocutory appeal.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Hughes offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. JUDICIAL BYPASS PROCEDURE FOR MINORS REQUESTING ABORTION

SECTION _____.01. Sections 33.003(b) and (i), Family Code, are amended to read as follows:

(b) If the minor resides in a county with a population of less than 50,000, the [The] application may be filed in any county court at law, court having probate jurisdiction, or district court, including a family district court, in this state. If the minor resides in a county with a population of 50,000 or more, the application must be filed in a county court at law, court having probate jurisdiction, or district court, including a family district court, in the county in which the minor resides.

(i) The court shall determine by clear and convincing [a preponderance of the] evidence whether the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notification to either of her parents or a managing conservator or guardian, whether notification would not be in the best interest of the minor, or whether notification may lead to physical, sexual, or emotional abuse of the minor. If the court finds that the minor is mature and sufficiently well informed, that notification would not be in the minor's best interest, or that notification may lead to physical, sexual, or emotional abuse of the minor, the court shall enter an order authorizing the minor to consent to the performance of the abortion without notification to either of her parents or a managing conservator or guardian and shall execute the required forms.

SECTION _____.02. Section 33.003, Family Code, as amended by this article, applies only to an application filed under Section 33.003, Family Code, on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

(Brown now present)

Amendment No. 11 - Point of Order

Representative Farrar raised a point of order against further consideration of Amendment No. 11 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. 11 was withdrawn.

Amendment No. 12

Representative Hughes offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering ARTICLES of the bill accordingly:

ARTICLE _____. INMATE LITIGATION

SECTION _____.01. Section 14.002(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) This chapter applies only to an action, including an appeal or original proceeding, [a suit] brought by an inmate in a district, county, justice of the peace, or small claims court or an appellate court, including the supreme court or the court of criminal appeals, in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate.

SECTION ____ .02. Sections 14.004(a) and (b), Civil Practice and Remedies Code, are amended to read as follows:

(a) An inmate who files an affidavit or unsworn declaration of inability to pay costs shall file a separate affidavit or declaration:

(1) identifying each action [suit], other than an action [a-suit] under the Family Code, previously brought by the person and in which the person was not represented by an attorney, without regard to whether the person was an inmate at the time the action [suit] was brought; and

(2) describing each action [suit] that was previously brought by:

(A) stating the operative facts for which relief was sought;

(B) listing the case name, cause number, and the court in which the action [suit] was brought;

(C) identifying each party named in the action [suit]; and

(D) stating the result of the action [suit], including whether the action or a claim that was a basis for the action [suit] was dismissed as frivolous or malicious under Section 13.001 or Section 14.003 or otherwise.

(b) If the affidavit or unsworn declaration filed under this section states that a previous action or claim [suit] was dismissed as frivolous or malicious, the affidavit or unsworn declaration must state the date of the final order affirming the dismissal.

SECTION ____ .03. Section 14.007(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) An order of a court under Section 14.006(a) shall include the costs described by Subsection (b) if the court finds that:

(1) the inmate has previously filed an action to which this chapter applies [in a district, county, justice of the peace, or small claims court]; and

(2) a final order has been issued that affirms that the action was dismissed as frivolous or malicious under Section 13.001 or Section 14.003 or otherwise.

SECTION ____ .04. The change in law made by this article applies only to an action brought on or after the effective date of this Act. An action brought 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. 12 was adopted.

Amendment No. 13

Representative Hughes offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . PROVISIONS RELATED TO EXEMPTING CERTAIN
JUDICIAL OFFICERS FROM CERTAIN CONCEALED HANDGUN
LICENSING REQUIREMENTS

SECTION ____ . Section 411.201(a)(1), Government Code, is amended to read as follows:

(1) "Active judicial officer" means:

(A) a person serving as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court; ~~or~~

(B) a federal judge who is a resident of this state; or

(C) a person appointed and serving as an associate judge under Chapter 201, Family Code.

SECTION _____. Section 46.15(a), Penal Code, is amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) an active judicial officer as defined by Section 411.201, Government Code, ~~[a judge or justice of a federal court, the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court]~~ who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer or federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that:

(A) verifies that the officer honorably retired after not less than 15 years of service as a commissioned officer; and

(B) is issued by a state or local law enforcement agency;

(6) a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a concealed handgun under Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer; or

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code.

SECTION _____. The change in law made by this article to Section 46.15, Penal Code, applies only to an offense committed on or after the effective date of this article. An offense committed before the effective date of this article is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense occurred before that date.

SECTION _____. This article takes effect September 1, 2011.

Amendment No. 13 was adopted.

Amendment No. 14

Representative Eiland offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately number SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 1._____. (a) Sections 22.201(b), (j), and (o), Government Code, are amended to read as follows:

(b) The First Court of Appeals District is composed of the counties of Austin, Brazoria, Chambers, Colorado, Fort Bend, [~~Galveston,~~] Grimes, Harris, Waller, and Washington.

(j) The Ninth Court of Appeals District is composed of the counties of Chambers, Galveston, Hardin, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, and Tyler.

(o) The Fourteenth Court of Appeals District is composed of the counties of Austin, Brazoria, [~~Chambers,~~] Colorado, Fort Bend, [~~Galveston,~~] Grimes, Harris, Waller, and Washington.

(b) Section 22.201, Government Code, as amended by this section, does not affect the jurisdiction on appeal of any case from a county that is transferred by this section to a different court of appeals district if the transcripts for the case were filed before September 1, 2011, in the appropriate court of appeals district.

Amendment No. 14 was withdrawn.

Amendment No. 15

Representative Kolkhorst offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 1. _____. (a) Sections 22.201(b), (k), and (o), Government Code, are amended to read as follows:

(b) The First Court of Appeals District is composed of the counties of Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Harris, Walker, Waller, and Washington.

(k) The Tenth Court of Appeals District is composed of the counties of Bosque, Burleson, Brazos, Coryell, Ellis, Falls, Freestone, Hamilton, Hill, Johnson, Leon, Limestone, Madison, McLennan, Navarro, Robertson, and Somervell[~~and Walker~~].

(o) The Fourteenth Court of Appeals District is composed of the counties of Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Harris, Walker, Waller, and Washington.

(b) Section 22.201, Government Code, as amended by this article, does not affect the jurisdiction on appeal of any case from a county that is transferred by this article to a different court of appeals district if the transcripts for the case were filed before September 1, 2011, in the appropriate court of appeals district.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Chisum offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. PROFESSIONAL PROSECUTORS

SECTION _____.01. Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies to the state prosecuting attorney, all county prosecutors, and the following state prosecutors:

(1) the district attorneys for Kenedy and Kleberg Counties and for the 1st, 2nd, 8th, 9th, 12th, 18th, 21st, 23rd, 25th, 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 88th, 90th, 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th, 123rd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th, 271st, 286th, 287th, 329th, 344th, 349th, 355th, and 506th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan,

Madison, Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Colorado, Crosby, Ellis, Falls, Freestone, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Rains, Red River, Robertson, Rusk, Swisher, Terry, Webb, and Willacy.

SECTION ____ .02. This article takes effect September 1, 2011.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Paxton offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 3 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 3. ____ . (a) Section 25.0453, Government Code, is amended by adding Subsection (g) to read as follows:

(g) The judge of a statutory probate court may, unless a party objects, provide that a proceeding be recorded by a good quality electronic recording device instead of by a court reporter. A stenographic record of an electronically recorded proceeding is not required except on order of the judge or request of a party. If a recording device is used, the court reporter is not required to be present to certify the record. The judge may designate one or more persons to act as the court recorder and shall assign to a court recorder the duties and responsibilities necessary to act in that capacity.

(b) Section 25.0453(g), Government Code, as added by this article, applies only to a proceeding commenced on or after the effective date of this Act. A proceeding commenced before the effective date of this Act is covered 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. 17 was adopted.

Amendment No. 18

Representative Rodriguez offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . COST-BENEFIT ANALYSIS OF SUPREME COURT
RULES AND RULE AMENDMENTS

SECTION ____ .01. Chapter 22, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. COST-BENEFIT ANALYSIS OF
SUPREME COURT RULES AND RULE AMENDMENTS

Sec. 22.351. APPLICABILITY. (a) This subchapter applies only to rules and rule amendments adopted by the supreme court.

(b) This subchapter does not apply to emergency rules and rule amendments adopted by the supreme court.

Sec. 22.352. LIMITATION ON ADOPTION OF RULES AND RULE AMENDMENTS. The supreme court may not adopt or amend a rule under Section 81.024 or under other law authorizing the court to adopt disciplinary rules unless the court complies with the requirements of this subchapter.

Sec. 22.353. COST-BENEFIT ANALYSIS. (a) Not later than the 90th day before the proposed effective date of a proposed rule or rule amendment subject to this subchapter, the supreme court using existing resources, including state bar resources, shall conduct a cost-benefit analysis that:

(1) identifies the problem the proposed rule or rule amendment is intended to address;

(2) determines whether a new rule or rule amendment is necessary to address the problem; and

(3) considers the benefits and costs of the proposed rule or rule amendment in relation to this state's legal profession, attorney disciplinary system, and court system and to the public.

(b) State money may not be used in the conduct of any cost-benefit analysis under this subchapter.

SECTION ____ .02. Subchapter E, Chapter 22, Government Code, as added by this article, applies only to a rule amended or adopted by the Texas Supreme Court on or after the effective date of this Act.

(Ritter in the chair)

Representative Lewis moved to table Amendment No. 18.

The motion to table prevailed.

Amendment No. 19

Representatives Berman, Chisum, Hilderbran, Simpson, Isaac, Weber, R. Anderson, and Aliseda offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately number ARTICLE and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . APPLICATION OF FOREIGN LAWS

SECTION ____ .01. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 148 to read as follows:

CHAPTER 148. APPLICATION OF FOREIGN LAWS; SELECTION OF
FOREIGN FORUM

Sec. 148.001. DEFINITION. In this chapter, "foreign law" means a law, rule, or legal code of a jurisdiction outside of the states and territories of the United States.

Sec. 148.002. DECISION BASED ON FOREIGN LAW. A ruling or decision of a court, arbitrator, or administrative adjudicator on a matter arising under the Family Code may not be based on a foreign law if the application of that law would violate a right guaranteed by the United States Constitution or the constitution or a statute of this state.

Sec. 148.003. CHOICE OF FOREIGN LAW OR FORUM IN CONTRACT. (a) A contract provision providing that a foreign law is to govern a dispute arising under the Family Code is void to the extent that the application of the foreign law to the dispute would violate a right guaranteed by the United States Constitution or the constitution of this state.

(b) A contract provision providing that the forum to resolve a dispute arising under the Family Code is located outside the states and territories of the United States is void if the foreign law that would be applied to the dispute in that forum would, as applied, violate a right guaranteed by the United States Constitution or the constitution of this state.

SECTION ____.02. (a) Section 148.002, Civil Practice and Remedies Code, as added by this article, applies only to a ruling or decision that becomes final on or after the effective date of this Act. A ruling or decision that becomes final before the effective date of this Act and any appeal of that ruling or decision 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) Section 148.003, Civil Practice and Remedies Code, as added by this article, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

Amendment No. 20

Representative Hilderbran offered the following amendment to Amendment No. 19:

Amend Amendment No. 19 by Berman amending **CSSB 1717** as follows:

(1) In the SECTION of the amendment adding Section 148.002, Civil Practice and Remedies Code (page 1, line 16), between "violate a" and "right", insert "civil right or a".

(2) In the SECTION of the amendment adding Section 148.003(a), Civil Practice and Remedies Code (page 1, line 23), between "violate a" and "right", insert "civil right or a".

(3) In the SECTION of the amendment adding Section 148.003(b), Civil Practice and Remedies Code (page 1, line 29), between "violate a" and "right", insert "civil right or a".

Amendment No. 20 was adopted.

Amendment No. 19, as amended, was adopted.

Amendment No. 21

Representative Weber offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill, and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. BAIL REDUCTION PROCEDURE PROVISIONS.

SECTION _____.01. Article 17.091, Code of Criminal Procedure, is amended to read as follows:

Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED. Before a judge or magistrate reduces the amount of bail set for a defendant [~~charged with an offense listed in Section 3g, Article 42.12, or an offense described by Article 62.001(5)~~], the judge or magistrate shall provide:

(1) to the attorney representing the state, reasonable notice of the proposed bail reduction; and

(2) on request of the attorney representing the state or the defendant or the defendant's counsel, an opportunity for a hearing concerning the proposed bail reduction.

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).

CSSB 1717 - (consideration continued)

Representative Lewis moved to table Amendment No. 21.

The motion to table prevailed.

Amendment No. 22

Representative McClendon offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. VICTIM-OFFENDER MEDIATION

SECTION _____.01. Section 1, Article 28.01, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. The court may set any criminal case for a pre-trial hearing before it is set for trial upon its merits, and direct the defendant and his attorney, if any of record, and the State's attorney, to appear before the court at the time and place stated in the court's order for a conference and hearing. The defendant must be present at the arraignment, and his presence is required during any pre-trial proceeding. The pre-trial hearing shall be to determine any of the following matters:

- (1) Arraignment of the defendant, if such be necessary; and appointment of counsel to represent the defendant, if such be necessary;
- (2) Pleadings of the defendant;
- (3) Special pleas, if any;
- (4) Exceptions to the form or substance of the indictment or information;

(5) Motions for continuance either by the State or defendant; provided that grounds for continuance not existing or not known at the time may be presented and considered at any time before the defendant announces ready for trial;

(6) Motions to suppress evidence—When a hearing on the motion to suppress evidence is granted, the court may determine the merits of said motion on the motions themselves, or upon opposing affidavits, or upon oral testimony, subject to the discretion of the court;

(7) Motions for change of venue by the State or the defendant; provided, however, that such motions for change of venue, if overruled at the pre-trial hearing, may be renewed by the State or the defendant during the voir dire examination of the jury;

(8) Discovery;

(9) Entrapment; ~~and~~

(10) Motion for appointment of interpreter; and

(11) Motion to allow the defendant to enter a pretrial victim-offender mediation program established under Subchapter A-1, Chapter 56.

SECTION ____ .02. Chapter 56, Code of Criminal Procedure, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. PRETRIAL VICTIM-OFFENDER MEDIATION PROGRAM

Art. 56.21. AUTHORITY TO ESTABLISH PROGRAM. (a) The commissioners court of a county or governing body of a municipality may establish a pretrial victim-offender mediation program for persons who:

(1) have been arrested for or charged with a misdemeanor under Title 7, Penal Code, in any court in this state other than a district court; and

(2) have not previously been convicted of a felony or a misdemeanor, other than a misdemeanor regulating traffic and punishable by fine only.

(b) A county court, statutory county court, municipal court, or justice court that implements a program under this subchapter may adopt administrative rules as necessary or convenient to implement or operate the program, including additional criteria related to a defendant's eligibility to enter the program.

(c) The commissioners court of a county or governing body of a municipality that establishes a pretrial victim-offender mediation program under this subchapter may:

(1) allow for the referral to the program of arrested persons who have not yet been indicted or otherwise formally charged; and

(2) adopt administrative procedures as necessary to implement and operate the program, including additional program requirements that have been approved by the attorney representing the state in the county or municipality, as applicable.

Art. 56.22. PROGRAM. (a) A pretrial victim-offender mediation program established under Article 56.21 is coordinated by the attorney representing the state and must require:

(1) the attorney representing the state:

(A) to identify defendants who are eligible to participate in the program, including a consideration by the attorney representing the state of whether the defendant meets any additional locally developed eligibility criteria; and

(B) to the extent feasible and using existing resources, to make available to complaining witnesses and victims in appropriate criminal cases information and literature indicating that a victim-offender mediation program may be available in a case if certain eligibility criteria are met by the defendant;

(2) the consent of the victim, the defendant, and the attorney representing the state to be obtained before the case may proceed to pretrial victim-offender mediation; and

(3) the defendant to enter into a binding mediation agreement in accordance with Article 56.24 that:

(A) includes an apology by the defendant; and

(B) requires the defendant to:

(i) pay restitution to the victim; or

(ii) perform community service.

(b) All communications made in a pretrial victim-offender mediation program are confidential and may not be introduced into evidence except in a proceeding involving a question concerning the meaning of a mediation agreement.

(c) A pretrial victim-offender mediation program may require the staff and other resources of pretrial services departments and community supervision correction departments to assist in monitoring the defendant's compliance with a mediation agreement reached through the program.

(d) A pretrial victim-offender mediation may be conducted by a court-appointed mediator who meets the training requirements provided by Sections 154.052(a) and (b), Civil Practice and Remedies Code, or by any other appropriate person designated by the court. Neither the attorney representing the state nor the attorney representing the defendant in the criminal action may serve as a mediator under the pretrial victim-offender mediation program.

(e) If a defendant enters a pretrial victim-offender mediation program, the court may defer the proceedings without accepting a plea of guilty or nolo contendere or entering an adjudication of guilt. The court may not require the defendant to admit guilt or enter a plea of guilty or nolo contendere to enter the program.

(f) The case must be returned to the docket and proceed through the regular criminal justice system if:

(1) a pretrial victim-offender mediation does not result in a mediation agreement; or

(2) the defendant fails to successfully fulfill the terms of the mediation agreement by the date specified in the mediation agreement.

(g) If a case is returned to the docket under Subsection (f), the defendant retains all of the rights that the defendant possessed before entering the pretrial victim-offender mediation program under this subchapter. Notwithstanding any other law, for purposes of determining the duration and expiration of an

applicable statute of limitation under Chapter 12, the running of the period of limitation is tolled while the defendant is enrolled in a program under this subchapter.

(h) The court on the motion of the attorney representing the state shall dismiss the indictment or information charging the defendant with the commission of the offense, if the defendant:

(1) successfully completes the mediation agreement as determined by the attorney representing the state; and

(2) either:

(A) pays all court costs; or

(B) enters a payment plan approved by the court or the attorney representing the state for such payment.

(i) The attorney representing the state or the court may extend the initial compliance period granted to the defendant. A determination by the court regarding whether the mediation agreement has been successfully completed is final and may not be appealed.

(j) If the defendant is not arrested or convicted of a subsequent felony or misdemeanor other than a misdemeanor regulating traffic and punishable by fine only on or before the first anniversary of the date the defendant successfully completed a mediation agreement under this subchapter, on the motion of the defendant, the court shall enter an order of nondisclosure under Section 411.081, Government Code, as if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the pretrial victim-offender mediation program.

Art. 56.23. MOTION AND HEARING. (a) The court on its own motion may, and on the motion of either party shall, hold a pretrial hearing to determine whether to allow an eligible defendant to enter a pretrial victim-offender mediation program under this subchapter.

(b) The court shall conduct a pretrial hearing under this article in accordance with Chapter 28 and the rules of evidence.

(c) At a pretrial hearing under this article, either party may present any evidence relevant to the defendant's eligibility under Article 56.22 and other additional locally developed eligibility criteria to enter a pretrial victim-offender mediation program.

Art. 56.24. MEDIATION AGREEMENT. (a) A mediation agreement under this subchapter must be:

(1) signed by the defendant and the victim; and

(2) ratified by the attorney representing the state in a request for a court order documenting and approving the mediation agreement.

(b) A mediation agreement under this subchapter may require testing, counseling, and treatment of the defendant to address alcohol abuse, abuse of controlled substances, mental health, or anger management or any other service that is reasonably related to the offense for which the defendant was arrested or charged.

(c) A mediation agreement under this subchapter is not valid for more than one year after the date on which the mediation agreement is ratified unless the court and the attorney representing the state approve the extension of the agreement.

(d) A mediation agreement under this subchapter does not constitute a plea or legal admission of responsibility.

Art. 56.25. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of pretrial victim-offender mediation programs established under this subchapter.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a pretrial victim-offender mediation program established under this subchapter.

Art. 56.26. FEES. (a) A pretrial victim-offender mediation program established under this subchapter may collect from a defendant in the program:

(1) a reasonable program participation fee not to exceed \$500; and

(2) an alcohol or controlled substance testing, counseling, and treatment fee in an amount necessary to cover the costs of the testing, counseling, or treatment if such testing, counseling, or treatment is required by the mediation agreement.

(b) Fees collected under this article may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the pretrial victim-offender mediation program. The fees must be:

(1) based on the defendant's ability to pay; and

(2) used only for purposes specific to the program.

SECTION ____ .03. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0179 to read as follows:

Art. 102.0179. COSTS ATTENDANT TO PRETRIAL VICTIM-OFFENDER MEDIATION. (a) A defendant who participates in a pretrial victim-offender mediation program established under Subchapter A-1, Chapter 56, on successful completion of the terms of the defendant's mediation agreement or on conviction, shall pay as court costs \$15 plus an additional program participation fee as described by Article 56.26 in the amount prescribed by that article.

(b) The court clerk shall collect the costs imposed under this article. The clerk shall keep a separate record of any money collected under this article and shall pay any money collected to the county or municipal treasurer, as appropriate, or to any other official who discharges the duties commonly delegated to a treasurer, for deposit in a fund to be known as the county pretrial victim-offender mediation program fund or in a fund to be known as the municipal pretrial victim-offender mediation program fund, as appropriate.

(c) A county or municipality that collects court costs under this article shall use the money in a fund described by Subsection (b) exclusively for the maintenance of the pretrial victim-offender mediation program operated in the county or municipality.

SECTION ____ .04. Subchapter B, Chapter 102, Government Code, is amended by adding Section 102.0216 to read as follows:

Sec. 102.0216. ADDITIONAL COURT COSTS: CODE OF CRIMINAL PROCEDURE. A defendant who participates in a pretrial victim-offender mediation program established under Subchapter A-1, Chapter 56, Code of Criminal Procedure, shall pay on successful completion of the terms of the defendant's mediation agreement or on conviction, in addition to all other costs, to help fund pretrial victim-offender mediation programs established under that subchapter (Art. 102.0179, Code of Criminal Procedure) . . . \$15 plus an additional program participation fee in an amount not to exceed \$500.

SECTION ____ .05. (a) The change in law made by this Act in adding Subchapter A-1, Chapter 56, Code of Criminal Procedure, applies to a defendant who enters a pretrial victim-offender mediation program under that subchapter regardless of whether the defendant committed the offense for which the defendant enters the program before, on, or after the effective date of this Act.

(b) The change in law made by this Act in adding Article 102.0179, Code of Criminal Procedure, and Section 102.0216, Government Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

Amendment No. 22 was adopted.

Amendment No. 23

Representative Christian offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 1. Article 18.01(i), Code of Criminal Procedure, is amended to read as follows:

(i) In a county with a population of less than 100,000 [~~that does not have a judge of a municipal court of record who is an attorney licensed by the state, a county court judge who is an attorney licensed by the state, or a statutory county court judge~~], any magistrate may issue a search warrant under Subdivision (10) or Subdivision (12) of Article 18.02 of this code. This subsection is not applicable to a subsequent search warrant under Subdivision (10) of Article 18.02 of this code.

SECTION 2. The change in law made by this Act applies only to a warrant issued on or after the effective date of this Act. A warrant issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.

Amendment No. 23 failed of adoption by (Record 1307): 18 Yeas, 121 Nays, 2 Present, not voting.

Yeas — Beck; Berman; Bonnen; Carter; Christian; Fletcher; Flynn; Frullo; Gallego; Hilderbran; Hopson; Lavender; Lewis; Miller, S.; Phillips; Riddle; White; Zedler.

Nays — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hochberg; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pitts; Price; Quintanilla; Raymond; Reynolds; 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; Weber; Woolley; Workman; Zerwas.

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

Absent — Farias; Harper-Brown; Huberty; Jackson; King, S.; Laubenberg; Legler; Pickett; Walle.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1307. I intended to vote no.

Frullo

When Record No. 1307 was taken, I was in the house but away from my desk. I would have voted no.

Huberty

Amendment No. 24

Representative Alonzo offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . PRETRIAL HEARINGS IN CRIMINAL CASES

SECTION ____ .01. Article 28.01, Code of Criminal Procedure, is amended by adding Section 4 to read as follows:

Sec. 4. A court shall set a pre-trial hearing in a criminal case other than a case involving only an offense punishable as a Class C misdemeanor, if not later than the 60th day before the date on which trial commences, the state or the defendant requests the hearing. The court must:

(1) hold the requested hearing not later than the 30th day before the date on which trial commences; and

(2) to the extent feasible, rule at the hearing on all pre-trial motions filed in the case.

SECTION ____ .02 The change in law made by this article applies only to a criminal case in which the indictment or information is presented to the court on or after the effective date of this Act. A criminal case in which the indictment or information is presented to the court before the effective date of this Act is governed by the law in effect when the indictment or information is presented, and the former law is continued in effect for that purpose.

Amendment No. 24 was adopted. (Hunter and Phillips recorded voting no.)

Amendment No. 25

Representative Alonzo offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . COURT COSTS

SECTION ____ . ____ . Subsection (b), Section 51.005, Government Code, is amended to read as follows:

(b) The fees are:

- (1) application for petition for review [~~writ of error~~] \$ 50
- (2) additional fee if application for petition for review [~~writ of error~~] is granted \$ 75
- (3) motion for leave to file petition for writ of mandamus, prohibition, injunction, and other similar proceedings originating in the supreme court . . \$ 50
- (4) additional fee if a motion under Subdivision (3) is granted. . . . \$ 75
- (5) certified question from a federal court of appeals to the supreme court \$ 75
- (6) case appealed to the supreme court from the district court by direct appeal \$100
- (7) any other proceeding filed in the supreme court \$ 75.

SECTION ____ . ____ . Subsection (a), Section 51.207, Government Code, is amended to read as follows:

(a) The clerk of a court of appeals shall collect the fees described in Subsection (b) in a civil case before the court for the following services:

- (1) filing records, applications, motions, briefs, and other necessary and proper papers;
- (2) docketing and making docket and minute book entries;
- (3) issuing notices, citations, processes, and mandates;
- (4) preparing transcripts on application for petition for review [~~writ of error~~] to the supreme court; and
- (5) performing other necessary clerical duties.

SECTION ____ . ____ . Section 101.021, Government Code, is amended to read as follows:

Sec. 101.021. SUPREME COURT FEES AND COSTS: GOVERNMENT CODE. The clerk of the supreme court shall collect fees and costs as follows:

(1) application for petition for review [~~writ of error~~] (Sec. 51.005, Government Code) . . . \$50;

(2) additional fee if application for petition for review [~~writ of error~~] is granted (Sec. 51.005, Government Code) . . . \$75;

(3) motion for leave to file petition for writ of mandamus, prohibition, injunction, and other similar proceedings originating in the supreme court (Sec. 51.005, Government Code) . . . \$50;

(4) additional fee if a motion under Subdivision (3) is granted (Sec. 51.005, Government Code) . . . \$75;

(5) certified question from a federal court of appeals to the supreme court (Sec. 51.005, Government Code) . . . \$75;

(6) case appealed to the supreme court from the district court by direct appeal (Sec. 51.005, Government Code) . . . \$100;

(7) any other proceeding filed in the supreme court (Sec. 51.005, Government Code) . . . \$75;

(8) administering an oath and giving a sealed certificate of the oath (Sec. 51.005, Government Code) . . . \$5;

(9) making certain copies, including certificate and seal (Sec. 51.005, Government Code) . . . \$5, or \$0.50 per page if more than 10 pages;

(10) any official service performed by the clerk for which a fee is not otherwise provided (Sec. 51.005, Government Code) . . . reasonable amount set by order or rule of supreme court;

(10-a) supreme court support account filing fee (Sec. 51.0051, Government Code) . . . amount set by the supreme court, not to exceed \$50;

(11) issuance of attorney's license or certificate (Sec. 51.006, Government Code) . . . \$10; and

(12) additional filing fee to fund civil legal services for the indigent (Sec. 51.941, Government Code) . . . \$25.

Amendment No. 25 was adopted. (Hunter and Phillips recorded voting no.)

Amendment No. 26

Representative Orr offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) as follows:

(1) In ARTICLE 4 of the bill, add the following appropriately numbered SECTION to the ARTICLE and renumber the subsequent SECTIONS of the ARTICLE accordingly:

SECTION 4. ____ . Section 102.104, Government Code, is repealed.

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

ARTICLE ____ . REPEAL OF CERTAIN COURT COSTS

SECTION ____ .01. The following provisions are repealed:

(1) Section 102.122, Government Code; and

(2) Section 545.412(b-1), Transportation Code.

Amendment No. 26 was adopted.

Amendment No. 27

Representative Gallego offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . CONFIDENTIALITY OF CERTAIN COURT RECORDS

SECTION ____ .01. Chapter 44, Code of Criminal Procedure, is amended by adding Article 44.282 to read as follows:

Art. 44.282. RECORDS AND FILES RELATING TO CERTAIN CHILDREN. (a) In this article, "child" has the meaning assigned by Section 51.02, Family Code.

(b) All records and files relating to a child who is appealing a conviction from a municipal court or a justice court for a misdemeanor offense punishable by a fine only, other than a traffic offense, are confidential during the pendency of the appeal and may not be disclosed except as provided by Article 45.0217(c).

(c) All records and files relating to a child whose conviction from a municipal court or a justice court for a misdemeanor offense punishable by a fine only, other than a traffic offense, was appealed are confidential following the disposition of the appeal and may not be disclosed except as provided by Article 45.0217(c):

- (1) on satisfaction of the judgment, if the conviction is affirmed; or
- (2) on reversal or remand of the conviction.

SECTION ____ .02. Chapter 45, Code of Criminal Procedure, is amended by adding Article 45.0217 to read as follows:

Art. 45.0217. CONFIDENTIALITY OF CERTAIN CONVICTION RECORDS AND FILES OF CHILDREN. (a) In this article, "child" has the meaning assigned by Section 51.02, Family Code.

(b) Except as provided by Subsection (c), on satisfaction of the judgment, all records and files relating to a child who is convicted of a misdemeanor offense punishable by a fine only, other than a traffic offense, including records and files held by a law enforcement agency, are confidential and may not be disclosed.

(c) Records and files relating to a child convicted of a misdemeanor offense punishable by a fine only, other than a traffic offense, may be disclosed to:

- (1) a judge or magistrate, including the staff of a judge or magistrate;
- (2) the Department of Public Safety or another criminal justice agency, for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code;

(3) the attorney for the child;

(4) the prosecuting attorney;

(5) the child and the child's parent, guardian, or managing conservator;

and

(6) a person to whom information is required to be disclosed under Article 15.27.

SECTION ____ .03. Section 411.0851(a), Government Code, is amended to read as follows:

(a) A private entity that compiles and disseminates for compensation criminal history record information shall destroy and may not disseminate any information in the possession of the entity with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure has been issued under Section 411.081(d) [~~or (f-1)~~].

SECTION ____ .04. The heading to Section 552.142, Government Code, is amended to read as follows:

Sec. 552.142. EXCEPTION: RECORDS OF CERTAIN DEFERRED ADJUDICATIONS [~~AND CERTAIN MISDEMEANORS PUNISHABLE BY FINE ONLY~~].

SECTION ____ .05. Section 552.142(a), Government Code, is amended to read as follows:

(a) Information is excepted from the requirements of Section 552.021 if an order of nondisclosure with respect to the information has been issued under Section 411.081(d) [~~or (f-1)~~].

SECTION ____ .06. Section 552.1425(a), Government Code, is amended to read as follows:

(a) A private entity that compiles and disseminates for compensation criminal history record information may not compile or disseminate information with respect to which the entity has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure has been issued under Section 411.081(d) [~~or (f-1)~~].

SECTION ____ .07. Section 58.005, Family Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Subsection (a) [This section] does not apply to information collected under Section 58.104 or under Subchapter D-1.

(c) Except as provided by Article 45.0217(c), Code of Criminal Procedure, all records and files relating to a child who is convicted of a misdemeanor offense punishable by a fine only, other than a traffic offense, or is found to have engaged in conduct indicating a need for supervision that is described by Section 51.03(b)(1), are confidential and may not be disclosed:

(1) on satisfaction of the judgment, if the records and files relate to a child who is convicted of a misdemeanor offense punishable by a fine only, other than a traffic offense; or

(2) on completion of the terms of the disposition, if the records and files relate to a child found to have engaged in conduct indicating a need for supervision that is described by Section 51.03(b)(1).

SECTION ____ .08. Sections 411.081(f-1) and (j), Government Code, are repealed.

SECTION _____.09. The changes in law made by this article apply to all records and files that exist on or after the effective date of this Act, regardless of when the conviction or the finding that is the subject of the records and files occurred or when the judgment contained in the records and files was satisfied or the terms of the disposition contained in the records and files was completed.

Amendment No. 27 was adopted.

Amendment No. 28

Representative Eiland offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately number SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 1.____. (a) Sections 22.201(b), (j), and (o), Government Code, are amended to read as follows:

(b) The First Court of Appeals District is composed of the counties of Austin, Brazoria, Chambers, Colorado, Fort Bend, [~~Galveston,~~] Grimes, Harris, Waller, and Washington.

(j) The Ninth Court of Appeals District is composed of the counties of Chambers, Galveston, Hardin, Jasper, Jefferson, Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, and Tyler.

(o) The Fourteenth Court of Appeals District is composed of the counties of Austin, Brazoria, [~~Chambers,~~] Colorado, Fort Bend, [~~Galveston,~~] Grimes, Harris, Waller, and Washington.

(b) Section 22.201, Government Code, as amended by this section, does not affect the jurisdiction on appeal of any case from a county that is transferred by this section to a different court of appeals district if the transcripts for the case were filed before September 1, 2011, in the appropriate court of appeals district.

Amendment No. 28 was withdrawn.

HR 2120 - ADOPTED
(by Hardcastle)

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 2120**.

The motion prevailed.

The following resolution was laid before the house:

HR 2120, Recognizing Angelo P. Zottarelli on his election as president of the International Brangus Breeders Association.

HR 2120 was adopted.

CSSB 1717 - (consideration continued)

Amendment No. 29

Representative Hughes offered the following amendment to **CSSB 1717**:

Amend **CSSB 1717** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . JUDICIAL BYPASS PROCEDURE FOR MINORS
REQUESTING ABORTION

SECTION ____ .01. Sections 33.003(b) and (i), Family Code, are amended to read as follows:

(b) If the minor resides in a county with a population of less than 50,000, the [The] application may be filed in any county court at law, court having probate jurisdiction, or district court, including a family district court, in this state. If the minor resides in a county with a population of 50,000 or more, the application must be filed in a county court at law, court having probate jurisdiction, or district court, including a family district court, in the county in which the minor resides.

(i) The court shall determine by clear and convincing [~~a preponderance of the~~] evidence whether the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notification to either of her parents or a managing conservator or guardian, whether notification would not be in the best interest of the minor, or whether notification may lead to physical, sexual, or emotional abuse of the minor. If the court finds that the minor is mature and sufficiently well informed, that notification would not be in the minor's best interest, or that notification may lead to physical, sexual, or emotional abuse of the minor, the court shall enter an order authorizing the minor to consent to the performance of the abortion without notification to either of her parents or a managing conservator or guardian and shall execute the required forms.

SECTION ____ .02. Section 33.003, Family Code, as amended by this article, applies only to an application filed under Section 33.003, Family Code, on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

Amendment No. 29 - Point of Order

Representative Farrar raised a point of order against further consideration of Amendment No. 29 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The chair overruled the point of order.

Amendment No. 30

Representative Hughes offered the following amendment to Amendment No. 29:

Amend Amendment No. 29 by Hughes amending **CSSB 1717** (barcode no. 824690) by striking page 1, line 18 through page 2, line 2 of the amendment and substituting the following:

(i) The court shall determine by clear and convincing [~~a preponderance of the~~] evidence whether the minor is mature and sufficiently well informed to make the decision to have an abortion performed without notification to either of her

parents or a managing conservator or guardian or [5] whether notification would not be in the best interest of the minor. The court shall determine by a preponderance of the evidence [5-07] whether notification may lead to physical, sexual, or emotional abuse of the minor. If the court finds that the minor is mature and sufficiently well informed, that notification would not be in the minor's best interest, or that notification may lead to physical, sexual, or emotional abuse of the minor, the court shall enter an order authorizing the minor to consent to the performance of the abortion without notification to either of her parents or a managing conservator or guardian and shall execute the required forms.

(Bonnen in the chair)

Amendment No. 30 was adopted. (The vote was reconsidered later today, and Amendment No. 29, as amended, was withdrawn.)

Amendment No. 29, as amended, was adopted by (Record 1308): 100 Yeas, 44 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; 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; Lozano; Lyne; Madden; Margo; Martinez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Ritter; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

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

Present, not voting — Mr. Speaker.

Absent — Creighton; Hardcastle; Riddle; Sheffield; Veasey.

STATEMENTS OF VOTE

When Record No. 1308 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

I was shown voting no on Record No. 1308. I intended to vote yes.

Nash

When Record No. 1308 was taken, I was in the house but away from my desk. I would have voted yes.

Riddle

CSSB 1717 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSSB 1717** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

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).

CSSB 1717 - (consideration continued)

The point of order was withdrawn.

Representative Lewis moved to postpone consideration of **CSSB 1717** until 8:35 p.m. today.

The motion prevailed.

CSSB 694 ON SECOND READING

(W. Smith, Cook, Dutton, Fletcher, et al. - House Sponsors)

CSSB 694, A bill to be entitled An Act relating to the regulation of metal recycling entities; providing penalties.

Amendment No. 1

Representative W. Smith offered the following amendment to **CSSB 694**:

Amend **CSSB 694** (house committee report) as follows:

(1) In SECTION 9 of the bill, in added Section 1956.034(b), Occupations Code (page 11, lines 18 and 19), strike "request of a peace officer" and substitute "receipt of a request".

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

SECTION _____. Section 1956.035, Occupations Code, is amended to read as follows:

Sec. 1956.035. INSPECTION OF RECORDS [~~BY PEACE OFFICER~~].
 (a) On request, a metal recycling entity shall permit a peace officer of this state, a representative of the department, or a representative of a county, municipality, or other political subdivision that issues a license or permit under Section 1956.003(b) to inspect, during the entity's usual business hours:

- (1) a record required by Section 1956.033; or
- (2) regulated material in the entity's possession.

(b) The person seeking to inspect a record or material [~~inspecting officer~~]
 shall:

- (1) inform the entity of the officer's status as a peace officer; or

(2) if the person is a representative of the department or a representative of a county, municipality, or other political subdivision, inform the entity of the person's status and display to the entity an identification document or other appropriate documentation establishing the person's status as a representative of the department or of the appropriate county, municipality, or political subdivision.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Weber offered the following amendment to **CSSB 694**:

CSSB 694 is amended by removing everything below the caption and replacing it with the following:

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

SECTION 1. Subdivision (10), Section 1956.001, Occupations Code, is amended to read as follows:

(10) "Regulated metal" means:

- (A) manhole covers;
- (B) guardrails;
- (C) metal cylinders designed to contain compressed air, oxygen, gases, or liquids;
- (D) beer kegs made from metal other than aluminum;
- (E) historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum;
- (F) unused rebar;
- (G) street signs;
- (H) drain gates;
- (I) safes;
- (J) communication, transmission, and service wire or cable;
- (K) condensing or evaporator coils for central heating or air conditioning units;
- (L) utility structures, including the fixtures and hardware;
- (M) aluminum or stainless steel containers designed to hold propane for fueling forklifts; ~~and~~
- (N) metal railroad equipment, including tie plates, signal houses, control boxes, signs, signals, traffic devices, traffic control devices, traffic control signals, switch plates, e-clips, and rail tie functions;
- (O) catalytic converters not attached to a vehicle;
- (P) fire hydrants;
- (Q) metal bleachers or other seating facilities used in recreational areas or sporting arenas;
- (R) any metal item clearly and conspicuously marked with any form of the name, initials, or logo of a governmental entity, utility, cemetery, or railroad;
- (S) insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation;
- (T) backflow valves; and

(U) metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals.

SECTION 2. The heading to Section 1956.003, Occupations Code, is amended to read as follows:

Sec. 1956.003. LOCAL LAW; CRIMINAL PENALTY.

SECTION 3. Section 1956.003, Occupations Code, is amended by adding Subsections (a-1), (a-2), (f), (g), and (h) to read as follows:

(a-1) A county, municipality, or other political subdivision may require the record of purchase described under Section 1956.033 to contain a clear and legible thumbprint of a seller of regulated material.

(a-2) A county, municipality, or other political subdivision that, as authorized under Subsection (a), requires a metal recycling entity to report to the county, municipality, or political subdivision information relating to a sale of regulated material shall:

(1) include in any contract entered into by the county, municipality, or political subdivision relating to the reporting of the information a provision that:

(A) requires any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information relating to a sale of regulated material to maintain the confidentiality of all information received, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(B) allows the county, municipality, or political subdivision to terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Paragraph (A); and

(2) investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

(f) A person commits an offense if the person owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Subsection (b). An offense under this subsection is a Class B misdemeanor unless it is shown on the trial of the offense that the person has been previously convicted under this subsection, in which event the offense is a Class A misdemeanor.

(g) It is an exception to the application of Subsection (f) that:

(1) the person held a license or permit issued by the appropriate county, municipality, or other political subdivision at one point during the 12-month period preceding the date of the alleged offense; and

(2) the person obtains or submits an application for the appropriate license or permit not later than the 15th day after the date the person receives notice from the appropriate county, municipality, or other political subdivision informing the person that the metal recycling entity is operating without the required license or permit.

(h) This subsection and Subsection (g) expire March 1, 2013.

SECTION 4. Subchapter A, Chapter 1956, Occupations Code, is amended by adding Section 1956.004 to read as follows:

Sec. 1956.004. CIVIL PENALTY. (a) A person who owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b) is subject to a civil penalty of not more than \$1,000 for each violation. In determining the amount of the civil penalty, the court shall consider:

- (1) any other violations by the person; and
- (2) the amount necessary to deter future violations.

(b) A district attorney, county attorney, or municipal attorney may institute an action to collect the civil penalty provided by this section.

(c) Each day a violation occurs or continues to occur is a separate violation.

(d) The district attorney, county attorney, or municipal attorney may recover reasonable expenses incurred in obtaining a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(e) It is an exception to the application of this section that:

(1) the person held a license or permit issued by the appropriate county, municipality, or other political subdivision at one point during the 12-month period preceding the date of the alleged violation; and

(2) the person obtains or submits an application for the appropriate license or permit not later than the 15th day after the date the person receives notice from the appropriate county, municipality, or other political subdivision informing the person that the metal recycling entity is operating without the required license or permit.

(f) This subsection and Subsection (e) expire March 1, 2013.

SECTION 5. Section 1956.015, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Information provided under this section is not subject to disclosure under Chapter 552, Government Code. The department may use information provided under this section for law enforcement purposes. Except as provided by this subsection, the department shall maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased [that relates to the financial condition or business affairs of a metal recycling entity or that is otherwise commercially sensitive. The confidential information is not subject to disclosure under Chapter 552, Government Code].

(e) The department may enter into contracts relating to the operation of the statewide electronic reporting system established by this section. A contract under this subsection must:

(1) require that any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information provided under this section maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(2) provide that the department may terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Subdivision (1).

(f) The department shall investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

SECTION 6. Subchapter A-1, Chapter 1956, Occupations Code, is amended by adding Sections 1956.016 and 1956.017 to read as follows:

Sec. 1956.016. REGISTRATION DATABASE. The department shall make available on its Internet website a publicly accessible list of all registered metal recycling entities. The list must contain the following for each registered metal recycling entity:

- (1) the entity's name;
- (2) the entity's physical address; and
- (3) the name of and contact information for a representative of the

entity.

Sec. 1956.017. ADVISORY COMMITTEE. (a) The department shall establish an advisory committee to advise the department on matters related to the department's regulation of metal recycling entities under this chapter.

(b) The advisory committee consists of 12 members appointed by the director as follows:

- (1) one representative of the department;
- (2) two representatives of local law enforcement agencies located in different municipalities, each with a population of 500,000 or more;
- (3) two representatives of local law enforcement agencies located in different municipalities, each with a population of 200,000 or more but less than 500,000;
- (4) one representative of a local law enforcement agency located in a municipality with a population of less than 200,000;
- (5) four representatives of metal recycling entities; and
- (6) two members who represent industries that are impacted by theft of regulated material.

(c) The director shall ensure that the members of the advisory committee reflect the diverse geographic regions of this state.

(d) The advisory committee shall elect a presiding officer from among its members to serve a two-year term. A member may serve more than one term as presiding officer.

(e) The advisory committee shall meet annually and at the call of the presiding officer or the director.

(f) An advisory committee member is not entitled to compensation or reimbursement of expenses.

(g) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

SECTION 7. The heading to Section 1956.032, Occupations Code, is amended to read as follows:

Sec. 1956.032. INFORMATION REGARDING [PROVIDED BY] SELLER.

SECTION 8. Section 1956.032, Occupations Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) Except as provided by Subsection (f), a person attempting to sell regulated material to a metal recycling entity shall:

(1) display to the metal recycling entity the person's personal identification document;

(2) provide to the metal recycling entity the make, model, color, and license plate number of the motor vehicle used to transport the regulated material and the name of the state issuing the license plate; ~~[and]~~

(3) either:

(A) present written documentation evidencing that the person is the legal owner or is lawfully entitled to sell the regulated material; or

(B) sign a written statement provided by the metal recycling entity that the person is the legal owner of or is lawfully entitled to sell the regulated material offered for sale; and

(4) if the regulated material includes condensing or evaporator coils for central heating or air conditioning units, display to the metal recycling entity:

(A) the person's air conditioning and refrigeration contractor license issued under Subchapter F or G, Chapter 1302;

(B) the person's air conditioning and refrigeration technician registration issued under Subchapter K, Chapter 1302;

(C) a receipt, bill of sale, or other documentation showing that the seller purchased the coils the seller is attempting to sell; or

(D) a receipt, bill of sale, or other documentation showing that the seller has purchased a replacement central heating or air conditioning unit.

(g) Notwithstanding Section 1956.002, the metal recycling entity shall verify the registration of a person attempting to sell regulated material who represents that the person is a metal recycling entity as follows:

(1) by using the database described by Section 1956.016; or

(2) by obtaining from the person a copy of the person's certificate of registration issued under Section 1956.022 in addition to the information required under Subsection (a).

SECTION 9. Section 1956.033, Occupations Code, is amended to read as follows:

Sec. 1956.033. RECORD OF PURCHASE. (a) Each metal recycling entity in this state shall keep an accurate electronic record or an accurate and legible written record of each purchase of regulated material made in the course of the entity's business from an individual ~~of:~~

~~[(1) copper or brass material;~~

~~[(2) bronze material;~~

~~[(3) aluminum material; or~~

~~[(4) regulated metal].~~

(b) The record must be in English and include:

(1) the place and date of the purchase;

- (2) the name and address of the seller in possession of ~~each individual from whom~~ the regulated material ~~is~~ purchased ~~or obtained~~;
- (3) the identifying number of the seller's personal identification document;
- (4) a description made in accordance with the custom of the trade of the commodity type and quantity of regulated material purchased; ~~and~~
- (5) the information required by Sections 1956.032(a)(2) and (3);
- (6) as applicable:
 - (A) the identifying number of the seller's air conditioning and refrigeration contractor license displayed under Section 1956.032(a)(4)(A);
 - (B) a copy of the seller's air conditioning and refrigeration technician registration displayed under Section 1956.032(a)(4)(B);
 - (C) a copy of the documentation described by Section 1956.032(a)(4)(C); or
 - (D) a copy of the documentation described by Section 1956.032(a)(4)(D); and
- (7) a copy of the documentation described by Section 1956.032(g) ~~[Section 1956.032(a)(3)]~~.

SECTION 10. Subchapter A-3, Chapter 1956, Occupations Code, is amended by adding Section 1956.0331 to read as follows:

Sec. 1956.0331. PHOTOGRAPH OR RECORDING REQUIREMENT FOR REGULATED METAL TRANSACTION. (a) In addition to the requirements of Sections 1956.032 and 1956.033, for each purchase by a metal recycling entity of an item of regulated metal, the entity shall obtain a digital photograph or video recording that accurately depicts the seller's entire face and each type of regulated metal purchased.

(b) A metal recycling entity shall preserve a photograph or recording required under Subsection (a) as follows:

- (1) for a video recording, until the 91st day after the date of the transaction; and
- (2) for a digital photograph, until the 181st day after the date of the transaction.

(c) The photograph or recording must be made available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

SECTION 11. Section 1956.034, Occupations Code, is amended to read as follows:

Sec. 1956.034. PRESERVATION OF RECORDS. A metal recycling entity shall preserve each record required by Sections 1956.032 and 1956.033 until the second ~~third~~ anniversary of the date the record was made. The records must be kept in an easily retrievable format and must be available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

SECTION 12. Section 1956.035, Occupations Code, is amended to read as follows:

Sec. 1956.035. INSPECTION OF RECORDS [~~BY PEACE OFFICER~~].

(a) On request, a metal recycling entity shall permit a peace officer of this state, a representative of the department, or a representative of a county, municipality, or other political subdivision that issues a license or permit under Section 1956.003(b) to inspect, during the entity's usual business hours:

(1) a record required by Section 1956.033; ~~or~~

(2) a digital photograph or video recording required by Section 1956.0331; or

(3) regulated material in the entity's possession.

(b) The person seeking to inspect a record or material [~~inspecting officer~~] shall:

(1) inform the entity of the officer's status as a peace officer; or

(2) if the person is a representative of the department or a representative of a county, municipality, or other political subdivision, inform the entity of the person's status and display to the entity an identification document or other appropriate documentation establishing the person's status as a representative of the department or of the appropriate county, municipality, or political subdivision.

SECTION 13. Section 1956.036, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (b) and (d), not later than the close of business on a metal recycling entity's second working [~~seventh~~] day after the date of the purchase or other acquisition of material for which a record is required under Section 1956.033, the [a metal recycling] entity shall send an electronic transaction report to the department via the department's Internet website. The [by facsimile or electronic mail to or file with the department] report must contain [containing] the information required to be recorded under Section 1956.033 [~~that section~~].

(b) If a metal recycling entity purchases bronze material that is a cemetery vase, receptacle, memorial, or statuary or a pipe that can reasonably be identified as aluminum irrigation pipe, the entity shall:

(1) not later than the close of business on the entity's first working day after the purchase date, notify the department by telephone, by e-mail, or via the department's Internet website; and

(2) not later than the close of business on the entity's second working [~~fifth~~] day after the purchase date, submit to the department electronically via the department's Internet website [~~mail to~~] or file with the department a report containing the information required to be recorded under Section 1956.033.

(d) A metal recycling entity may submit the transaction report required under Subsection (a) by facsimile if:

(1) the entity submits to the department annually:

(A) an application requesting an exception to the electronic reporting requirement; and

(B) an affidavit stating that the entity does not have an available and reliable means of submitting the transaction report electronically; and

(2) the department approves the entity's application under this subsection.

(e) The department, after notice and an opportunity for a hearing, may prohibit a metal recycling entity from paying cash for a purchase of regulated material for a period determined by the department if the department finds that the entity has failed to comply with this section.

SECTION 14. Section 1956.038, Occupations Code, is amended to read as follows:

Sec. 1956.038. PROHIBITED ACTS. (a) A person may not, with the intent to deceive:

(1) display to a metal recycling entity a false or invalid personal identification document in connection with the person's attempted sale of regulated material;

(2) make a false, material statement or representation to a metal recycling entity in connection with:

(A) that person's execution of a written statement required by Section 1956.032(a)(3); or

(B) the entity's efforts to obtain the information required under Section 1956.033(b); [✕]

(3) display or provide to a metal recycling entity any information required under Section 1956.032 that the person knows is false or invalid; or

(4) display another individual's personal identification document in connection with the sale of regulated material.

(b) A metal recycling entity may not pay for a purchase of regulated material in cash if:

(1) the entity does not hold a certificate of registration under Subchapter A-2 and, if applicable, a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b); or

(2) the entity has been prohibited by the department from paying cash under Section 1956.036(e).

(c) Notwithstanding Section 1956.003(a) or any other law, a county, municipality, or other political subdivision may not adopt or enforce a rule, charter, or ordinance or issue an order or impose standards that limit the use of cash by a metal recycling entity in a manner more restrictive than that provided by Subsection (b).

(d) Subsection (c) does not apply to a rule, charter, ordinance, or order of a county, municipality, or other political subdivision in effect on January 1, 2011.

(d-1) Not later than January 1, 2012, the department shall issue a notice to each known owner or operator of a metal recycling entity in this state informing the owner or operator of the requirement to obtain a certificate of registration under Subchapter A-2 and, if applicable, to obtain a license or permit required by a county, municipality, or other political subdivision under Section 1956.003. The notice must also state:

(1) that the owner or operator shall submit an application for a certificate of registration and the appropriate license or permit required by a county, municipality, or other political subdivision on or before March 1, 2012; and

(2) the penalties under this chapter for failure to comply with Subdivision (1).

(d-2) This subsection and Subsection (d-1) expire March 1, 2012.

(e) The department or a county, municipality, or other political subdivision may bring an action in the county in which a metal recycling entity is located to enjoin the business operations of the owner or operator of the metal recycling entity for a period of not less than 30 days and not more than 90 days if the owner or operator has not submitted an application for a certificate of registration or the appropriate license or permit required by a county, municipality, or other political subdivision.

(f) An action under Subsection (e) must be brought in the name of the state. If judgment is in favor of the state, the court shall:

(1) enjoin the owner or operator from maintaining or participating in the business of a metal recycling entity for a definite period of not less than 30 days and not more than 90 days, as determined by the court; and

(2) order that the place of business of the owner or operator be closed for the same period.

SECTION 15. Section 1956.040, Occupations Code, is amended by adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a-1) A person commits an offense if the person knowingly violates Section 1956.021, 1956.023(d), 1956.036(a), or 1956.039.

(a-2) An offense under Subsection (a-1) is a misdemeanor punishable by a fine not to exceed \$10,000, unless it is shown on trial of the offense that the person has previously been convicted of a violation of Subsection (a-1), in which event the offense is a state jail felony.

(a-3) It is an affirmative defense to prosecution of a violation of Section 1956.021 or 1956.023(d) that the person made a diligent effort to obtain or renew a certificate of registration at the time of the violation.

(a-4) A municipality or county may retain 10 percent of the money collected from a fine for a conviction of an offense under Subsection (a-1) as a service fee for that collection and the clerk of the court shall remit the remainder of the fine collected for conviction of an offense under Subsection (a-1) to the comptroller in the manner provided for the remission of fees to the comptroller under Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit proceeds received under this subsection to the credit of an account in the general revenue fund, and those proceeds may be appropriated only to the department and used to:

(1) finance the department's administration of Subchapters A, A-1, A-2, and A-3; and

(2) fund grants distributed under the prevention of scrap metal theft grant program established under Subchapter N, Chapter 411, Government Code.

SECTION 16. Subsection (a), Section 1956.103, Occupations Code, is amended to read as follows:

(a) A person may not sell or otherwise transfer to a metal recycling entity:

(1) a lead-acid battery, fuel tank, or PCB-containing capacitor that is included with another type of scrap, used, or obsolete metal without first obtaining from the metal recycling entity a written and signed acknowledgment that the scrap, used, or obsolete metal includes one or more lead-acid batteries, fuel tanks, or PCB-containing capacitors;

(2) any of the following items that contain or enclose a lead-acid battery, fuel tank, or PCB-containing capacitor or of which a lead-acid battery, fuel tank, or PCB-containing capacitor is a part:

(A) a motor vehicle;

(B) a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle;

(C) an appliance; or

(D) any other item of scrap, used, or obsolete metal; [ø]

(3) a motor vehicle or a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle if the motor vehicle includes, contains, or encloses a tire or scrap tire; or

(4) a metal alcoholic beverage keg, regardless of condition, unless the seller is the manufacturer of the keg, the brewer or distiller of the beverage that was contained in the keg, or an authorized representative of the manufacturer, brewer, or distiller.

SECTION 17. Section 1956.151, Occupations Code, is amended to read as follows:

Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. The department shall deny an application for a certificate of registration, suspend or revoke a certificate of registration, or reprimand a person who is registered under this chapter if the person:

(1) obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) sells, barter, or offers to sell or barter a certificate of registration;

(3) violates a provision of this chapter or a rule adopted under this chapter; or

(4) violates Section 1956.021.

SECTION 18. Subsection (d), Section 1956.202, Occupations Code, is amended to read as follows:

(d) A civil penalty may not be assessed under this section for conduct described by Section 1956.021, 1956.023(d), 1956.036(a), 1956.038, or 1956.039.

SECTION 19. Chapter 411, Government Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. PREVENTION OF SCRAP METAL THEFT GRANT PROGRAM

Sec. 411.421. DEFINITION. In this subchapter, "regulated material" has the meaning assigned by Section 1956.001, Occupations Code.

Sec. 411.422. GRANTS TO FUND SCRAP METAL THEFT PREVENTION. (a) From fines collected and distributed to the department under Sections 1956.040(a-2) and (a-4), Occupations Code, the commission by rule shall establish and implement a grant program to provide funding to assist local law enforcement agencies in preventing the theft of regulated material.

(b) To be eligible for a grant, a recipient must be a local law enforcement agency that has established a program designed to prevent the theft of regulated material.

(c) Rules adopted under this section must:

(1) include accountability measures for grant recipients and provisions for loss of eligibility for grant recipients that fail to comply with the measures; and

(2) require grant recipients to provide to the department information on program outcomes.

SECTION 20. Subsection (e), Section 31.03, Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than \$20,000 and the property stolen is ~~[insulated or noninsulated tubing, rods, water gate stems, wire, or cable that consists of at least 50 percent]~~:

- (i) aluminum;
- (ii) bronze; ~~[or]~~
- (iii) copper; or
- (iv) brass;

(5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:

(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or

(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;

(6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION 21. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(c) The enhancement of the punishment of an offense provided under Subsection (a-2), Section 1956.040, Occupations Code, as added by this Act, applies only to an offense committed on or after January 1, 2012. For purposes of this subsection, an offense is committed before January 1, 2012, if any element of the offense occurs before that date. An offense committed before January 1, 2012, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(d) Not later than January 1, 2012, the public safety director of the Department of Public Safety of the State of Texas shall appoint the members of the advisory committee established under Section 1956.017, Occupations Code, as added by this Act, and designate the time and place of the committee's first meeting.

SECTION 22. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Subsection (f), Section 1956.003, Section 1956.004, and Subsections (b) and (e), Section 1956.038, Occupations Code, as added by this Act, take effect March 1, 2012.

Amendment No. 2 - Point of Order

Representative Deshotel raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 6(e) of the House Rules on the grounds that the amendment was not timely filed.

The point of order was withdrawn.

Amendment No. 2 was withdrawn.

CSSB 694, as amended, was passed to third reading. (C. Anderson, Berman, P. King, and Simpson recorded voting no.)

**CONSTITUTIONAL AMENDMENTS CALENDAR
SENATE JOINT RESOLUTIONS
SECOND READING**

The following resolutions were laid before the house and read second time:

**SJR 9 ON SECOND READING
(Thompson and Gallego - House Sponsors)**

SJR 9, A joint resolution proposing a constitutional amendment authorizing the governor to grant a pardon to a person who successfully completes a term of deferred adjudication community supervision.

SJR 9 was adopted by (Record 1309): 135 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; 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; Larson; Laubenberg; Legler; Lewis; Lozano; Lucio; Lyne; 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; Phillips; 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 — Berman; Davis, S.; Fletcher; Flynn; Landtroop; Lavender; Perry.

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

Absent — Bohac; Creighton; Harper-Brown; Madden; Sheffield; Weber.

STATEMENTS OF VOTE

When Record No. 1309 was taken, I was in the house but away from my desk. I would have voted yes.

Sheffield

I was shown voting yes on Record No. 1309. I intended to vote no.

V. Taylor

When Record No. 1309 was taken, I was in the house but away from my desk. I would have voted yes.

Weber

CSSJR 5 ON SECOND READING (Pitts - House Sponsor)

CSSJR 5, A joint resolution proposing a constitutional amendment to clarify references to the permanent school fund, to allow the General Land Office to distribute revenue derived from permanent school fund land or other properties to the available school fund, and to provide for an increase in the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund.

Representative Pitts moved to postpone consideration of **CSSJR 5** until 8 a.m. tomorrow.

The motion prevailed.

POSTPONED BUSINESS

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

SB 738 ON SECOND READING (Villarreal - House Sponsor)

SB 738, A bill to be entitled An Act relating to a parental role in determining sanctions applied to a public school campus under certain circumstances.

SB 738 was read second time on May 21 and was passed to third reading, as amended. The vote was later reconsidered on May 23 and **SB 738** was postponed until this time.

Amendment No. 1 - Vote Reconsidered

Representative Villarreal moved to reconsider the vote by which Amendment No. 1 was adopted on May 21.

The motion to reconsider prevailed.

Amendment No. 1 was withdrawn.

(Speaker in the chair)

Amendment No. 2

Representative Villarreal offered the following amendment to **SB 738**:

Amend **SB 738** (house committee report) as follows:

(1) Insert into the bill the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 12, Education Code, is amended by adding Section 12.0522 to read as follows:

Sec. 12.0522. AUTHORIZATION FOR CAMPUS IDENTIFIED AS UNACCEPTABLE. (a) This section applies only to a school district campus that:

(1) has been identified as unacceptable under Section 39.054 for two consecutive school years; and

(2) is located in a county that:

(A) has a population of 1.7 million or more; or

(B) less than 1.8 million.

(b) Notwithstanding Section 12.052, in accordance with this subchapter, the board of trustees of a school district shall, with the approval of the commissioner, grant a charter for a campus to an entity that is a charter holder under Subchapter D or E and is eligible under Subsection (c), if the board is presented with a petition signed by the parents of a majority of the students at the campus. Such approval by the district shall not be conditionally approved or withheld. Such an entity granted a charter for a campus under this subsection has the same authority over the operations of the campus for which the charter is granted as a charter holder has under Subchapter D or E, as applicable. For purposes of this subsection, the signature of only one parent of a student is required. Such approval by the district shall not be conditionally approved or withheld.

(c) An entity that holds a charter under Subchapter D or E is eligible under this section to be granted a charter for a campus if:

(1) the charter holder:

(A) is evaluated for purposes of Chapter 39 under the agency's standard accountability procedures;

(B) has an accreditation status of accredited under Subchapter C, Chapter 39; and

(C) has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for each of the preceding three school years;

(2) either no campus operating under the charter has been assigned an unacceptable performance rating as provided by Subchapter C, Chapter 39, for any of the three preceding school years or such a campus has been closed;

(3) the charter holder has been assigned a financial accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better;

(4) the charter holder meets generally accepted accounting standards;
and

(5) at least 30 percent of students enrolled in charter schools operating under the charter met commended performance standards or equivalent or higher standards as determined by the commissioner on reading and mathematics assessment instruments under Chapter 39 during the preceding two school years.

(c-1) This subsection expires January 1, 2015. For purposes of Subsection (c):

(1) a charter holder or charter school rated as academically acceptable or higher under Subchapter D or E, Chapter 39, as that subchapter existed January 1, 2009, for the 2008-2009, 2009-2010, or 2010-2011 school year is considered to have been assigned an acceptable performance rating for the applicable school year; and

(2) a charter school rated as academically unacceptable under Subchapter D or E, Chapter 39, as that subchapter existed January 1, 2009, for the 2008-2009, 2009-2010, or 2010-2011 school year is considered to have been assigned an unacceptable performance rating for the applicable school year.

(d) If the commissioner is presented with a petition that has at least 30 percent of the total number of signatures required under Subsection (b), the school district in which the campus is located shall provide contact information for all parents of students enrolled at the campus in a manner available to those persons for the purpose of organizing the parent petition drive only.

(e) A committee shall be appointed by the commissioner to advise and make recommendations concerning granting a charter under this section to the board of trustees of a school district that is presented with a petition described by Subsection (b). The committee must be:

(1) appointed by the commissioner from a list of nominees recommended by the board of trustees and the parents of students enrolled at the campus; and

(2) composed of district teachers, including teachers at the campus for which the petition is submitted, other district personnel, campus parents, and local business and community members.

(f) In addition to satisfying requirements under Section 12.059, a charter granted under this section must describe the respective responsibilities of the school district granting the charter and charter holder concerning funding, operation and maintenance of facilities, transportation, personnel, instructional materials, and other matters as determined by the board of trustees of the district and the charter holder. A charter granted under this section must be for a term of at least three years.

(g) The amount of operations and maintenance funding provided each year to a campus granted a charter under this section must equal the product of the total amount of operations and maintenance funding for that school year for the school district in which the campus is located, multiplied by the quotient of the campus weighted average daily attendance divided by the total district weighted average daily attendance.

(h) A school district shall provide to the campus equal access to capital investments made by the school district that are payable from a tax imposed for payment of principal and interest on bonds issued under Section 45.001(a)(1)(A), (B), or (C).

(i) A school district shall permit to attend a campus for which a charter is granted under this section a student who would have been assigned to attend that campus had the charter not been granted. Notwithstanding any other provision of

this title, a district shall permit to transfer to another district campus a student who is assigned to attend a campus for which a charter is granted under this section.

(j) A campus for which a charter is granted under this section that intends to replace campus staff must interview for an available classroom teaching position a classroom teacher who was employed at the campus at the time the charter was granted and who applies for the position.

(k) A dispute arising under this section may not be appealed to the commissioner under Section 7.057 or any other provision. If a person files suit to dispute a provision of this section, the court in which the suit is filed shall refer the dispute to alternative dispute resolution by the procedures provided by Section 154.024 or 154.027, Civil Practice and Remedies Code.

(l) The commissioner may not approve more than five charters under this section.

(m) The commissioner shall adopt rules as necessary for the administration of this section.

SECTION ____ . Section 12.057(c), Education Code, is amended to read as follows:

(c) A campus or program granted a charter under Section 12.052, 12.0521(a)(1), 12.0522, or 12.053 is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers.

(2) In existing SECTION 1 of the bill, strike the recital (page 1, lines 5-7), and substitute the following:

Section 39.107, Education Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (a-2), (b-3), (e-2), and (e-3) to read as follows:

(3) In existing SECTION 1 of the bill, between the recital and amended Section 39.107(e), Education Code (page 1, between lines 7 and 8), insert the following:

(a) After a campus has been identified as unacceptable for two consecutive school years, the commissioner shall order the reconstitution of the campus unless the board of trustees of the school district in which the campus is located grants a charter for the campus under Section 12.0522.

(a-2) If a charter is granted for a campus under Section 12.0522, the board of trustees of the school district and appropriate district administrators may assist the campus in:

(1) developing an updated targeted improvement plan;

(2) presenting the plan in a public hearing, in the manner provided by Section 39.106(e-1);

(3) obtaining approval of the updated plan from the commissioner; and

(4) executing the plan on approval by the commissioner.

(b-3) Subsections (b), (b-1), and (b-2) do not apply to a campus granted a charter under Section 12.0522.

(c) A campus that is reconstituted under this section or to which the board of trustees of a school district grants a charter under Section 12.0522 ~~[subject to Subsection (a)]~~ shall implement the updated targeted improvement plan as approved by the commissioner. The commissioner may appoint a monitor, conservator, management team, or board of managers to the district to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted improvement plan. In making appointments under this subsection, the commissioner shall consider individuals who have demonstrated success in managing campuses with student populations similar to the campus at which the individual appointed will serve.

(4) In existing SECTION 1 of the bill, in amended Section 39.107(e), Education Code (page 1, line 10), between "Subsection (a)" and ", the commissioner", insert "or granted a charter under Section 12.0522".

Amendment No. 2 - Point of Order

Representative Gutierrez raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 2 and Rule 11, Section 3 of the House Rules on the grounds that the amendment is not germane to the bill and the amendment would change general law.

The speaker overruled the point of order.

Amendment No. 3

Representative Anchia offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 by Villareal to **SB 738** by striking added Section 12.0522(b), Education Code, and substituting the following:

(b) Notwithstanding Section 12.052, in accordance with this subchapter, the board of trustees of a school district shall, with the approval of the commissioner, grant a charter for a campus to an entity to which a charter may be granted under Section 12.052 or 12.0521, if the board is presented with a petition signed by the parents of a majority of the students at the campus. Notwithstanding Subsection (a)(1) or Section 12.052, in accordance with this subchapter, the board of trustees of a district shall, with the approval of the commissioner, grant a charter for a campus that has been identified as unacceptable under Section 39.054 for four consecutive school years to an entity that is a charter holder under Subchapter D or E and that is eligible under Subsection (c), if the board is presented with a petition signed by the parents of a majority of the students at the campus. An entity that is a charter holder under Subchapter D or E that is granted a charter for a campus under this subsection has the same authority over the operations of the campus for which the charter is granted as a charter holder has under Subchapter D or E, as applicable. For purposes of this subsection, the signature of only one parent of a student is required.

Representative Villarreal moved to table Amendment No. 3.

The motion to table prevailed by (Record 1310): 81 Yeas, 67 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Button; Cain; Callegari; Carter; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Deshotel; Driver; Eissler; Elkins; Fletcher; Garza; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hopson; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Miller, S.; Morrison; Murphy; Parker; Patrick; Paxton; Peña; Perry; Pitts; Riddle; Ritter; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Truitt; Villarreal; White; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burkett; Burnam; Castro; Chisum; Christian; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Flynn; Frullo; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hochberg; Howard, D.; Huberty; Johnson; King, T.; Kuempel; Larson; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Phillips; Pickett; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Scott; Strama; Torres; Turner; Veasey; Vo; Walle; Weber; Workman.

Present, not voting — Mr. Speaker(C).

Absent — Darby.

STATEMENT OF VOTE

I was shown voting no on Record No. 1310. I intended to vote yes.

Schwertner

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness in the family:

Menendez on motion of Guillen.

SB 738 - (consideration continued)

Amendment No. 2 was adopted by (Record 1311): 86 Yeas, 46 Nays, 13 Present, not voting. (The vote was reconsidered on May 24, and Amendment No. 2 was withdrawn.)

Yeas — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Deshotel; Driver; Eissler; Elkins; Fletcher; Garza; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Larson; Laubenberg; Lavender; Legler; Lucio; Lyne; Madden; Margo; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips;

Pitts; Riddle; Ritter; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Villarreal; White; Woolley; Zedler; Zerwas.

Nays — Alonzo; Burnam; Castro; Christian; Coleman; Darby; Davis, Y.; Dukes; Dutton; Farias; Farrar; Flynn; Gallego; Geren; Giddings; Gutierrez; Hartnett; Hernandez Luna; Hochberg; Hopson; Huberty; King, T.; Kuempel; Landtroop; Lewis; Lozano; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Muñoz; Naishtat; Oliveira; Pickett; Price; Raymond; Reynolds; Rodriguez; Schwertner; Thompson; Turner; Veasey; Vo; Walle; Weber.

Present, not voting — Mr. Speaker(C); Alvarado; Anchia; Carter; Gonzales, V.; Gonzalez; Howard, D.; Johnson; Mallory Caraway; Marquez; Quintanilla; Strama; Workman.

Absent, Excused — Menendez.

Absent — Eiland; Frullo; Guillen; Peña.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1311. I intended to vote no.

Allen

I was shown voting yes on Record No. 1311. I intended to vote no.

Cook

I was shown voting yes on Record No. 1311. I intended to vote no.

Craddick

I was shown voting no on Record No. 1311. I intended to vote yes.

Flynn

I was shown voting yes on Record No. 1311. I intended to vote present, not voting.

Keffer

I was shown voting no on Record No. 1311. I intended to vote yes.

Landtroop

When Record No. 1311 was taken, I was in the house but away from my desk. I would have voted yes.

Peña

SB 738 - POINT OF ORDER

Representative Martinez Fischer raised a point of order against further consideration of **SB 738** under Rule 8, Section 10 of the House Rules on the grounds that the bill is limited to one or more subdivisions by means of artificial devices.

The point of order was withdrawn.

Representative Villarreal moved to postpone consideration of **SB 738** until 10:30 p.m. today.

The motion prevailed.

**PROVIDING FOR A LOCAL, CONSENT,
AND RESOLUTIONS CALENDAR**

Representative Thompson moved to suspend all necessary rules to set a local, consent, and resolutions calendar for 10 a.m. Wednesday, May 25.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Thompson requested permission for the Committee on Local and Consent Calendars to meet while the house is in session, at 10 p.m. today, in 3W.9, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Local and Consent Calendars, 10 p.m. today, 3W.9, for a formal meeting, to set a calendar.

**CSSB 1581 ON SECOND READING
(Aycock - House Sponsor)**

CSSB 1581, A bill to be entitled An Act relating to state fiscal matters, and certain administrative and business matters, related to public and higher education.

CSSB 1581 was read second time earlier today and was postponed until this time.

CSSB 1581 - POINT OF ORDER

Representative Y. Davis raised a point of order against further consideration of **CSSB 1581** under Rule 4, Section 32(c)(3) of the House Rules on the grounds that the committee report is incorrect.

The speaker sustained the point of order.

CSSB 1581 was returned to the Committee on Public Education.

**CSSB 1717 ON SECOND READING
(Lewis and Jackson - House Sponsors)**

CSSB 1717, A bill to be entitled An Act relating to the operation and administration of the judicial branch of state government.

CSSB 1717 was read second time earlier today, amendments were offered and disposed of, and **CSSB 1717** was postponed until this time.

Amendment No. 29 - Vote Reconsidered

Representative Lewis moved to reconsider the vote by which Amendment No. 29, as amended, was adopted.

The motion to reconsider prevailed.

Amendment No. 29, as amended, was withdrawn.

CSSB 1717, as amended, was passed to third reading. (Anchia, V. Gonzales, D. Howard, Lucio, Strama, and Vo recorded voting no.)

(Bonnen in the chair)

**SB 1087 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hilderbran, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1087**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1087**: Hilderbran, chair; Gallego, T. King, Gooden, and Frullo.

**HB 943 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Dukes called up with senate amendments for consideration at this time,

HB 943, A bill to be entitled An Act relating to reporting requirements concerning missing persons, including missing children in the managing conservatorship of the Department of Family and Protective Services.

Representative Dukes moved to concur in the senate amendments to **HB 943**.

The motion to concur in the senate amendments to **HB 943** prevailed by (Record 1312): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Farias; Walle.

Senate Committee Substitute

CSHB 943, A bill to be entitled An Act relating to reporting requirements concerning missing persons, including missing children in the managing conservatorship of the Department of Family and Protective Services.

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

SECTION 1. Subchapter B, Chapter 264, Family Code, is amended by adding Section 264.123 to read as follows:

Sec. 264.123. REPORTS CONCERNING MISSING CHILD. (a) If a child in the department's managing conservatorship is missing from the child's substitute care provider, including a child who is abducted or is a runaway, the department shall notify the following persons that the child is missing:

(1) the appropriate law enforcement agencies;

(2) the court with jurisdiction over the department's managing conservatorship of the child;

(3) the child's attorney ad litem;

(4) the child's guardian ad litem; and

(5) the child's parent unless the parent:

(A) cannot be located or contacted;

(B) has had the parent's parental rights terminated; or

(C) has executed an affidavit of relinquishment of parental rights.

(b) The department shall provide the notice required by Subsection (a) not later than 24 hours after the time the department learns that the child is missing or as soon as possible if a person entitled to notice under that subsection cannot be notified within 24 hours.

(c) If a child has been reported as a missing child under Subsection (a), the department shall notify the persons described by Subsection (a) when the child returns to the child's substitute care provider not later than 24 hours after the time the department learns that the child has returned or as soon as possible if a person entitled to notice cannot be notified within 24 hours.

(d) The department shall make continuing efforts to determine the location of a missing child until the child returns to substitute care, including:

(1) contacting on a monthly basis:

(A) the appropriate law enforcement agencies;

(B) the child's relatives;

(C) the child's former caregivers; and

(D) any state or local social service agency that may be providing services to the child; and

(2) conducting a supervisory-level review of the case on a quarterly basis if the child is 15 years of age or younger to determine whether sufficient efforts have been made to locate the child and whether other action is needed.

(e) The department shall document in the missing child's case record:

(1) the actions taken by the department to:

(A) determine the location of the child; and

(B) persuade the child to return to substitute care;

(2) any discussion during, and determination resulting from, the supervisory-level review under Subsection (d)(2);

(3) any discussion with law enforcement officials following the return of the child regarding the child's absence; and

(4) any discussion with the child described by Subsection (f).

(f) After a missing child returns to the child's substitute care provider, the department shall interview the child to determine the reasons why the child was missing and where the child stayed during the time the child was missing. The department shall report to an appropriate law enforcement agency any disclosure made by a child that indicates that the child was the victim of a crime during the time the child was missing. The department shall make a report under this subsection not later than 24 hours after the time the disclosure is made. The department is not required to interview a missing child under this subsection if, at the time the child returns, the department knows that the child was abducted and another agency is investigating the abduction.

SECTION 2. Article 63.009(a), Code of Criminal Procedure, is amended to read as follows:

(a) Local law enforcement agencies, on receiving a report of a missing child or a missing person, shall:

(1) if the subject of the report is a child and the well-being of the child is in danger or if the subject of the report is a person who is known by the agency to have or is reported to have chronic dementia, including Alzheimer's dementia, whether caused by illness, brain defect, or brain injury, immediately start an investigation in order to determine the present location of the child or person;

(2) if the subject of the report is a child or person other than a child or person described by Subdivision (1), start an investigation with due diligence in order to determine the present location of the child or person;

(3) immediately, but not later than two hours after receiving the report, enter the name of the child or person into the clearinghouse, the national crime information center missing person file if the child or person meets the center's criteria, and the Alzheimer's Association Safe Return crisis number, if applicable, with all available identifying features such as dental records, fingerprints, other physical characteristics, and a description of the clothing worn when last seen, and all available information describing any person reasonably believed to have taken or retained the missing child or missing person; and

(4) inform the person who filed the report of the missing child or missing person that the information will be entered into the clearinghouse, the national crime information center missing person file, and the Alzheimer's Association Safe Return crisis number, if applicable.

SECTION 3. This Act takes effect September 1, 2011.

**HB 1179 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Flynn called up with senate amendments for consideration at this time,

HB 1179, A bill to be entitled An Act relating to certification requirements for certain property tax professionals.

Representative Flynn moved to concur in the senate amendments to **HB 1179**.

The motion to concur in the senate amendments to **HB 1179** prevailed by (Record 1313): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; 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; 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; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; 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.

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

Absent, Excused — Menendez.

Absent — Alvarado; Coleman; Jackson; Morrison; Zerwas.

STATEMENTS OF VOTE

When Record No. 1313 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

When Record No. 1313 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

When Record No. 1313 was taken, I was in the house but away from my desk. I would have voted yes.

Zerwas

Senate Committee Substitute

CSHB 1179, A bill to be entitled An Act relating to certification requirements for certain property tax professionals.

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

SECTION 1. The heading to Section 1151.160, Occupations Code, is amended to read as follows:

Sec. 1151.160. CERTIFICATION LEVELS AND REQUIREMENTS; RULES.

SECTION 2. Section 1151.160, Occupations Code, is amended by amending Subsections (a) and (c) and adding Subsections (d), (e), (f), (g), (h), and (i) to read as follows:

(a) The commission by rule shall adopt minimum requirements for the certification of registrants. The requirements for certification of a registrant ~~an employee of a taxing unit's tax office~~ must emphasize the areas of responsibility of the registrant in performing the registrant's duties for the taxing unit.

(c) A ~~The rules establishing minimum requirements must require that:~~
~~[(1) a]~~ person registered as an appraiser shall become certified as a registered professional appraiser not later than the fifth anniversary of the date of the person's original registration. The person shall obtain certification by:

(1) successfully completing the certification requirements established by commission rule; or

(2) if the person is certified or licensed under Chapter 1103 as an appraiser by the Texas Appraiser Licensing and Certification Board, passing the appropriate examination required under Section 1151.161.

(d) A ~~[(2) a]~~ person registered as an assessor or assessor-collector shall become certified as a registered Texas assessor not later than the fifth anniversary of the date of the person's original registration. ~~;~~ ~~and~~

(e) A ~~[(3) a]~~ person registered as a collector shall become certified as a registered Texas collector not later than the third anniversary of the date of the person's original registration.

(f) In this subsection, "break in service" means time during which a person is not employed in the type of employment for which the person is registered, not than a period resulting from termination for cause. A registrant who has a break in service is entitled to an adjustment of the applicable anniversary date described by Subsection (c), (d), or (e) equal to the length of the break in service, as determined by commission rule. A person who has a break in service that exceeds five years must submit a new application and proof of completion of current course requirements, unless otherwise excepted under commission rule.

(g) A registrant who has not obtained the certification required by Subsection (c), (d), or (e) within the time required by the applicable subsection is entitled to a one-year extension to meet the certification requirements if:

(1) the applicant submits proof of active military status performed after the date of the applicant's original registration;

(2) the applicant submits proof of leave under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.) taken after the date of the applicant's original registration;

(3) the applicant submits proof of a death or illness in the family or an unforeseen emergency occurring after the date of the applicant's original registration that prevented the registrant from meeting certification requirements;

(4) a county tax assessor-collector, chief appraiser, chief administrative officer of a political subdivision, or other person authorized by the commission by rule requests the extension on behalf of an employee;

(5) the applicant requesting the extension is a county tax assessor-collector or chief appraiser; or

(6) the applicant meets another reasonable qualification for an extension established by the commission by rule.

(h) The commission shall establish reasonable qualifications for reapplication for a registration by an applicant who does not meet any of the requirements of Subsection (g) or Section 1151.1605.

(i) The commission shall adopt rules as necessary to implement this section.

SECTION 3. Subchapter D, Chapter 1151, Occupations Code, is amended by adding Section 1151.1605 to read as follows:

Sec. 1151.1605. REINSTATEMENT OF REGISTRATION. (a) A person who has not satisfied the requirements for certification within the time required by Section 1151.160(c), (d), or (e) or rules adopted under those subsections may apply for reinstatement of a registration under this section if that person obtained registration before December 31, 2010, as a Class II collector, a Class III appraiser, or a Class III assessor-collector as defined by a rule adopted by the commission under Section 1151.160.

(b) A qualified person may apply for reinstatement of a registration if, before December 31, 2011, that person:

(1) pays a \$250 fee; and

(2) files a completed reinstatement application on a form prescribed by the department.

(c) A registration reinstated under this section expires on December 31, 2013, and may not be renewed unless the applicant satisfies all registration and certification requirements, including any education and examination requirements, before December 31, 2013.

(d) If a person completes the registration and certification requirements in order to renew a registration under Subsection (c), the date of registration shall be the same as the date of completion of the requirements.

(e) This section expires December 31, 2013.

SECTION 4. Subchapter D, Chapter 1151, Occupations Code, is amended by adding Section 1151.165 to read as follows:

Sec. 1151.165. INACTIVE STATUS. The commission may adopt rules to allow a registrant to place a registration issued by the department on inactive status in the same manner as a license is placed on inactive status under Section 51.4011.

SECTION 5. (a) The Texas Commission of Licensing and Regulation shall adopt rules under Section 1151.160, Occupations Code, as amended by this Act, and Section 1151.165, Occupations Code, as added by this Act, not later than February 1, 2012.

(b) The Texas Commission of Licensing and Regulation shall adopt rules under Section 1151.1605, Occupations Code, as added by this Act, not later than October 1, 2011.

SECTION 6. 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.

**HB 3577 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative L. Gonzales called up with senate amendments for consideration at this time,

HB 3577, A bill to be entitled An Act relating to eligibility requirements for the Texas Educational Opportunity Grant.

Representative L. Gonzales moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3577**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3577**: L. Gonzales, chair; Schwertner, Scott, Strama, and Workman.

**HB 109 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Brown called up with senate amendments for consideration at this time,

HB 109, A bill to be entitled An Act relating to the temporary lowering of prima facie speed limits at a vehicular accident reconstruction site.

Representative Brown moved to concur in the senate amendments to **HB 109**.

The motion to concur in the senate amendments to **HB 109** prevailed by (Record 1314): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; 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, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez;

Martinez Fischer; McClendon; 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; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Coleman; Darby; Elkins; Farias; Hartnett; King, S.; Solomons; Walle.

STATEMENT OF VOTE

When Record No. 1314 was taken, my vote failed to register. I would have voted yes.

S. King

Senate Committee Substitute

CSHB 109, A bill to be entitled An Act relating to the temporary lowering of prima facie speed limits at a vehicular accident reconstruction site.

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

SECTION 1. Section 544.002(c), Transportation Code, is amended to read as follows:

(c) A local authority may not place or maintain a traffic-control device on a highway under the jurisdiction of the Texas Department of Transportation without that department's permission, except as authorized under Section 545.3561.

SECTION 2. Subchapter H, Chapter 545, Transportation Code, is amended by adding Section 545.3561 to read as follows:

Sec. 545.3561. AUTHORITY OF MUNICIPALITY OR COUNTY TO TEMPORARILY LOWER SPEED LIMIT AT VEHICULAR ACCIDENT RECONSTRUCTION SITE. (a) The governing body of a municipality by ordinance may give a designated official with transportation engineering experience establishing speed limits discretion to temporarily lower a prima facie speed limit for a highway or part of a highway in the municipality, including a highway of the state highway system, at the site of an investigation using vehicular accident reconstruction.

(b) A county commissioners court by order may give a designated official with transportation engineering experience establishing speed limits discretion to temporarily lower prima facie speed limits for a county road or highway outside the boundaries of a municipality at the site of an investigation using vehicular accident reconstruction. The authority granted under this subsection does not include a road or highway in the state highway system.

(c) The Texas Department of Transportation shall develop safety guidelines for the use of vehicular accident reconstruction in investigations. A municipality, county, or designated official shall comply with the guidelines.

(d) A designated official may temporarily lower prima facie speed limits without the approval of or permission from the Texas Department of Transportation. A designated official who intends to temporarily lower a prima facie speed limit at the site of an investigation using vehicular accident reconstruction shall, at least 48 hours before temporary speed limit signs are posted for the vehicular accident reconstruction site, provide to the Texas Department of Transportation notice that includes:

(1) the date and time of the accident reconstruction;

(2) the location of the accident reconstruction site;

(3) the entities involved at the site;

(4) the general size of the area affected by the site; and

(5) an estimate of how long the site will be used for the accident reconstruction.

(e) A temporary speed limit established under this section:

(1) is a prima facie prudent and reasonable speed limit enforceable in the same manner as other prima facie speed limits established under other provisions of this subchapter; and

(2) supersedes any other established speed limit that would permit a person to operate a motor vehicle at a higher rate of speed.

(f) A designated official who temporarily lowers a speed limit shall:

(1) place and maintain at the vehicular accident reconstruction site temporary speed limit signs that conform to the manual and specifications adopted under Section 544.001;

(2) temporarily conceal all other signs on the highway segment affected by the vehicular accident reconstruction site that give notice of a speed limit that would permit a person to operate a motor vehicle at a higher rate of speed; and

(3) remove all temporary speed limit signs placed under Subdivision (1) and concealments of other signs placed under Subdivision (2) when the official finds that the vehicular accident reconstruction is complete and all equipment is removed from the vehicular accident reconstruction site.

(g) A temporary speed limit established under this section is effective when a designated official places temporary speed limit signs and conceals other signs that would permit a person to operate a motor vehicle at a higher rate of speed as required under Subsection (f).

(h) A temporary speed limit established under this section is effective until the designated official under Subsection (a) or (b):

(1) finds that the vehicular accident reconstruction is complete; and

(2) removes all temporary signs, concealments, and equipment used at the vehicular accident reconstruction site.

(i) If a designated official does not comply with the requirements of Subsection (f)(3) for a vehicular accident reconstruction on a state highway associated with the reconstruction, the Texas Department of Transportation may remove signs and concealments.

SECTION 3. Section 553.002, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) This section does not apply to an ordinance enacted or a temporary speed limit sign erected or operated under Section 545.3561.

SECTION 4. This Act takes effect September 1, 2011.

HB 268 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hilderbran called up with senate amendments for consideration at this time,

HB 268, A bill to be entitled An Act relating to the exemption from sales and use taxes, including the motor vehicle sales and use tax, for timber and certain items used on a farm, ranch, or timber operation.

Representative Hilderbran moved to concur in the senate amendments to **HB 268**.

The motion to concur in the senate amendments to **HB 268** prevailed by (Record 1315): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; 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; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Coleman; Davis, Y.; Farias; Laubenberg; Walle.

Senate Committee Substitute

CSHB 268, A bill to be entitled An Act relating to the exemption from sales and use taxes, including the motor vehicle sales and use tax, for timber and certain items used in or on a farm, ranch, timber operation, or agricultural aircraft operation.

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

SECTION 1. Subchapter E, Chapter 151, Tax Code, is amended by adding Section 151.1551 to read as follows:

Sec. 151.1551. REGISTRATION NUMBER REQUIRED FOR TIMBER AND CERTAIN AGRICULTURAL ITEMS. (a) This section applies to an exemption provided by:

(1) Sections 151.316(a)(6), (7), (8), (10), (11), and (12);

(2) Section 151.316(b) for tangible personal property used in the production of agricultural products for sale;

(3) Section 151.3162(b) for tangible personal property used in the production of timber for sale;

(4) Sections 151.317(a)(5) and (10) for electricity used in agriculture or timber operations; and

(5) Section 151.3111 for services performed on tangible personal property exempted under Section 151.316(a)(6), (7), (8), (10), (11), or (12), 151.316(b), or 151.3162(b).

(b) To claim an exemption to which this section applies, a registration number issued by the comptroller must be stated on the exemption certificate provided by the purchaser of the item.

(c) A person is eligible to apply for a registration number if the person is engaged in the production of agricultural products or timber for sale or in an agricultural aircraft operation as defined by 14 C.F.R. Section 137.3.

(d) A person who is eligible may apply to the comptroller for a registration number. The application must:

(1) be on a form prescribed by the comptroller;

(2) if applicable, state the types of crops, livestock, or other agricultural products that are produced for sale on the farm or ranch on which the applicant will use or employ the item described by Subsection (a) or state that the item will be used in relation to a timber operation or an agricultural aircraft operation as defined by 14 C.F.R. Section 137.3;

(3) as applicable, state the name and address of the farm, ranch, timber operation, or other business owned or operated by the applicant in relation to which the applicant will use the item; and

(4) contain any other information required by the comptroller.

(e) The comptroller shall develop and implement a procedure by which an applicant may submit an application described by Subsection (d) electronically.

(f) The comptroller by rule shall establish a uniform date on which all registration numbers issued under this section must be renewed, regardless of the date on which a registration number is initially issued. The rules must require registration numbers to be renewed every four years.

(g) The comptroller may not issue a registration number that contains an individual's social security number.

(h) The comptroller, after written notice and a hearing, may revoke the registration number issued to a person who fails to comply with this chapter or with a rule adopted under this chapter. A person whose registration number the comptroller proposes to revoke under this section is entitled to 20 days' written

notice of the time and place of the hearing on the revocation. The notice must state the reason the comptroller is seeking to revoke the person's registration number. At the hearing the person must show cause why the person's registration number should not be revoked.

(i) The comptroller shall give written notice of the revocation of a registration number under Subsection (h) to the person to whom the number was issued. The notice may be personally served on the person or sent by mail to the person's address as shown in the comptroller's records.

(j) If the comptroller revokes a person's registration number under Subsection (h), the comptroller may not revive the registration number unless the comptroller is satisfied that the person will comply with this chapter and the rules adopted under this chapter. The comptroller may prescribe the terms under which a revoked registration number may be revived.

(k) Following the revocation of a registration number by the comptroller, the person who held the registration number must, on the next transaction with each seller to whom the person previously issued a claim for exemption with a registration number, notify that seller that the person's registration number is no longer valid. The failure of a person to notify a seller as required by this subsection is considered a failure and refusal to pay the taxes imposed by this chapter by the person required to make the notification.

(l) The comptroller shall develop and operate an online system to enable a seller of an item described by Subsection (a) to search and verify the validity of the registration number stated on an exemption certificate. A seller is not required to use the online system.

(m) An exemption certificate that states a registration number issued by the comptroller to claim an exemption to which this section applies is sufficient documentation of the seller's receipt of the certificate in good faith for purposes of Sections 151.054 and 151.104.

(n) The comptroller by rule shall establish procedures by which a seller may accept a blanket exemption certificate with a registration number issued by the comptroller to claim exemptions to which this section applies.

(o) A use of an item purchased using an exemption certificate with a registration number issued under this section in a manner or for a purpose other than the manner or purpose that qualified the sale, lease, rental, or other consumption of the item for the exemption may result in the revocation of the number.

(p) A person eligible for a registration number who, at the time of purchasing, leasing, renting, or otherwise consuming an item for which the person may otherwise claim an exemption to which this section applies, has not obtained a registration number from the comptroller must pay the tax on the item to the seller at the time of the transaction. The person may then apply for a registration number and, on receipt of the number, may apply to the comptroller for a refund of the tax paid, subject to the statute of limitations. The comptroller by rule shall establish procedures for processing the refund requests. Tax collected by a seller under this subsection is not tax collected in error, and Section 111.104 does not apply to a refund request submitted under this subsection.

SECTION 2. Section 151.3111(a), Tax Code, is amended to read as follows:

(a) Subject to Section 151.1551, a [A] service that is performed on tangible personal property that, if sold, leased, or rented, at the time of the performance of the service, would be exempted under this chapter because of the nature of the property, its use, or a combination of its nature and use, is exempted from this chapter.

SECTION 3. Section 151.316(a), Tax Code, as amended by Chapters 1162 (HB 3144) and 1373 (SB 958), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(a) Subject to Section 151.1551, the [The] following items are exempted from the taxes imposed by this chapter:

- (1) horses, mules, and work animals;
- (2) animal life the products of which ordinarily constitute food for human consumption;
- (3) feed for farm and ranch animals;
- (4) feed for animals that are held for sale in the regular course of business;
- (5) seeds and annual plants the products of which:
 - (A) ordinarily constitute food for human consumption;
 - (B) are to be sold in the regular course of business; or
 - (C) are used to produce feed for animals exempted by this section;
- (6) fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:
 - (A) food for human consumption;
 - (B) feed for animal life; or
 - (C) other agricultural products to be sold in the regular course of business;
- (7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:
 - (A) food for human consumption;
 - (B) grass;
 - (C) feed for animal life; or
 - (D) other agricultural products to be sold in the regular course of business;
- (8) machinery and equipment exclusively used in, and pollution control equipment required as a result of, the processing, packing, or marketing of agricultural products by an original producer at a location operated by the original producer for processing, packing, or marketing the producer's own products if:
 - (A) 50 percent or more of the products processed, packed, or marketed at or from the location are produced by the original producer and not purchased or acquired from others; and

(B) the producer does not process, pack, or market for consideration any agricultural products that belong to other persons in an amount greater than five percent of the total agricultural products processed, packed, or marketed by the producer;

(9) ice exclusively used by commercial fishing boats in the storing of aquatic species including but not limited to shrimp, other crustaceans, finfish, mollusks, and other similar creatures;

(10) tangible personal property, including a tire, sold or used to be installed as a component part of a motor vehicle, machinery, or other equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business;

(11) machinery and equipment exclusively used in an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3; and

(12) tangible personal property incorporated into a structure that is used for the disposal of poultry carcasses in accordance with Section 26.303, Water Code.

SECTION 4. Section 151.316(b), Tax Code, is amended to read as follows:

(b) Subject to Section 151.1551, tangible [~~Tangible~~] personal property sold or used to be installed as a component of an underground irrigation system is exempt from the taxes imposed by this chapter if the system is exclusively used or employed on a farm or ranch in the production of:

(1) food for human consumption;

(2) grass;

(3) feed or forage for:

(A) animal life the products of which ordinarily constitute food for human consumption; or

(B) horses, mules, and work animals; or

(4) other agricultural products to be sold in the regular course of business.

SECTION 5. Section 151.3162(b), Tax Code, is amended to read as follows:

(b) Subject to Section 151.1551, the [~~The~~] following items are exempted from the tax imposed by this chapter:

(1) seedlings of trees grown for commercial timber;

(2) defoliant, desiccant, equipment, fertilizers, fungicides, herbicides, insecticides, and machinery exclusively used in the production of timber to be sold in the regular course of business;

(3) machinery and equipment used in, and pollution control equipment required as a result of, the processing, packing, or marketing of timber products by an original producer if:

(A) the processing, packing, or marketing occurs at or from a location operated by the original producer;

(B) at least 50 percent of the value of the timber products processed, packed, or marketed at or from the location is attributable to products produced by the original producer and not purchased or acquired from others; and

(C) the original producer does not process, pack, or market for consideration timber products that belong to another person with a value greater than five percent of the total value of the timber products processed, packed, or marketed by the producer; and

(4) tangible personal property sold or used to be installed as a component of an underground irrigation system exclusively used in the production of timber to be sold in the regular course of business.

SECTION 6. Section 151.317(a), Tax Code, is amended to read as follows:

(a) Subject to Section 151.1551 and Subsection (d) of this section, gas and electricity are exempted from the taxes imposed by this chapter when sold for:

(1) residential use;

(2) use in powering equipment exempt under Section 151.318 or 151.3185 by a person processing tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2);

(3) use in lighting, cooling, and heating in the manufacturing area during the actual manufacturing or processing of tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2);

(4) use directly in exploring for, producing, or transporting, a material extracted from the earth;

(5) use in agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation;

(6) use directly in electrical processes, such as electroplating, electrolysis, and cathodic protection;

(7) use directly in the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property;

(8) use directly in providing, under contracts with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or defense-related platform modifications or upgrades;

(9) a direct or indirect use, consumption, or loss of electricity by an electric utility engaged in the purchase of electricity for resale; or

(10) use in timber operations, including pumping for irrigation of timberland.

SECTION 7. Section 152.091, Tax Code, is amended by adding Subsection (b-1) and amending Subsection (c) to read as follows:

(b-1) In addition to the other requirements prescribed by this section, to claim an exemption provided by Subsection (a) or (b) the person purchasing, using, or leasing the machine, trailer, or semitrailer must provide an exemption certificate with a registration number issued by the comptroller under Section 151.1551.

(c) The taxes imposed by this chapter do not apply to the rental of a farm machine, a trailer, or a semitrailer for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots, or a machine, a trailer, or a semitrailer for use primarily for timber operations. The tax that would have been remitted on gross rental receipts without this exemption shall be deemed to have been remitted for the purpose of calculating the minimum gross rental receipts imposed by Section 152.026. The exemption provided by this subsection applies only if the owner of the motor vehicle obtains in good faith an exemption certificate from the person to whom the vehicle is being rented. To claim the exemption, the person renting the vehicle must also provide on the certificate a registration number issued by the comptroller under Section 151.1551.

SECTION 8. Notwithstanding Section 151.1551, Tax Code, as added by this Act, a person is not required to state a registration number on an exemption certificate or on a form prescribed by the comptroller of public accounts to claim an exemption to which Section 151.1551, Tax Code, as added by this Act, applies or an item under Section 152.091, Tax Code, that is claimed before January 1, 2012.

SECTION 9. The change in law made by this Act does not affect tax liability accruing before January 1, 2012. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 10. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 11. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 268** (senate committee printing) as follows:

(1) In SECTION 3 of the bill, in amended Section 151.316(a)(11), Tax Code (page 3, line 63), strike "and" and substitute "~~and~~".

(2) In SECTION 3 of the bill, in amended Section 151.316(a)(12), Tax Code (page 3, line 66), between "Code" and the period, insert the following:
; and

(13) tangible personal property incorporated into or attached to a structure that is located on a commercial dairy farm, is used or employed exclusively for the production of milk, and is:

(A) a free-stall dairy barn; or

(B) a dairy structure used solely for maternity purposes

(3) In SECTION 9 of the bill (page 5, line 35), strike "The" and substitute "(a) Except as provided by Subsection (b) of this section, the".

(4) In SECTION 9 of the bill (page 5, between lines 40 and 41), insert the following:

(b) Section 151.316(a)(13), Tax Code, as added by this Act, does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if that section had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

**HB 378 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Guillen called up with senate amendments for consideration at this time,

HB 378, A bill to be entitled An Act relating to stationary tow trucks on a highway; providing a penalty.

Representative Guillen moved to concur in the senate amendments to **HB 378**.

The motion to concur in the senate amendments to **HB 378** prevailed by (Record 1316): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; 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; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Coleman; Crownover; Farias; Lewis; Smith, W.; Walle.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1316. I intended to vote no.

Kolkhorst

Senate Committee Substitute

CSHB 368, A bill to be entitled An Act relating to stationary tow trucks on a highway; providing a penalty.

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

SECTION 1. Section 545.157, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) On approaching a stationary authorized emergency vehicle using visual signals that meet the requirements of Sections 547.305 and 547.702, or a stationary tow truck using equipment authorized by Section 547.305(d), an operator, unless otherwise directed by a police officer, shall:

(1) vacate the lane closest to the emergency vehicle or tow truck when driving on a highway with two or more lanes traveling in the direction of the emergency vehicle or tow truck; or

(2) slow to a speed not to exceed:

(A) 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or more; or

(B) five miles per hour when the posted speed limit is less than 25 miles per hour.

(d) In this section, "tow truck" means a vehicle that:

(1) has been issued a permit under Subchapter C, Chapter 2308, Occupations Code; and

(2) is operated by a person licensed under Subchapter D, Chapter 2308, Occupations Code.

SECTION 2. Section 545.301(b), Transportation Code, is amended to read as follows:

(b) This section does not apply to an operator of:

(1) a vehicle that is disabled while on the paved or main traveled part of a highway if it is impossible to avoid stopping and temporarily leaving the vehicle on the highway; ~~or~~

(2) a vehicle used exclusively to transport solid, semisolid, or liquid waste operated at the time in connection with the removal or transportation of solid, semisolid, or liquid waste from a location adjacent to the highway; or

(3) a tow truck, as defined by Section 545.157(d), that is performing towing duties under Chapter 2308, Occupations Code.

SECTION 3. Section 547.305(a), Transportation Code, is amended to read as follows:

(a) A motor vehicle lamp or illuminating device, other than a headlamp, spotlamp, auxiliary lamp, turn signal lamp, or emergency vehicle, tow truck, or school bus warning lamp, that projects a beam with an intensity brighter than 300 candlepower shall be directed so that no part of the high-intensity portion of the beam strikes the roadway at a distance of more than 75 feet from the vehicle.

SECTION 4. This Act takes effect September 1, 2011.

**HB 3134 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Crownover called up with senate amendments for consideration at this time,

HB 3134, A bill to be entitled An Act relating to the plugging of inactive oil and gas wells.

Representative Crownover moved to concur in the senate amendments to **HB 3134**.

The motion to concur in the senate amendments to **HB 3134** prevailed by (Record 1317): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; 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; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Coleman; Driver; Farias; Kolkhorst; Walle.

STATEMENT OF VOTE

When Record No. 1317 was taken, I was in the house but away from my desk. I would have voted yes.

Kolkhorst

Senate Committee Substitute

CSHB 3134, A bill to be entitled An Act relating to the plugging of inactive oil and gas wells.

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

SECTION 1. Section 89.022, Natural Resources Code, is amended by amending Subsection (b) and adding Subsections (d), (e), and (f) to read as follows:

(b) Notwithstanding Subsection (a), a person who assumes responsibility for the physical operation and control of an existing inactive well must satisfy the requirements of Sections 89.023(a)(1) and (3) ~~[(4)]~~ not later than six months after the date the commission approves the initial form described by Section 89.002(a)(2) and filed with the commission under which the person assumes responsibility for the well.

(d) Before the commission issues an order refusing to renew an operator's organization report under Subsection (c), an authorized commission employee or a person designated by the commission for that purpose must determine whether the operator has failed to comply with the requirements of this subchapter. If the authorized commission employee or designated person determines that the organization report does not qualify for renewal on that ground, the authorized commission employee or designated person must:

(1) notify the operator of the determination;

(2) provide the operator with a written statement of the reasons the organization report does not qualify for renewal; and

(3) notify the operator that the operator has 90 days to comply with the requirements of this subchapter.

(e) After the expiration of the period specified by Subsection (d)(3), the authorized commission employee or designated person shall determine whether the organization report qualifies for renewal and notify the operator of the determination. If the authorized commission employee or designated person determines that the organization report does not qualify for renewal because the operator has continued to fail to comply with the requirements of this subchapter, the operator, not later than the 30th day after the date of the determination, may request a hearing regarding the determination. The operator shall pay the costs associated with a hearing requested under this subsection.

(f) If the commission determines following the hearing that the operator has failed to comply with the requirements of this subchapter or the operator fails to file a timely request for a hearing, the commission by order shall refuse to renew the organization report. The organization report remains in effect until the commission's order becomes final.

SECTION 2. Section 89.023(a), Natural Resources Code, is amended to read as follows:

(a) The commission may grant an extension of the deadline for plugging an inactive well if the operator maintains a current organization report with the commission as required by Section 91.142 and if, on or before the date of renewal of the operator's organization report as required by that section, the operator files with the commission an application for an extension that includes:

(1) an affirmation that complies with Section 89.029;

(2) ~~[a statement that the well and associated facilities are in compliance with all commission rules and orders;~~

~~[(3)]~~ a statement that the operator has, and on request will provide, evidence of a good faith claim to a continuing right to operate the well; and

(3) ~~[(4)]~~ at least one of the following:

(A) documentation that since the preceding date that the operator's organization report was required to be renewed the operator has plugged, or restored to active operation as defined by commission rule, a number of inactive wells equal to or greater than 10 percent of the number of inactive wells operated by the operator on that date;

(B) an abeyance of plugging report on a form approved by the commission that:

(i) is in the form of a certification signed by a person licensed by the Texas Board of Professional Engineers or the Texas Board of Professional Geoscientists;

(ii) includes:

(a) an affirmation by the licensed person that the well has:

(1) a reasonable expectation of economic value in excess of the cost of plugging the well for the duration of the period covered by the report, based on the cost calculation for plugging an inactive well; and

(2) a reasonable expectation of being restored to a beneficial use that will prevent waste of oil or gas resources that otherwise would not be produced if the well were plugged; and

(b) appropriate documentation demonstrating the basis for the affirmation of the well's future utility; and

(iii) specifies the field and the covered wells within that field in a format prescribed by the commission;

(C) a statement that the well is part of an enhanced oil recovery project;

(D) if the operator of the well is not currently otherwise required by commission rule or order to conduct a fluid level or hydraulic pressure test of the well, documentation of the results of a successful fluid level or hydraulic pressure test of the well conducted in accordance with the commission's rules in effect at the time the test is conducted;

(E) a supplemental bond, letter of credit, or cash deposit sufficient for each well specified in the application that:

(i) complies with the requirements of Chapter 91; and

(ii) is of an amount at least equal to the cost calculation for plugging an inactive well for each well specified in the application;

(F) documentation of the deposit with the commission each time the operator files an application of an amount of escrow funds as prescribed by commission rule that equal at least 10 percent of the total cost calculation for plugging an inactive well for each well specified in the application; or

(G) if the operator is a publicly traded entity:

(i) the following documents:

(a) a copy of the operator's federal documents filed to comply with Financial Accounting Standards Board Statement No. 143, Accounting for Asset Retirement Obligations; and

(b) an original, executed Uniform Commercial Code Form 1 Financing Statement, filed with the secretary of state, that:

(1) names the operator as the "debtor" and the Railroad Commission of Texas as the "secured creditor"; and

(2) specifies the funds covered by the documents described by Sub-subparagraph (a) in the amount of the cost calculation for plugging an inactive well for each well specified in the application; or

(ii) a blanket bond in the amount of the lesser of:

(a) the cost calculation for plugging any inactive wells; or

(b) \$2 million.

SECTION 3. Section 89.024(a), Natural Resources Code, is amended to read as follows:

(a) An abeyance of plugging report filed under Section 89.023(a)(3)(B) [~~89.023(a)(4)(B)~~] is valid for a period of not more than five years.

SECTION 4. Section 89.025(a), Natural Resources Code, is amended to read as follows:

(a) For purposes of Section 89.023(a)(3)(C) [~~89.023(a)(4)(C)~~], an inactive well is considered to be part of an enhanced oil recovery project if the well is located on a unit or lease or in a field associated with such a project.

SECTION 5. Section 89.026(a), Natural Resources Code, is amended to read as follows:

(a) Documentation filed under Section 89.023(a)(3)(D) [~~89.023(a)(4)(D)~~] of the results of a successful fluid level test is valid for a period of one year from the date of the test. Documentation filed under that section of the results of a successful hydraulic pressure test is valid for a period of not more than five years from the date of the test.

SECTION 6. Section 89.027(a), Natural Resources Code, is amended to read as follows:

(a) A supplemental bond, letter of credit, or cash deposit filed under Section 89.023(a)(3)(E) [~~89.023(a)(4)(E)~~] is in addition to any other financial assurance otherwise required of the operator or for the well.

SECTION 7. Section 89.028(a), Natural Resources Code, is amended to read as follows:

(a) Escrow funds described by Section 89.023(a)(3)(F) [~~89.023(a)(4)(F)~~] must be deposited with the commission each time an operator files an application for an extension of the deadline for plugging an inactive well.

SECTION 8. The changes in law made by this Act apply only to an organization report the renewal of which is pending as of the effective date of this Act or that is filed on or after the effective date of this Act.

SECTION 9. 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.

HB 970 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative L. Gonzales called up with senate amendments for consideration at this time,

HB 970, A bill to be entitled An Act relating to the use of municipal hotel occupancy tax revenue to enhance and upgrade coliseums and multiuse facilities in certain municipalities.

Representative L. Gonzales moved to concur in the senate amendments to **HB 970**.

The motion to concur in the senate amendments to **HB 970** prevailed by (Record 1318): 138 Yeas, 6 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Branch; Brown; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; 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 — Berman; Cain; Creighton; Gooden; Madden; Sheffield.

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

Absent, Excused — Menendez.

Absent — Coleman; Eiland; Huberty.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1318. I intended to vote no.

Flynn

When Record No. 1318 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

I was shown voting yes on Record No. 1318. I intended to vote no.

Weber

Senate Committee Substitute

CSHB 970, A bill to be entitled An Act relating to the use of municipal hotel occupancy tax revenue to enhance and upgrade coliseums and multiuse facilities in certain municipalities.

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

SECTION 1. Section 351.101(a), Tax Code, as amended by Chapters 402 (HB 1789), 1220 (SB 1247), and 1322 (HB 3098), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

(6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity;

(7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football, if:

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;

(ii) has a population of at least 65,000 but not more than 70,000 and is located in a county that has a population of 155,000 or less;

(iii) has a population of at least 34,000 but not more than 36,000 and is located in a county that has a population of 90,000 or less;

(iv) has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000;

(v) has a population of at least 65,000 but less than 80,000 and no part of which is located in a county with a population greater than 150,000; or
 (vi) is located in a county that:
 (a) is adjacent to the Texas-Mexico border;
 (b) has a population of at least 500,000; and
 (c) does not have a municipality with a population greater than 500,000; and

(C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments; ~~and~~

(8) for a municipality with a population of at least 65,000 but less than 80,000, no part of which is located in a county with a population greater than 150,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility;

(9) ~~(8)~~ signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality;

(10) ~~(8)~~ the construction of a recreational venue in the immediate vicinity of area hotels, if:

(A) the municipality:

(i) is a general-law municipality;

(ii) has a population of not more than 900; and

(iii) does not impose an ad valorem tax;

(B) not more than \$100,000 of municipal hotel occupancy tax revenue is used for the construction of the recreational venue;

(C) a majority of the hotels in the municipality request the municipality to construct the recreational venue;

(D) the recreational venue will be used primarily by hotel guests; and

(E) the municipality will pay for maintenance of the recreational venue from the municipality's general fund;

(11) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility, if the municipality:

(A) has a population of at least 90,000 but less than 120,000; and

(B) is located in two counties, at least one of which contains the headwaters of the San Gabriel River; and

(12) for a municipality with a population of more than 175,000 but less than 225,000 that is located in two counties, each of which has a population of less than 200,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility and related infrastructure or a venue, as defined by Section 334.001(4), Local Government Code, that is related to the promotion of tourism.

SECTION 2. 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.

**HB 1615 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Brown called up with senate amendments for consideration at this time,

HB 1615, A bill to be entitled An Act relating to the administering of medications to children in certain facilities; providing criminal penalties.

Representative Brown moved to concur in the senate amendments to **HB 1615**.

The motion to concur in the senate amendments to **HB 1615** prevailed by (Record 1319): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; 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; 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; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Alonzo; Coleman; Farrar; Lyne; Weber.

Senate Committee Substitute

CSHB 1615, A bill to be entitled An Act relating to the administering of medications to children in certain facilities; providing criminal penalties.

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

SECTION 1. This Act shall be known as Nathan's Law.

SECTION 2. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.065 to read as follows:

Sec. 42.065. ADMINISTERING MEDICATION. (a) In this section, "medication" means a drug that may be obtained with or without a prescription, excluding a topical ointment obtained without a prescription.

(b) This section applies only to a day-care center, group day-care home, before-school or after-school program, school-age program, or family home regardless of whether the facility or program is licensed, registered, or listed.

(c) A director, owner, operator, caretaker, employee, or volunteer of a child-care facility subject to this section may not administer a medication to a child unless:

(1) the child's parent or guardian has submitted to the child-care facility a signed and dated document that authorizes the facility to administer the medication for not longer than one year; and

(2) the authorized medication:

(A) is administered as stated on the label directions or as amended in writing by a practitioner, as defined by Section 551.003, Occupations Code; and

(B) is not expired.

(d) Notwithstanding Subsection (c)(1), a director, owner, operator, caretaker, employee, or volunteer of a child-care facility subject to this section may administer medication to a child under this section without a signed authorization if the child's parent or guardian:

(1) submits to the child-care facility an authorization in an electronic format that is capable of being viewed and saved; or

(2) authorizes the child-care facility by telephone to administer a single dose of a medication.

(e) An authorization under Subsection (d)(1) expires on the first anniversary of the date the authorization is provided to the child-care facility.

(f) This section does not apply to a person that administers a medication to a child in a medical emergency to prevent the death or serious bodily injury of the child if the medication is administered as prescribed, directed, or intended.

(g) A person commits an offense if the person administers a medication to a child in violation of this section. If conduct constituting an offense under this section also constitutes an offense under a section of the Penal Code, the actor may be prosecuted under either section or both sections.

(h) An offense under this section is a Class A misdemeanor.

SECTION 3. This Act takes effect September 1, 2011.

HB 2904 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Zerwas called up with senate amendments for consideration at this time,

HB 2904, A bill to be entitled An Act relating to the administration of the Glenda Dawson Donate Life-Texas Registry.

Representative Zerwas moved to concur in the senate amendments to **HB 2904**.

The motion to concur in the senate amendments to **HB 2904** prevailed by (Record 1320): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; 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; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; 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.

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

Absent, Excused — Menendez.

Absent — Coleman; Hamilton; Phillips; Pickett; Quintanilla.

STATEMENT OF VOTE

When Record No. 1320 was taken, my vote failed to register. I would have voted yes.

Phillips

Senate Committee Substitute

CSHB 2904, A bill to be entitled An Act relating to the administration of the Glenda Dawson Donate Life-Texas Registry.

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

SECTION 1. Section 692A.020, Health and Safety Code, is amended to read as follows:

Sec. 692A.020. GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY; EDUCATION PROGRAM. (a) The department shall contract with a nonprofit organization to maintain a statewide donor registry, to [In this section, "registry program" means the donor education, awareness, and registry program established under this section and known as the Glenda Dawson Donate Life-Texas Registry.

~~[(b) Any program or component of a program that the department develops under this chapter shall]~~ be known as the Glenda Dawson Donate Life-Texas Registry.

(b) The nonprofit organization administering the registry must include representatives from each ~~[(e) The department shall affiliate with an entity, such as a national or state association concerned with organ donation, to promote the registry program in accordance with this section.~~

~~[(d) In consultation with the Department of Public Safety and] organ procurement organization in this state [organizations, the department shall establish the Glenda Dawson Donate Life Texas Registry].~~

(c) [(e)] The department shall require the nonprofit organization with which the department has contracted to administer the statewide donor registry to establish and maintain ~~[enter into an agreement with an organization selected by the commissioner under a competitive proposal process for the establishment and maintenance of] a statewide Internet-based registry of organ, tissue, and eye donors~~. ~~— Contingent on the continued availability of appropriations under Subsection (k), the term of the initial agreement is two years and may be renewed for two year terms thereafter unless terminated in a written notice to the other party by the department or organization not later than the 180th day before the last day of a term].~~

(d) [(f)] The Department of Public Safety at least monthly shall electronically transfer to the nonprofit organization under contract with the department ~~[selected by the commissioner as provided by Subsection (e)] the name, date of birth, driver's license number, most recent address, and any other relevant information in the possession of the Department of Public Safety for any person who indicates on the person's driver's license application under Section 521.401, Transportation Code, that the person would like to make an anatomical gift~~ ~~[and consents in writing to the release of the information by the Department of Public Safety to the organization for inclusion in the Internet-based registry].~~

(e) [(g)] The contract between the department and the nonprofit organization administering the registry ~~[selected by the commissioner as provided by Subsection (e)] must require the organization to:~~

- (1) make information obtained from the Department of Public Safety under Subsection (d) ~~[(f)]~~ available to procurement organizations;
- (2) allow potential donors to submit information in writing directly to the organization for inclusion in the Internet-based registry;
- (3) maintain the Internet-based registry in a manner that allows procurement organizations to immediately access organ, tissue, and eye donation information 24 hours a day, seven days a week through electronic and telephonic methods; and
- (4) protect the confidentiality and privacy of the individuals providing information to the Internet-based registry, regardless of the manner in which the information is provided.

(f) [(h)] Except as otherwise provided by Subsection (e)(3) ~~[(g)(3)] or this subsection, the Department of Public Safety, the nonprofit organization under contract to administer the registry~~ ~~[selected by the commissioner under Subsection (e)], or a procurement organization may not sell, rent, or otherwise share any information provided to the Internet-based registry. A procurement organization may share any information provided to the registry with an organ~~

procurement organization or a health care provider or facility providing medical care to a potential donor as necessary to properly identify an individual at the time of donation.

(g) [(†)] The Department of Public Safety, the nonprofit organization [selected by the commissioner] under contract with the department to administer the registry [Subsection (e)], or the procurement organizations may not use any demographic or specific data provided to the Internet-based registry for any fund-raising activities. Data may only be transmitted from the selected organization to procurement organizations through electronic and telephonic methods using secure, encrypted technology to preserve the integrity of the data and the privacy of the individuals providing information.

(h) [(‡)] In each office authorized to issue driver's licenses or personal identification certificates, the Department of Public Safety shall make available educational materials developed by the nonprofit organization administering the registry [Texas Organ, Tissue, and Eye Donor Council established under Chapter 113, as added by Chapter 1186, Acts of the 79th Legislature, Regular Session, 2005].

(i) [(Ⓚ)] The Department of Public Safety shall remit to the comptroller the money collected under Sections 521.421(g) and 521.422(c), Transportation Code, as provided by those subsections. A county assessor-collector shall remit to the comptroller any money collected under Section 502.1745, Transportation Code, as provided by that section. Money remitted to the comptroller in accordance with those sections that is appropriated to the department shall be disbursed to the nonprofit organization administering the registry under this section under the terms of the contract between the department and the organization ~~[must be spent in accordance with the priorities established by the department in consultation with the Texas Organ, Tissue, and Eye Donor Council]~~ to pay the costs of:

(1) maintaining, operating, and updating the Internet-based registry and establishing procedures for an individual to be added to the registry; ~~[and]~~

(2) designing and distributing educational materials for prospective donors as required under this section; ~~and~~[-]

(3) providing ~~[(4) Any additional money over the amount necessary to accomplish the purposes of Subsections (k)(1) and (2) may be used by the department to provide]~~ education under this chapter ~~[or may be awarded using a competitive grant process to organizations to conduct organ, eye, and tissue donation education activities in this state. A member of the Texas Organ, Tissue, and Eye Donor Council may not receive a grant under this subsection].~~

(j) [(Ⓜ)] The department shall require the nonprofit organization selected to administer the registry [under Subsection (e)] to submit an annual written report to the department that includes:

(1) the number of donors listed on the Internet-based registry;

(2) changes in the number of donors listed on the registry; ~~[and]~~

(3) the demographic characteristics of listed donors, to the extent the characteristics may be determined from information provided on donor registry forms submitted by donors to the organization; and

(4) an accounting of the use of the money disbursed under Subsection (i) for the administration of the registry.

(k) ~~[(+)]~~ To the extent funds are available and as part of the donor registry program, the department may allocate funds to the nonprofit organization administering the registry pursuant to the contract to ~~[shall]~~ educate residents about anatomical gifts. The education provided under this section ~~[program]~~ shall include information about:

(1) the laws governing anatomical gifts, including Subchapter Q, Chapter 521, Transportation Code, Chapter 693, and this chapter;

(2) the procedures for becoming an organ, eye, or tissue donor or donee; and

(3) the benefits of organ, eye, or tissue donation.

(l) ~~[(+)]~~ In contracting for ~~[developing]~~ the registry program, the department ~~[in consultation with the Texas Organ, Tissue, and Eye Donor Council]~~ shall solicit broad-based input reflecting recommendations of all interested groups, including representatives of patients, providers, ethnic groups, and geographic regions.

(m) ~~The ~~[(+)]~~ In consultation with the Texas Organ, Tissue, and Eye Donor Council, the~~ department may require the nonprofit organization administering the registry to:

(1) implement a training program for all appropriate Department of Public Safety and Texas Department of Transportation employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the Internet-based registry; and

~~(2) ~~[-]~~ The department shall implement the training program before the date that the registry is operational and shall~~ conduct the training described by Subdivision (1) on an ongoing basis for new employees.

(n) ~~[(+)]~~ The department may require the nonprofit organization administering the registry to ~~[shall]~~ develop a program to educate health care providers and attorneys in this state about anatomical gifts.

(o) ~~[(+)]~~ The department ~~[through the program]~~ shall require the nonprofit organization administering the registry to encourage:

(1) attorneys to provide organ donation information to clients seeking advice for end-of-life decisions; ~~[-]~~

(2) ~~[(+)]~~ ~~The department shall encourage~~ medical and nursing schools in this state to include mandatory organ donation education in the schools' curricula; and ~~[-]~~

(3) ~~[(+)]~~ ~~The department shall encourage~~ medical schools in this state to require a physician in a neurology or neurosurgery residency program to complete an advanced course in organ donation education.

(p) The nonprofit organization administering the registry may not:

(1) charge any fee for costs related to the operation and maintenance of the registry, except as agreed in the contract with the department; or

(2) use the registry to solicit voluntary donations of money from a registrant.

(q) Except as provided by Subsection (p), the nonprofit organization administering the registry may accept voluntary donations of money and perform fund-raising on behalf of the registry for the purpose of supporting registering donors.

SECTION 2. Section 502.1745(b), Transportation Code, is amended to read as follows:

(b) A county assessor-collector shall collect an additional fee of \$1 for the registration or renewal of registration of a motor vehicle to pay the costs of the Glenda Dawson Donate Life-Texas [Donor Education, Awareness, and] Registry [Program of Texas,] established under Chapter 692A [49], Health and Safety Code, ~~[and of the Texas Organ, Tissue, and Eye Donor Council, established under Chapter 113, Health and Safety Code,]~~ if the person registering or renewing the registration of a motor vehicle opts to pay the additional fee. Notwithstanding any other provision of this chapter, the county assessor-collector shall remit all fees collected under this subsection to the comptroller, who shall maintain the identity of the source of the fees.

SECTION 3. Section 502.189(a), Transportation Code, is amended to read as follows:

(a) The department, with expert input and support from the nonprofit organization administering the Glenda Dawson Donate Life-Texas Registry under Chapter 692A, Health and Safety Code [Texas Organ, Tissue, and Eye Donor Council], shall:

(1) add a link from the department's Internet website to the Glenda Dawson Donate Life-Texas [Donor Education, Awareness, and] Registry operated [Program of Texas established] under Chapter 692A [49], Health and Safety Code; and

(2) provide a method to distribute donor registry information to interested individuals in each office authorized to issue motor vehicle registrations.

SECTION 4. Section 521.148(c), Transportation Code, is amended to read as follows:

(c) When the department issues a license to which this section applies, the department shall provide the person to whom the license is issued with written information about the Glenda Dawson Donate Life-Texas Registry operated [program established] under Chapter 692A [49], Health and Safety Code.

SECTION 5. Section 521.401, Transportation Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Donor registry information shall be provided to the department and the Texas Department of Transportation by organ procurement organizations, tissue banks, or eye banks, as those terms are defined in Section 692A.002, Health and Safety Code, or by the Glenda Dawson Donate Life-Texas Registry operated [established] under Chapter 692A, Health and Safety Code. The department, with expert input and support from the nonprofit organization administering the Glenda Dawson Donate Life-Texas Registry [Texas Organ, Tissue, and Eye Donor Council], shall:

(1) provide to each applicant for the issuance of an original, renewal, corrected, or duplicate driver's license or personal identification certificate who applies in person, by mail, over the Internet, or by other electronic means:

(A) the opportunity to indicate on the person's driver's license or personal identification certificate that the person is willing to make an anatomical gift, in the event of death, in accordance with Section 692A.005, Health and Safety Code; and

(B) an opportunity for the person to consent [~~in writing~~] to [~~the department's provision of the person's name, date of birth, driver's license number, most recent address, and other information needed for identification purposes at the time of donation to the organization selected by the commissioner of state health services under Section 692A.020, Health and Safety Code, for~~] inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and [~~for~~] release to procurement organizations in the manner provided by Subsection (c-1) [~~by specifically asking each applicant only the question, "Would you like to register as an organ donor?"~~]; and

(2) provide a means to distribute donor registry information to interested individuals in each office authorized to issue driver's licenses or personal identification certificates.

(c-1) The department shall:

(1) specifically ask each applicant only the question, "Would you like to register as an organ donor?"; and

(2) if the applicant responds affirmatively to the question asked under Subdivision (1), provide the person's name, date of birth, driver's license number, most recent address, and other information needed for identification purposes at the time of donation to the nonprofit organization contracted to maintain the statewide donor registry under Section 692A.020, Health and Safety Code, for inclusion in the registry.

SECTION 6. Section 521.402(c), Transportation Code, is amended to read as follows:

(c) To have a person's name deleted from the statewide Internet-based registry of organ, tissue, and eye donors maintained as provided by Chapter 692A [49], Health and Safety Code, a person must provide written notice to the nonprofit organization selected [~~by the commissioner of state health services~~] under that chapter to maintain the registry directing the deletion of the person's name from the registry. On receipt of a written notice under this subsection, the organization shall promptly remove the person's name and information from the registry.

SECTION 7. Section 521.421(g), Transportation Code, is amended to read as follows:

(g) The department shall collect an additional fee of \$1 for the issuance or renewal of a license, including a duplicate license, a license issued to reflect an additional authorization or a change in classification, or a license issued or renewed over the Internet or by other electronic means, to pay the costs of the Glenda Dawson Donate Life-Texas [~~Donor Education, Awareness, and~~] Registry operated [~~Program of Texas, established~~] under Chapter 692A [49], Health and

Safety Code, ~~[and, subject to Section 113.104, Health and Safety Code, of the Texas Organ, Tissue, and Eye Donor Council, established under Chapter 113, Health and Safety Code,]~~ if the person applying for, renewing, or changing a license opts to pay the additional fee. The department shall remit fees collected under this subsection to the comptroller, who shall maintain the identity of the source of the fees. Subject to appropriation, the department may retain three percent of the money collected under this subsection to cover the costs in administering this subsection.

SECTION 8. Section 521.422(c), Transportation Code, is amended to read as follows:

(c) The department shall collect an additional fee of \$1 for the issuance or renewal of a personal identification card, including a duplicate personal identification card or a personal identification card issued or renewed over the Internet or by other electronic means, to pay the costs of the Glenda Dawson Donate Life-Texas ~~[Donor Education, Awareness, and]~~ Registry ~~[Program of Texas,]~~ established under Chapter 692A [49], Health and Safety Code, ~~[and, subject to Section 113.104, Health and Safety Code, of the Texas Organ, Tissue, and Eye Donor Council, established under Chapter 113, Health and Safety Code,]~~ if the person applying for or renewing a personal identification card opts to pay the additional fee. The department shall remit fees collected under this subsection to the comptroller, who shall maintain the identity of the source of the fees. Subject to appropriation, the department may retain three percent of the money collected under this subsection to cover the costs in administering this subsection.

SECTION 9. Section 522.034(c), Transportation Code, is amended to read as follows:

(c) When the department issues a license or permit to which this section applies, the department shall provide the person to whom the license is issued with written information about the Glenda Dawson Donate Life-Texas Registry program established under Chapter 692A [49], Health and Safety Code.

SECTION 10. (a) Chapter 113, Health and Safety Code, is repealed.

(b) Section 49.002(m), Health and Safety Code, as amended by Chapter 831 (SB 1803), Acts of the 81st Legislature, Regular Session, 2009, is repealed.

SECTION 11. (a) Not later than January 1, 2012, the Department of State Health Services shall enter into a contract with a nonprofit organization to administer the Glenda Dawson Donate Life-Texas Registry under Section 692A.020, Health and Safety Code, as amended by this Act.

(b) On January 1, 2012:

(1) the Texas Organ, Tissue, and Eye Donor Council established under Chapter 113, Health and Safety Code, is abolished;

(2) all property in the custody of the Texas Organ, Tissue, and Eye Donor Council is transferred to the Department of State Health Services;

(3) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Organ, Tissue, and Eye Donor Council is transferred to the Department of State Health Services;

(4) all money, contracts, leases, rights, and obligations of the Texas Organ, Tissue, and Eye Donor Council are transferred to the Department of State Health Services;

(5) the Glenda Dawson Donate Life-Texas Registry, as established by Section 692A.020, Health and Safety Code, as it existed immediately before January 1, 2012, is abolished;

(6) all property in the custody of any organization selected under Section 692A.020(e), Health and Safety Code, as that section existed immediately before January 1, 2012, in relation to the operation of the Glenda Dawson Donate Life-Texas Registry is transferred to the Department of State Health Services;

(7) the unexpended and unobligated balance of any money attributable to voluntary fees collected under Section 502.1745, 521.421(g), or 521.422(c), Transportation Code, for the Glenda Dawson Donate Life-Texas Registry as it existed immediately before January 1, 2012, may be used by the Department of State Health Services for contracts relating to the Glenda Dawson Donate Life-Texas Registry under Section 692A.020, Health and Safety Code, as amended by this Act; and

(8) the Department of State Health Services shall transfer all information formerly maintained by the Glenda Dawson Donate Life-Texas Registry, as it existed immediately before January 1, 2012, to the nonprofit organization administering the Glenda Dawson Donate Life-Texas Registry under Section 692A.020, Health and Safety Code, as amended by this Act, for use in the Glenda Dawson Donate Life-Texas Registry created by Section 692A.020, Health and Safety Code, as amended by this Act.

SECTION 12. (a) Except as provided by Subsection (b), this Act takes effect September 1, 2011.

(b) The following provisions take effect January 1, 2012:

(1) Section 692A.020, Health and Safety Code, as amended by this Act; and

(2) Sections 502.1745, 502.189, 521.148, 521.401, 521.402, 521.421, 521.422, and 522.034, Transportation Code, as amended by this Act.

HB 260 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hilderbran called up with senate amendments for consideration at this time,

HB 260, A bill to be entitled An Act relating to the prosecution and punishment of unlawful transport of a person.

Representative Hilderbran moved to concur in the senate amendments to **HB 260**.

The motion to concur in the senate amendments to **HB 260** prevailed by (Record 1321): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; 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; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; 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; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; 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.

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

Absent, Excused — Menendez.

Absent — Coleman; Flynn; Lyne; Quintanilla.

STATEMENT OF VOTE

When Record No. 1321 was taken, I was in the house but away from my desk. I would have voted yes.

Flynn

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 260** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. The heading to Chapter 20, Penal Code, is amended to read as follows:

CHAPTER 20. KIDNAPPING, ~~[AND]~~ UNLAWFUL RESTRAINT, AND SMUGGLING OF PERSONS

SECTION 2. Section 20.05, Penal Code, is amended to read as follows:

Sec. 20.05. SMUGGLING OF PERSONS ~~[UNLAWFUL TRANSPORT]~~.

(a) A person commits an offense if the person intentionally uses a motor vehicle, aircraft, or watercraft to transport an individual with the intent to conceal the individual from a peace officer or special investigator and flees from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor ~~[for pecuniary benefit transports an individual in a manner that:~~

~~[(1) is designed to conceal the individual from local, state, or federal law enforcement authorities; and~~

~~[(2) creates a substantial likelihood that the individual will suffer serious bodily injury or death].~~

(b) Except as provided by Subsection (c), an [An] offense under this section is a state jail felony.

(c) An offense under this section is a felony of the third degree if the actor commits the offense:

(1) for pecuniary benefit; or

(2) in a manner that creates a substantial likelihood that the transported individual will suffer serious bodily injury or death.

(d) It is an affirmative defense to prosecution under this section that the actor is related to the transported individual within the second degree of consanguinity or, at the time of the offense, within the second degree of affinity.

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

SECTION 3. Subsection (a), Section 71.02, Penal Code, as amended by Chapters 153 (**SB 2225**), 1130 (**HB 2086**), and 1357 (**SB 554**), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

(8) any felony offense under Chapter 32;

(9) any offense under Chapter 36;

(10) any offense under Chapter 34 or 35;

(11) any offense under Section 37.11(a);

(12) any offense under Chapter 20A;

(13) any offense under Section 37.10; ~~[or]~~

(14) any offense under Section 38.06, 38.07, 38.09, or 38.11;

(15) ~~[(14)]~~ any offense under Section 42.10;

(16) ~~[(14)]~~ any offense under Section 46.06(a)(1) or 46.14; or

(17) any offense under Section 20.05.

SECTION 4. Article 13.12, Code of Criminal Procedure, is amended to read as follows:

Art. 13.12. FALSE IMPRISONMENT, ~~[AND]~~ KIDNAPPING, AND SMUGGLING OF PERSONS. Venue for false imprisonment, ~~and~~ kidnapping, and smuggling of persons is in either the county in which the offense was committed, or in any county through, into, or out of which the person falsely imprisoned, ~~or~~ kidnapped, or transported may have been taken.

SECTION 5. Subdivision (2), Article 59.01, Code of Criminal Procedure, as amended by Chapters 153 (SB 2225), 1130 (HB 2086), and 1357 (SB 554), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

(iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 152, Finance Code;

(vii) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;

(viii) a Class B misdemeanor under Chapter 522, Business & Commerce Code;

(ix) a Class A misdemeanor under Section 306.051, Business & Commerce Code; ~~or~~

(x) any offense under Section 42.10, Penal Code;

(xi) [~~(x)~~] any offense under Section 46.06(a)(1) or 46.14, Penal Code;

(xii) [~~(x)~~] any offense under Chapter 71, Penal Code; or
(xiii) any offense under Section 20.05, Penal Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii), [~~(x)~~], (xi), or (xii) of this subdivision, or a crime of violence;

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii), [~~(x)~~], (xi), or (xii) of this subdivision, or a crime of violence; or

(E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25, Penal Code.

SECTION 6. The changes in law made by this Act in amending Sections 20.05 and 71.02, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. The change in law made by this Act in amending Subdivision (2), Article 59.01, Code of Criminal Procedure, applies only to the forfeiture of property in relation to an offense committed on or after the effective date of this Act. Forfeiture of property in relation to an offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 8. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 9. This Act takes effect September 1, 2011.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend Amendment No. 1 by Hinojosa to **HB 260** (senate committee printing) as follows:

(1) In SECTION 1 of the amendment, in amended Section 20.05(a), Penal Code (page 1, line 12), between "intent to" and "conceal" insert an underlined colon followed on the next line by "(1)".

(2) In SECTION 1 of the amendment, in amended Section 20.05(a), Penal Code (page 1, line 13), strike "and flees" and substitute "or"; or", followed on the next line by "(2) flee".

HB 1992 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hardcastle called up with senate amendments for consideration at this time,

HB 1992, A bill to be entitled An Act relating to the authority of the Texas Animal Health Commission to set and collect fees.

Representative Hardcastle moved to concur in the senate amendments to **HB 1992**.

The motion to concur in the senate amendments to **HB 1992** prevailed by (Record 1322): 106 Yeas, 36 Nays, 1 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anchia; Anderson, R.; Beck; Berman; Branch; Brown; Burnam; Castro; Chisum; Cook; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Flynn; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Legler; Lewis; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Simpson; Smith, W.; Smithee; Strama; Taylor, L.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Aycock; Bohac; Bonnen(C); Burkett; Button; Cain; Carter; Christian; Craddick; Creighton; Darby; Fletcher; Frullo; Garza; Gooden; Harless; Hughes; Landtroop; Laubenberg; Lavender; Lyne; Madden; Miller, S.; Parker; Paxton; Perry; Phillips; Sheets; Sheffield; Smith, T.; Solomons; Taylor, V.; Truitt; Weber; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Menendez.

Absent — Allen; Callegari; Coleman; Kolkhorst; Miller, D.; Shelton.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1322. I intended to vote no.

Huberty

I was shown voting yes on Record No. 1322. I intended to vote no.

P. King

When Record No. 1322 was taken, I was in the house but away from my desk. I would have voted no.

Kolkhorst

Senate Committee Substitute

CSHB 1992, A bill to be entitled An Act relating to the authority of the Texas Animal Health Commission to set and collect fees.

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

SECTION 1. Section 161.060, Agriculture Code, is amended to read as follows:

Sec. 161.060. AUTHORITY TO SET AND COLLECT [INSPECTION] FEES. (a) The commission may charge a fee, as provided by commission rule, for an inspection made by the commission.

(b) The commission by rule may set and collect a fee for any service provided by the commission, including:

(1) the inspection of animals or facilities;

(2) the testing of animals for disease;

(3) obtaining samples from animals for disease testing;

(4) disease prevention, control or eradication, and treatment efforts;

(5) services related to the transport of livestock;

(6) control and eradication of ticks and other pests; and

(7) any other service for which the commission incurs a cost.

(c) This subsection and Subsection (b) expire September 1, 2015.

SECTION 2. This Act takes effect September 1, 2011.

HB 3329 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Keffer called up with senate amendments for consideration at this time,

HB 3329, A bill to be entitled An Act relating to a daily temporary private club permit for a nonprofit corporation.

Representative Keffer moved to concur in the senate amendments to **HB 3329**.

The motion to concur in the senate amendments to **HB 3329** prevailed by (Record 1323): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; 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 — Menendez.

Absent — Allen; Alonzo; Coleman; Dukes; Geren; Hochberg; Huberty; Legler; Naishtat.

STATEMENTS OF VOTE

When Record No. 1323 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 1323 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

When Record No. 1323 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

When Record No. 1323 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3329** (senate committee printing) in SECTION 2 of the bill, in added Section 33.25(b), Alcoholic Beverage Code (page 1, lines 48 and 49), by striking "establishing a temporary private club for a nonprofit corporation issued a daily temporary private club permit" and substituting "obtaining and operating under a daily temporary private club permit issued".

HB 3391 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative D. Miller called up with senate amendments for consideration at this time,

HB 3391, A bill to be entitled An Act relating to rainwater harvesting and other water conservation initiatives.

Representative D. Miller moved to concur in the senate amendments to **HB 3391**.

The motion to concur in the senate amendments to **HB 3391** prevailed by (Record 1324): 144 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; 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; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; 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 — Simpson.

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

Absent, Excused — Menendez.

Absent — Coleman; Gallego.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3391** (senate committee printing) as follows:

(1) In Section 3 of the bill, in Section 341.042, Health and Safety Code, Subsection (b-2) (page 2, line 6), strike the phrase "give written notice of that intention to" and replace with the phrase "receive the consent of".

HB 257 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hilderbran called up with senate amendments for consideration at this time,

HB 257, A bill to be entitled An Act relating to certain unclaimed property that is presumed abandoned.

Representative Hilderbran moved to concur in the senate amendments to **HB 257**.

The motion to concur in the senate amendments to **HB 257** prevailed by (Record 1325): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Christian; 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; Lucio; Lyne; Madden; Mallory Caraway;

Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Cain; Coleman; Veasey; Villarreal.

STATEMENTS OF VOTE

When Record No. 1325 was taken, I was in the house but away from my desk. I would have voted yes.

Cain

I was shown voting yes on Record No. 1325. I intended to vote no.

V. Taylor

When Record No. 1325 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

Senate Committee Substitute

CSHB 257, A bill to be entitled An Act relating to certain unclaimed property that is presumed abandoned.

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

SECTION 1. Section 72.101(a), Property Code, is amended to read as follows:

(a) Except as provided by this section and Sections 72.1015, 72.1016, 72.1017, and 72.102, personal property is presumed abandoned if, for longer than three years:

(1) the existence and location of the owner of the property is unknown to the holder of the property; and

(2) according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

SECTION 2. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1017 to read as follows:

Sec. 72.1017. UTILITY DEPOSITS. (a) In this section:

(1) "Utility" has the meaning assigned by Section 183.001, Utilities Code.

(2) "Utility deposit" is a refundable money deposit a utility requires a user of the utility service to pay as a condition of initiating the service.

(b) Notwithstanding Section 73.102, a utility deposit is presumed abandoned on the latest of:

(1) 18 months after the date a refund check for the utility deposit was payable to the owner of the deposit;

(2) 18 months after the date the utility last received documented communication from the owner of the utility deposit; or

(3) 18 months after the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

(c) A utility deposit is not presumed abandoned for two years from the time the depositor provides documentation to the utility of being called to active military service in any branch of the United States armed forces during any part of the period described by Subsection (b).

SECTION 3. Section 72.102(c), Property Code, is amended to read as follows:

(c) A money order to which Subsection (a) applies is presumed to be abandoned on the latest of:

(1) the third ~~seventh~~ anniversary of the date on which the money order was issued;

(2) the third ~~seventh~~ anniversary of the date on which the issuer of the money order last received from the owner of the money order communication concerning the money order; or

(3) the third ~~seventh~~ anniversary of the date of the last writing, on file with the issuer, that indicates the owner's interest in the money order.

SECTION 4. Section 72.103, Property Code, is amended to read as follows:

Sec. 72.103. PRESERVATION OF PROPERTY. Notwithstanding any other provision of this title except a provision of this section or Section 72.1016 relating to a money order or a stored value card, a holder of abandoned property shall preserve the property and may not at any time, by any procedure, including a deduction for service, maintenance, or other charge, transfer or convert to the profits or assets of the holder or otherwise reduce the value of the property. For purposes of this section, value is determined as of the date of the last transaction or contact concerning the property, except that in the case of a money order, value is determined as of the date the property is presumed abandoned under Section 72.102(c). If a holder imposes service, maintenance, or other charges on a money order prior to the time of presumed abandonment, such charges may not exceed the amount of \$1 ~~50 cents~~ per month for each month the money order remains uncashed prior to the month in which the money order is presumed abandoned.

SECTION 5. Section 73.101, Property Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) An account or safe deposit box is presumed abandoned if:

(1) except as provided by Subsection (c), the account or safe deposit box has been inactive for at least five years as determined under Subsection (b);

(2) the location of the depositor of the account or owner of the safe deposit box is unknown to the depository; and

(3) the amount of the account or the contents of the box have not been delivered to the comptroller in accordance with Chapter 74.

(c) If the account is a checking or savings account or is a matured certificate of deposit, the account is presumed abandoned if the account has been inactive for at least three years as determined under Subsection (b)(1).

SECTION 6. Section 74.101(a), Property Code, is amended to read as follows:

(a) Each holder who on March 1 [~~June 30~~] holds property that is presumed abandoned under Chapter 72, 73, or 75 of this code or under Chapter 154, Finance Code, shall file a report of that property on or before the following July [~~November~~] 1. The comptroller may require the report to be in a particular format, including a format that can be read by a computer.

SECTION 7. Section 74.1011(a), Property Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a holder who on March 1 [~~June 30~~] holds property valued at more than \$250 that is presumed abandoned under Chapter 72, 73, or 75 of this code or Chapter 154, Finance Code, shall, on or before the following May [~~August~~] 1, mail to the last known address of the known owner written notice stating that:

(1) the holder is holding the property; and

(2) the holder may be required to deliver the property to the comptroller on or before July [~~November~~] 1 if the property is not claimed.

SECTION 8. Sections 74.301(a) and (c), Property Code, are amended to read as follows:

(a) Except as provided by Subsection (c), each holder who on March 1 [~~June 30~~] holds property that is presumed abandoned under Chapter 72, 73, or 75 shall deliver the property to the comptroller on or before the following July [~~November~~] 1 accompanied by the report required to be filed under Section 74.101.

(c) If the property subject to delivery under Subsection (a) is the contents of a safe deposit box, the comptroller may instruct a holder to deliver the property on a specified date before July [~~November~~] 1 of the following year.

SECTION 9. Section 74.601(e), Property Code, is amended to read as follows:

(e) The comptroller on receipt or from time to time may [~~from time to time~~] sell securities, including stocks, bonds, and mutual funds, received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller and use the proceeds to buy, exchange, invest, or reinvest in marketable securities. When making or selling the investments, the comptroller shall exercise the judgment and care of a prudent person.

SECTION 10. Section 74.708, Property Code, is amended to read as follows:

Sec. 74.708. PROPERTY HELD IN TRUST. A holder who on March 1 [~~June 30~~] holds property presumed abandoned under Chapters 72-75 holds the property in trust for the benefit of the state on behalf of the missing owner and is liable to the state for the full value of the property, plus any accrued interest and

penalty. A holder is not required by this section to segregate or establish trust accounts for the property provided the property is timely delivered to the comptroller in accordance with Section 74.301.

SECTION 11. A charge imposed on a money order under Section 72.103, Property Code, by a holder before the effective date of this Act is governed by the law applicable to the charge immediately before the effective date of this Act, and the holder may retain the charge.

SECTION 12. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Sections 74.101(a), 74.1011(a), 74.301(a) and (c), and 74.708, Property Code, as amended by this Act, take effect January 1, 2013.

**HB 2817 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative L. Taylor called up with senate amendments for consideration at this time,

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

Representative L. Taylor moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2817**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2817**: L. Taylor, chair; Branch, Burkett, Hernandez Luna, and P. King.

**HB 3410 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Smithee called up with senate amendments for consideration at this time,

HB 3410, A bill to be entitled An Act relating to the managing underwriters for surplus lines insurance transactions and to the collection of surplus lines insurance premium taxes for those transactions.

Representative Smithee moved to concur in the senate amendments to **HB 3410**.

The motion to concur in the senate amendments to **HB 3410** prevailed by (Record 1326): 143 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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); Miles.

Absent, Excused — Menendez.

Absent — Burnam; Coleman; Veasey.

STATEMENT OF VOTE

When Record No. 1326 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3410** (committee printing) on page 2, line 5 by striking "September 1, 2011" and inserting "January 1, 2012".

HB 3788 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Marquez called up with senate amendments for consideration at this time,

HB 3788, A bill to be entitled An Act relating to the authority of a county civil service commission to administer oaths and issue subpoenas; providing a penalty.

Representative Marquez moved to concur in the senate amendments to **HB 3788**.

The motion to concur in the senate amendments to **HB 3788** prevailed by (Record 1327): 130 Yeas, 15 Nays, 2 Present, not voting.

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

King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; 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; Zerwas.

Nays — Anderson, C.; Button; Carter; Cook; Flynn; Garza; Gooden; Landroop; Laubenberg; Lyne; Miller, S.; Paxton; Perry; Phillips; Zedler.

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

Absent, Excused — Menendez.

Absent — Coleman; Hughes.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1327. I intended to vote no.

Craddick

I was shown voting yes on Record No. 1327. I intended to vote no.

Frullo

I was shown voting yes on Record No. 1327. I intended to vote no.

Parker

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3788** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 158.0095(b), Local Government Code (page 1, line 26), and in SECTION 2 of the bill, in added Section 158.0355(b), Local Government Code (page 1, line 52), strike "pertinent" and substitute "relevant".

(2) In SECTION 1 of the bill, in added Section 158.0095(b), Local Government Code (page 1, line 27), strike "10th" and substitute "15th".

HB 1711 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative J. Davis called up with senate amendments for consideration at this time,

HB 1711, A bill to be entitled An Act relating to disaster remediation contracts.

Representative J. Davis moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1711**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1711**: J. Davis, chair; R. Anderson, Geren, Hardcastle, and Miles.

**HB 1818 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Harper-Brown called up with senate amendments for consideration at this time,

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

Representative Harper-Brown moved to concur in the senate amendments to **HB 1818**.

The motion to concur in the senate amendments to **HB 1818** prevailed by (Record 1328): 144 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; 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; 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; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Workman; Zedler; Zerwas.

Nays — Lavender.

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

Absent, Excused — Menendez.

Absent — Coleman; Woolley.

Senate Committee Substitute

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

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

SECTION 1. Section 2306.5521, Government Code, is amended to read as follows:

Sec. 2306.5521. SUNSET PROVISION. The Texas State Affordable Housing Corporation is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the corporation is abolished and this subchapter expires September 1, 2023 [~~2011~~].

SECTION 2. Sections 2306.554(a) and (b), Government Code, are amended to read as follows:

(a) The board of directors of the corporation consists of five members appointed by the governor. One member must represent the interests of individuals and families served by the corporation's single-family mortgage loan programs, one member must represent nonprofit housing organizations, and the remaining three members must [~~who~~] represent one or more [~~any~~] of the following areas:

- (1) state or federal savings banks or savings and loan associations;
- (2) community banks with assets of \$200 million or less;
- (3) large metropolitan banks with assets of more than \$1 billion;
- (4) asset management companies;
- (5) mortgage servicing companies;
- (6) builders;
- (7) real estate developers;
- (8) real estate brokers;
- (9) community or economic development organizations;
- (10) private mortgage companies;
- (11) nonprofit housing development companies;
- (12) attorneys;
- (13) investment bankers;
- (14) underwriters;
- (15) private mortgage insurance companies;
- (16) appraisers;
- (17) property management companies;
- (18) financial advisors;
- (19) nonprofit foundations;
- (20) financial advisors; or
- (21) any other area of expertise that the governor finds necessary for the successful operation of the corporation.

(b) The governor shall designate a member of the corporation's board of directors as the presiding officer of the [~~corporation's~~] board of directors to serve in that capacity at the pleasure of the governor [~~from the members~~].

SECTION 3. Section 2306.5543(b), Government Code, is amended to read as follows:

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the corporation [~~and the corporation's board of directors~~];

(2) the programs, functions, rules, and budget of [operated by] the corporation;

(3) ~~the role and functions of the corporation;~~

~~[(4) the rules of the corporation with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

~~[(5) the current budget for the corporation;~~

~~[(6) the results of the most recent formal audit of the corporation;~~

(4) ~~[(7)]~~ the requirements of laws relating to[~~;~~

~~[(A) the] open meetings, [law, Chapter 551;~~

~~[(B) the] public information, [law, Chapter 552;~~

~~[(C) the] administrative procedure, and conflicts of interest [law, Chapter 2001; and~~

~~[(D) other laws relating to public officials, including conflict of interest laws]; and~~

(5) ~~[(8)]~~ any applicable ethics policies adopted by the corporation or the Texas Ethics Commission.

SECTION 4. Section 2306.5545(b), Government Code, is amended to read as follows:

(b) A person may not be a member of the corporation's board of directors and may not be a corporation employee employed 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.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of banking, mortgage lending, real estate, housing development, or housing construction; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of banking, mortgage lending, real estate, housing development, or housing construction.

SECTION 5. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5549 to read as follows:

Sec. 2306.5549. MEETINGS OF THE CORPORATION'S BOARD. (a) The corporation's board may hold meetings when called by the presiding officer, the president, or three of the members.

(b) The corporation's board shall keep minutes and complete transcripts of its meetings. The corporation shall post the transcripts on its Internet website and shall otherwise maintain all accounts, minutes, and other records related to the meetings.

(c) All materials provided to the corporation's board that are relevant to a matter proposed for discussion at a meeting of that board must be posted on the corporation's Internet website not later than the third day before the date of the meeting.

(d) Any materials made available to the corporation's board by the corporation at a meeting of that board must be made available in hard-copy format to the members of the public in attendance at the meeting.

(e) The corporation's board shall conduct its meetings in accordance with Chapter 551, except as otherwise required by this chapter.

(f) For each item on the agenda at a meeting of the corporation's board, the corporation's board shall provide for public comment after the presentation made by corporation staff and the motions made by the corporation's board on that topic.

(g) The corporation's board shall adopt rules that give the public a reasonable amount of time for testimony at meetings.

SECTION 6. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5553 to read as follows:

Sec. 2306.5553. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The corporation shall make a good faith effort to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses for all services that may be required by the corporation, including professional and consulting services and commodities purchases.

(b) In accordance with Subchapter B, Chapter 20, Title 34, Texas Administrative Code, a good faith effort under Subsection (a) must include awarding historically underutilized businesses at least a portion of the total contract value of all contracts the corporation expects to award in a state fiscal year.

(c) The corporation may achieve annual procurement goals under this section by contracting directly with historically underutilized businesses or by contracting indirectly with those businesses through the provision of subcontracting opportunities.

SECTION 7. Section 2306.559(d), Government Code, is amended to read as follows:

(d) The report must include:

(1) a statement of support, revenue, and expenses and change in fund balances;

(2) a statement of functional expenses; ~~and~~

(3) balance sheets for all funds;

(4) the number, amount, and purpose of private gifts, grants, donations, or other funds applied for and received;

(5) the number, amount, and purpose of loans provided to affordable housing developers, regardless of whether the corporation provides those loans directly to the developers or administers the loans from another source;

(6) the amount and source of funds deposited into any fund created by the corporation for the purpose of providing grants and the number, amount, and purpose of any grants provided; and

(7) the total amount of annual revenue generated by the corporation in excess of its expenditures.

SECTION 8. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5671 to read as follows:

Sec. 2306.5671. COMPLIANCE WITH TERMS OF CERTAIN CONTRACTS OR AGREEMENTS. A compliance contract or agreement between the corporation and a housing sponsor that receives bond financing by or

through the corporation for the purpose of providing affordable multifamily housing must contain a provision stating that if the housing sponsor fails to comply with the terms of the contract or agreement, the corporation may, at a minimum and as appropriate:

- (1) assess penalties;
- (2) remove the manager of the affected property and select a new manager;
- (3) withdraw reserve funds to make needed repairs and replacements to the property; or
- (4) appoint the corporation as a receiver to protect and operate the property.

SECTION 9. Section 2306.568, Government Code, is amended to read as follows:

Sec. 2306.568. RECORD OF COMPLAINTS. (a) The corporation shall maintain a system to promptly and efficiently act on complaints ~~[file on each written complaint]~~ filed with the corporation. The corporation shall maintain information about parties to the complaint, [file must include:

- ~~[(1) the name of the person who filed the complaint;~~
- ~~[(2) the date the complaint is received by the corporation;~~
- ~~[(3)] the subject matter of the complaint.;~~
- ~~[(4) the name of each person contacted in relation to the complaint;~~
- ~~[(5)] a summary of the results of the review or investigation of the complaint, and its disposition];~~ and
- ~~[(6) an explanation of the reason the file was closed, if the corporation closed the file without taking action other than to investigate the complaint].~~

(b) The corporation shall make information available describing its [provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the corporation's policies and] procedures for [relating to] complaint investigation and resolution.

(c) The corporation~~],~~ [at least quarterly until final disposition of the complaint,] shall periodically notify the [person filing the] complaint parties ~~[and each person who is a subject of the complaint]~~ of the status of the complaint until final disposition ~~[investigation unless the notice would jeopardize an undercover investigation].~~

SECTION 10. Section 2306.5671, Government Code, as added by this Act, does not affect the terms of a compliance contract or agreement entered into before the effective date of this Act, except that if the contract or agreement is renewed, modified, or extended on or after the effective date of this Act, Section 2306.5671 applies to the contract or agreement beginning on the date of renewal, modification, or extension.

SECTION 11. The change in law made by this Act relating to the qualifications for membership on the board of directors of the Texas State Affordable Housing Corporation does not affect the eligibility of a member of the board serving immediately before the effective date of this Act to continue to serve on the board for the term to which the member was appointed. Not later

than February 1, 2015, the governor shall appoint members of the board as necessary to ensure that the composition of the board complies with Section 2306.554(a), Government Code, as amended by this Act.

SECTION 12. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1818** by adding the following appropriately numbered SECTION and renumbering remaining SECTIONS as appropriate:

SECTION _____. Section 392.0331, Local Government Code, is amended by amending Subsections (b) and (f) and adding Subsections (b-1) and (f-1) to read as follows:

(b) Except as provided by Subsection (b-1), in [H] appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of five commissioners shall appoint at least one commissioner to the authority who is a tenant of a public housing project over which the authority has jurisdiction. In appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of seven or more commissioners shall appoint at least two commissioners to the authority who are tenants of a public housing project over which the authority has jurisdiction.

(b-1) The presiding officer of the governing body of a municipality that has a municipal housing authority in which the total number of units is 150 or fewer is not required to appoint a tenant to the position of commissioner as otherwise required by Subsection (b) if the presiding officer has provided timely notice of a vacancy in the position to all eligible tenants and is unable to fill the position with an eligible tenant before the 60th day after the date the position becomes vacant.

(f) Except as provided by Subsection (f-1), a [A] commissioner appointed under this section may not serve more than two consecutive two-year terms.

(f-1) Subsection (f) does not apply to a municipality that has a municipal housing authority in which the total number of units is 150 or fewer.

**HB 3616 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Naishtat called up with senate amendments for consideration at this time,

HB 3616, A bill to be entitled An Act relating to designating October as Disability History and Awareness Month.

Representative Naishtat moved to concur in the senate amendments to **HB 3616**.

The motion to concur in the senate amendments to **HB 3616** prevailed by (Record 1329): 143 Yeas, 1 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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 — Lavender.

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

Absent, Excused — Menendez.

Absent — Christian; Coleman.

Senate Committee Substitute

CSHB 3616, A bill to be entitled An Act relating to designating October as Persons with Disabilities History and Awareness Month.

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

SECTION 1. Subchapter D, Chapter 662, Government Code, is amended by adding Section 662.109 to read as follows:

Sec. 662.109. PERSONS WITH DISABILITIES HISTORY AND AWARENESS MONTH. (a) October is Persons with Disabilities History and Awareness Month to:

(1) increase public awareness of the many achievements of people with disabilities;

(2) encourage public understanding of the disability rights movement;
and

(3) reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities.

(b) Persons with Disabilities History and Awareness Month shall be regularly observed by appropriate celebration and activities to promote respect for and better treatment of people with disabilities in this state.

(c) Each public school may:

(1) elect to observe Persons with Disabilities History and Awareness Month; and

(2) determine the appropriate activities by which the school observes Persons with Disabilities History and Awareness Month.

SECTION 2. This Act takes effect September 1, 2011.

**HB 2160 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Coleman called up with senate amendments for consideration at this time,

HB 2160, A bill to be entitled An Act relating to the governing bodies of certain local planning organizations.

Representative Coleman moved to concur in the senate amendments to **HB 2160**.

The motion to concur in the senate amendments to **HB 2160** prevailed by (Record 1330): 146 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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); Cain.

Absent, Excused — Menendez.

Senate Committee Substitute

CSHB 2160, A bill to be entitled An Act relating to the governing bodies of certain local planning organizations.

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

SECTION 1. Section 391.006, Local Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), participating ~~Participating~~ governmental units may by joint agreement determine the number and qualifications of members of the governing body of a commission.

(c) The governing body of a commission of a region that is consistent with the geographic boundaries of a state planning region shall offer an ex officio, nonvoting membership on the governing body to a member of the legislature who represents a district located wholly or partly in the region of the commission.

SECTION 2. 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.

**HB 2971 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative T. Smith called up with senate amendments for consideration at this time,

HB 2971, A bill to be entitled An Act relating to the confidentiality of documents evaluating the performance of public school teachers and administrators.

Representative T. Smith moved to concur in the senate amendments to **HB 2971**.

The motion to concur in the senate amendments to **HB 2971** prevailed by (Record 1331): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; 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; Veasey; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Coleman; Murphy; Pickett; Sheffield; Turner; Villarreal; Woolley.

STATEMENTS OF VOTE

When Record No. 1331 was taken, my vote failed to register. I would have voted yes.

Sheffield

When Record No. 1331 was taken, I was in the house but away from my desk. I would have voted yes.

Woolley

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2971** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 21.355, Education Code (page 1, line 13), between "CONFIDENTIALITY." and "A document", insert "(a)".

(2) In SECTION 1 of the bill, in amended Section 21.355, Education Code (page 1, lines 14 and 15), strike ", including a teacher or administrator employed by and open-enrollment charter school.".

(3) In SECTION 1 of the bill, in amended Section 21.355, Education Code (page 1, between lines 16 and 17), add Subsections (b) and (c) to read as follows:

(b) Subsection (a) applies to a teacher or administrator employed by an open-enrollment charter school regardless of whether the teacher or administrator is certified under Subchapter B.

(c) At the request of a school district or open-enrollment charter school at which a teacher or administrator has applied for employment, an open-enrollment charter school may give the requesting district or school a document evaluating the performance of a teacher or administrator employed by the school.

**HB 1422 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Truitt called up with senate amendments for consideration at this time,

HB 1422, A bill to be entitled An Act relating to the issuance of titles for certain motor vehicles that are the subject of insurance claims.

Representative Truitt moved to concur in the senate amendments to **HB 1422**.

The motion to concur in the senate amendments to **HB 1422** prevailed by (Record 1332): 144 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; Bohac; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Coleman; Villarreal.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1422** (house engrossed version) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Section 501.093(a), Transportation Code, is amended to read as follows:

(a) If an insurance company pays a claim on a nonrepairable motor vehicle or salvage motor vehicle and the insurance company does not acquire ownership of the motor vehicle, the insurance company shall:

(1) submit to the department, before the 31st day after the date of the payment of the claim, on the form prescribed by the department, a report stating that the insurance company:

(A) [~~(+)~~] has paid a claim on the motor vehicle; and

(B) [~~(?)~~] has not acquired ownership of the motor vehicle; and

(2) provide notice to the owner of the motor vehicle of:

(A) the report required under Subdivision (1); and

(B) the requirements for operation or transfer of ownership of the motor vehicle under Subsection (b).

HB 1278 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 1278, A bill to be entitled An Act relating to regulation by a property owners' association of certain religious displays.

Representative Coleman moved to concur in the senate amendments to **HB 1278**.

The motion to concur in the senate amendments to **HB 1278** prevailed by (Record 1333): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; 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, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Callegari; Howard, C.; Villarreal.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1278**, in SECTION 1 of the bill, in added Section 202.018(a), Property Code (senate committee printing, page 1, lines 19 and 20), by striking "that are expected to be displayed by a tenet of the owner's or resident's religion" and substituting "the display of which is motivated by the owner's or resident's sincere religious belief".

HB 2135 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hochberg called up with senate amendments for consideration at this time,

HB 2135, A bill to be entitled An Act relating to the administration of end-of-course assessment instruments to public school students enrolled below the high school level.

Representative Hochberg moved to concur in the senate amendments to **HB 2135**.

The motion to concur in the senate amendments to **HB 2135** prevailed by (Record 1334): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; 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; Dutton; Eiland; Eissler; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Coleman; Elkins; Villarreal.

Senate Committee Substitute

CSHB 2135, A bill to be entitled An Act relating to the administration of end-of-course and other assessment instruments to certain public school students enrolled below the high school level.

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

SECTION 1. Section 28.021(c), Education Code, is amended to read as follows:

(c) In determining promotion under Subsection (a), a school district shall consider:

- (1) the recommendation of the student's teacher;
- (2) the student's grade in each subject or course;
- (3) the student's score on an assessment instrument administered under

Section 39.023(a), (b), or (l), to the extent applicable; and

(4) any other necessary academic information, as determined by the district.

SECTION 2. Section 28.0211, Education Code, is amended by adding Subsections (o) and (p) to read as follows:

(o) This section does not require the administration of a fifth or eighth grade assessment instrument in a subject under Section 39.023(a) to a student enrolled in the fifth or eighth grade, as applicable, if the student:

(1) is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Section 39.023(a) that aligns with the curriculum for the course in which the student is enrolled; or

(2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Section 39.023(c) for the course.

(p) Notwithstanding any other provision of this section, a student described by Subsection (o) may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student in accordance with that subsection.

SECTION 3. Section 39.023, Education Code, is amended by amending Subsection (a) and adding Subsection (a-2) to read as follows:

(a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Except as provided by Subsection (a-2), all [AH] students, other than [except] students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:

(1) mathematics, annually in grades three through seven without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra;

(2) reading, annually in grades three through eight;

(3) writing, including spelling and grammar, in grades four and seven;

(4) social studies, in grade eight;

(5) science, in grades five and eight; and

(6) any other subject and grade required by federal law.

(a-2) A student is not required to be assessed in a subject otherwise assessed at the student's grade level under Subsection (a) if the student:

(1) is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Subsection (a) that aligns with the curriculum for the course in which the student is enrolled; or

(2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Subsection (c) for the course.

SECTION 4. Section 39.025, Education Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Nothing in this section has the effect of prohibiting the administration of an end-of-course assessment instrument listed in Section 39.023(c) to a student enrolled below the high school level who is enrolled in the course for which the assessment instrument is adopted. The commissioner shall adopt rules necessary to ensure that the student's performance on the assessment instrument is considered in the same manner for purposes of this section as the performance of a student enrolled at the high school level.

SECTION 5. Section 39.053, Education Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) In aggregating results of assessment instruments across grade levels by subject in accordance with Subsection (c)(1), the performance of a student enrolled below the high school level on an assessment instrument required under Section 39.023(c) is included with results relating to other students enrolled at the same grade level.

SECTION 6. Section 39.203, Education Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to the distinction designations otherwise described by this section, the commissioner may award a distinction designation to a campus with a significant number of students below grade nine who perform satisfactorily on an end-of-course assessment instrument administered under Section 39.023(c).

SECTION 7. This Act applies beginning with the 2011-2012 school year.

SECTION 8. 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.

**HB 1201 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 1201, A bill to be entitled An Act relating to repeal of authority for the establishment and operation of the Trans-Texas Corridor.

Representative Kolkhorst moved to concur in the senate amendments to **HB 1201**.

The motion to concur in the senate amendments to **HB 1201** prevailed by (Record 1335): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Menendez.

Absent — Cain; Coleman; Eiland; Gonzales, L.; Villarreal.

STATEMENT OF VOTE

When Record No. 1335 was taken, my vote failed to register. I would have voted yes.

L. Gonzales

Senate Committee Substitute

CSHB 1201, A bill to be entitled An Act relating to repeal of authority for the establishment and operation of the Trans-Texas Corridor.

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

SECTION 1. Section 11.11(j), Tax Code, is amended to read as follows:

(j) For purposes of this section, any portion of a facility owned by the Texas Department of Transportation that is [~~part of the Trans Texas Corridor, is~~] a rail facility or system[;] or is a highway in the state highway system, and that is licensed or leased to a private entity by that department under Chapter 91 or[;] 223, [~~or 227,~~] Transportation Code, is public property used for a public purpose if the rail facility or system, highway, or facility is operated by the private entity to provide transportation or utility services. Any part of a facility, rail facility or system, or state highway that is licensed or leased to a private entity for a commercial purpose is not exempt from taxation.

SECTION 2. Section 25.06(c), Tax Code, is amended to read as follows:

(c) This section does not apply to:

(1) any portion of a facility owned by the Texas Department of Transportation that is [~~part of the Trans Texas Corridor, is~~] a rail facility or system[;] or is a highway in the state highway system and that is licensed or leased to a private entity by that department under Chapter 91[~~, 227, or 361~~], Transportation Code; or

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is [~~part of the Trans Texas Corridor, is~~] a rail facility or system[;] or is a highway in the state highway system.

SECTION 3. Section 25.07(c), Tax Code, is amended to read as follows:

(c) Subsection (a) does not apply to:

(1) any portion of a facility owned by the Texas Department of Transportation that is [~~part of the Trans Texas Corridor, is~~] a rail facility or system[;] or is a highway in the state highway system and that is licensed or leased to a private entity by that department under Chapter 91[~~, 227, or 361~~], Transportation Code; or

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is [~~part of the Trans Texas Corridor, is~~] a rail facility or system[;] or is a highway in the state highway system.

SECTION 4. Sections 201.616(a) and (b), Transportation Code, are amended to read as follows:

(a) Not later than December 1 of each year, the department shall submit a report to the legislature that details:

(1) the expenditures made by the department in the preceding state fiscal year in connection with:

(A) the unified transportation program of the department;

(B) turnpike projects and toll roads of the department; and

(C) [~~the Trans Texas Corridor;~~

[~~(D)~~] rail facilities described in Chapter 91; [~~and~~

~~[(E) non-highway facilities on the Trans-Texas Corridor if those expenditures are subject to Section 227.062(e);]~~

(2) the amount of bonds or other public securities issued for transportation projects; and

(3) the direction of money by the department to a regional mobility authority in this state.

(b) The report must break down information under Subsection (a)(1)(A) by program category and department district. The report must break down information under Subsections (a)(1)(B) and ~~[(C), (D), and (E)]~~ and Subsection (a)(3) by department district. The report must break down information under Subsection (a)(2) by department district and type of project.

SECTION 5. Section 202.112(a), Transportation Code, is amended to read as follows:

(a) The commission may purchase an option to acquire property for possible use in or in connection with a transportation facility ~~[, including a facility as defined by Section 227.001,]~~ before a final decision has been made as to whether the transportation facility will be located on that property.

SECTION 6. Section 222.003(e), Transportation Code, is amended to read as follows:

(e) The proceeds of bonds and other public securities issued under this section may not be used for any purpose other than any costs related to the bonds and other public securities and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution. ~~[The proceeds of bonds and other public securities issued under this section may not be used for the construction of a state highway or other facility on the Trans-Texas Corridor. For purposes of this section, the "Trans-Texas Corridor" means the statewide system of multimodal facilities under the jurisdiction of the department that is designated by the commission, notwithstanding the name given to that corridor.]~~

SECTION 7. Section 223.201(a), Transportation Code, is amended to read as follows:

(a) Subject to Section 223.202, the department may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a:

(1) toll project;

(2) ~~[facility or a combination of facilities on the Trans-Texas Corridor;~~
~~[(3)]~~ state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities;

(3) ~~[(4)]~~ state highway improvement project in which the private entity has an interest in the project; or

(4) ~~[(5)]~~ state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986.

SECTION 8. Section 223.206(d), Transportation Code, is amended to read as follows:

(d) The department may not enter into a comprehensive development agreement with a private entity under this subchapter [~~or Section 227.023~~] that provides for the lease, license, or other use of rights-of-way or related property by the private entity for the purpose of constructing, operating, or maintaining an ancillary facility that is used for commercial purposes.

SECTION 9. Sections 223.208(b), (c), (e), and (f), Transportation Code, are amended to read as follows:

(b) A comprehensive development agreement entered into under this subchapter [~~or Section 227.023(e)~~] may include any provision that the department considers appropriate, including provisions:

(1) providing for the purchase by the department, under terms and conditions agreed to by the parties, of the interest of a private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement;

(2) establishing the purchase price for the interest of a private participant in the comprehensive development agreement and related property, which price may be determined in accordance with the methodology established by the parties in the comprehensive development agreement;

(3) providing for the payment of obligations incurred pursuant to the comprehensive development agreement, including any obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any lawfully available source, including securing such obligations by a pledge of revenues of the commission or the department derived from the applicable project, which pledge shall have such priority as the department may establish;

(4) permitting the private participant to pledge its rights under the comprehensive development agreement;

(5) concerning the private participant's right to operate and collect revenue from the project; and

(6) restricting the right of the commission or the department to terminate the private participant's right to operate and collect revenue from the project unless and until any applicable termination payments have been made.

(c) The department may enter into a comprehensive development agreement under this subchapter [~~or under Section 227.023(e)~~] with a private participant only if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

(e) Notwithstanding anything in Section 201.112 or other law to the contrary, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the commission or the department under a comprehensive development agreement entered into under this subchapter [~~or Section 227.023(e)~~] to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the commission, the department, and the comptroller in a

district court of Travis County, and the sovereign immunity of the state is waived for that purpose. The district courts of Travis County shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought under this subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement.

(f) A comprehensive development agreement entered into under this subchapter [~~or Section 227.023(e)~~] and any obligations incurred, issued, or owed under the agreement does not constitute a state security under Chapter 1231, Government Code.

SECTION 10. Section 224.1541, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) The commission may authorize the operation of a vehicle that exceeds the weight limitations of Subchapter B, Chapter 621, or the size limitations of Subchapter C, Chapter 621, on a lane designated as an exclusive lane under this section if supported by an engineering and traffic study that includes an analysis of the structural capacity of bridges and pavements, current and projected traffic patterns and volume, and potential effects on public safety. This subsection does not authorize the operation of a vehicle that exceeds a maximum axle weight authorized by Chapter 621, 622, or 623. This subsection does not apply to a roadway that is a part of the national system of interstate and defense highways.

SECTION 11. Section 545.353, Transportation Code, is amended by adding Subsection (h-2) to read as follows:

(h-2) Notwithstanding Section 545.352(b), as amended by Chapters 663 (HB 385) and 739 (HB 1075), Acts of the 76th Legislature, Regular Session, 1999, the commission may establish a speed limit not to exceed 85 miles per hour on a part of the state highway system if:

(1) that part of the highway system is designed to accommodate travel at that established speed or a higher speed; and

(2) the commission determines, after an engineering and traffic investigation, that the established speed limit is reasonable and safe for that part of the highway system.

SECTION 12. Section 371.001(2), Transportation Code, is amended to read as follows:

(2) "Toll project entity" means an entity authorized by law to acquire, design, construct, operate, and maintain a toll project, including:

- (A) the department [~~including under Chapter 227~~];
- (B) a regional tollway authority under Chapter 366;
- (C) a regional mobility authority under Chapter 370; or
- (D) a county under Chapter 284.

SECTION 13. Section 372.001(2), Transportation Code, is amended to read as follows:

(2) "Toll project entity" means an entity authorized by law to acquire, design, construct, finance, operate, and maintain a toll project, including:

- (A) the department under Chapter [~~227 or~~] 228;
- (B) a regional tollway authority under Chapter 366;

- (C) a regional mobility authority under Chapter 370; or
 (D) a county under Chapter 284.

SECTION 14. The following provisions of the Transportation Code are repealed:

- (1) Section 201.618(e);
- (2) Chapter 227;
- (3) Section 284.0032;
- (4) Section 366.305;
- (5) Section 370.316; and
- (6) Section 545.3531.

SECTION 15. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1201** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in amended Section 25.06(c), Tax Code (page 1, line 33), between "91" and the bracket, insert "or 223".

(2) In SECTION 3 of the bill, in amended Section 25.07(c), Tax Code (page 1, line 47), between "91" and the bracket, insert "or 223".

**HB 2603 - HOUSE CONCURS IN SENATE AMENDMENTS
 TEXT OF SENATE AMENDMENTS**

Representative Smithee called up with senate amendments for consideration at this time,

HB 2603, A bill to be entitled An Act relating to the distribution of universal service funds to certain small and rural local exchange companies.

Representative Smithee moved to concur in the senate amendments to **HB 2603**.

The motion to concur in the senate amendments to **HB 2603** prevailed by (Record 1336): 137 Yeas, 2 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; Bohac; 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; Dutton; Eiland; Eissler; Elkins; Farias; 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; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Lavender; Legler.

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

Absent, Excused — Menendez.

Absent — Coleman; Giddings; Margo; Miller, S.; Perry; Sheets; Villarreal.

STATEMENTS OF VOTE

When Record No. 1336 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

When Record No. 1336 was taken, my vote failed to register. I would have voted yes.

S. Miller

When Record No. 1336 was taken, I was in the house but away from my desk. I would have voted yes.

Perry

Senate Committee Substitute

CSHB 2603, A bill to be entitled An Act relating to the distribution of universal service funds to certain small and rural local exchange companies.

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

SECTION 1. Section 56.031, Utilities Code, is amended to read as follows:

Sec. 56.031. ADJUSTMENTS: TEXAS HIGH COST UNIVERSAL SERVICE PLAN. The commission may revise the monthly per line support amounts to be made available from the Texas High Cost Universal Service Plan [~~and from the Small and Rural Incumbent Local Exchange Company Universal Service Plan at any time after September 1, 2007,~~] after notice and an opportunity for hearing. In determining appropriate monthly per line support amounts, the commission shall consider the adequacy of basic rates to support universal service.

SECTION 2. Subchapter B, Chapter 56, Utilities Code, is amended by adding Section 56.032 to read as follows:

Sec. 56.032. ADJUSTMENTS: SMALL AND RURAL INCUMBENT LOCAL EXCHANGE COMPANY UNIVERSAL SERVICE PLAN. (a) For purposes of this section, "consumer price index" means the Consumer Price Index for All Urban Consumers, as published by the federal Bureau of Labor Statistics of the United States Department of Labor.

(b) Except as provided by Subsections (c), (d), (e), and (f), the commission may revise the monthly support amounts to be made available from the Small and Rural Incumbent Local Exchange Company Universal Service Plan by revising

the monthly per line support amounts, after notice and an opportunity for hearing. In determining appropriate monthly per line support amounts, the commission shall consider the adequacy of basic rates to support universal service.

(c) On the written request of a small or rural incumbent local exchange company that receives monthly per line support amounts, the commission shall disburse funds to the company in fixed monthly amounts based on the company's annualized amount of recovery for the calendar year ending on December 31, 2010. A company may submit only one request under this subsection and must submit the request on or before December 31, 2011.

(d) On the written request of a small or rural incumbent local exchange company that is not an electing company under Chapter 58 or 59, the commission annually shall set the company's monthly support amounts for the following 12 months by dividing by 12 the annualized support amount calculated under this subsection. The commission shall calculate the annualized amount:

(1) for the initial 12-month period for which a company makes an election under this subsection, by:

(A) determining the annualized support amount calculated for the requestor in the final order issued by the commission in Docket No. 18516; and

(B) adjusting the support amount determined under Paragraph (A) at the beginning of each calendar year by a factor equal to the most recent consumer price index published at that time, beginning with the 1999 calendar year and ending in the year the company makes an election under this subsection; and

(2) for the 12-month period following the initial period for which a company made an election under this subsection and for subsequent 12-month periods, by adjusting the most recent annualized support amount calculated by the commission by a factor equal to the percentage change in the consumer price index for the most recent 12-month period.

(e) If a company elects to receive monthly support amounts under Subsection (d), the commission, on its own motion or on the written request of the company, may initiate a proceeding to recalculate the most recent annualized support amount to be used as the basis for adjustment for a subsequent 12-month period under Subsection (d)(2). If, based on the recalculation, the commission by order adjusts a company's most recent annualized support amount, the adjusted support amount supersedes the annualized support amount calculated in accordance with Subsection (d).

(f) The commission shall administratively review requests filed under Subsections (c) and (d). Except for good cause, the commission shall approve the request not later than the 60th day after the date the commission determines the company is eligible and has met all the procedural requirements under this subchapter.

(g) This section does not affect the commission's authority under Chapter 53 or this chapter.

(h) This section and any monthly support amount approved under this section expire on September 1, 2013.

SECTION 3. Effective September 1, 2013, Section 56.031, Utilities Code, is amended to read as follows:

Sec. 56.031. ADJUSTMENTS. The commission may revise the monthly per line support amounts to be made available from the Texas High Cost Universal Service Plan and from the Small and Rural Incumbent Local Exchange Company Universal Service Plan at any time after September 1, 2007, after notice and an opportunity for hearing. In determining appropriate monthly per line support amounts, the commission shall consider the adequacy of basic rates to support universal service.

SECTION 4. Except as otherwise provided by this Act, this Act takes effect September 1, 2011.

HB 397 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative V. Gonzales called up with senate amendments for consideration at this time,

HB 397, A bill to be entitled An Act relating to the creation of the Bureau for Economic Development of the Border Region.

Representative V. Gonzales moved to concur in the senate amendments to **HB 397**.

The motion to concur in the senate amendments to **HB 397** prevailed by (Record 1337): 104 Yeas, 38 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Aycock; Berman; Branch; Burkett; Burnam; Cain; Callegari; Castro; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Simpson; Smith, T.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Zerwas.

Nays — Anderson, C.; Anderson, R.; Beck; Bohac; Brown; Button; Carter; Chisum; Christian; Cook; Craddick; Creighton; Davis, S.; Driver; Flynn; Frullo; Gooden; Hancock; Howard, C.; Huberty; Hughes; Landtroop; Laubenberg; Lewis; Madden; Miller, S.; Parker; Patrick; Paxton; Perry; Phillips; Riddle; Sheffield; Smith, W.; Solomons; Weber; Workman; Zedler.

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

Absent, Excused — Menendez.

Absent — Coleman; Elkins; Harper-Brown; Morrison; Shelton.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1337. I intended to vote no.

Fletcher

I was shown voting yes on Record No. 1337. I intended to vote no.

P. King

I was shown voting yes on Record No. 1337. I intended to vote no.

Kolkhorst

When Record No. 1337 was taken, I was in the house but away from my desk. I would have voted no.

Morrison

I was shown voting yes on Record No. 1337. I intended to vote no.

Price

Senate Committee Substitute

CSHB 397, A bill to be entitled An Act relating to the creation of the Bureau for Economic Development of the Border Region.

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

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 490D to read as follows:

CHAPTER 490D. BUREAU FOR ECONOMIC DEVELOPMENT OF THE
BORDER REGION

Sec. 490D.001. DEFINITIONS. In this chapter:

(1) "Border region" means the portion of this state located:

(A) not more than 100 kilometers from the state's international border; or

(B) in a county located on an international border.

(2) "Bureau" means the Bureau for Economic Development of the Border Region.

Sec. 490D.002. BUREAU; MEMBERS. (a) The Bureau for Economic Development of the Border Region is a collaboration of participating entities administered by an institution of higher education as provided by Subsection (b). The bureau shall work in collaboration with public and private entities solely in an advisory capacity on relevant research focused on the border region to effectively maximize the economic potential of the region.

(b) Except as provided by Subsection (h), the administration of the bureau shall alternate on September 1 of each odd-numbered year among the following institutions of higher education in the following order:

(1) a private university that is located in a municipality that contains more than 75 percent of the population of a county with a population of 1.5 million or more and that has an economic development research institute dedicated to researching regional economies, selected by the speaker of the house of representatives;

(2) The University of Texas at Brownsville;

- (3) The University of Texas–Pan American;
- (4) The University of Texas at El Paso;
- (5) The University of Texas at San Antonio; and
- (6) Texas A&M International University.

(c) The bureau has a steering committee that consists of the following members:

- (1) one member appointed by the lieutenant governor;
- (2) one member affiliated with a private university described by Subsection (b)(1), appointed by the speaker of the house of representatives;
- (3) one member appointed by the administration of each of the following institutions of higher education:

- (A) The University of Texas at Brownsville;
- (B) The University of Texas–Pan American;
- (C) The University of Texas at El Paso;
- (D) The University of Texas at San Antonio; and
- (E) Texas A&M International University;

(4) the chair of the House Committee on Border and Intergovernmental Affairs, designated by the speaker of the house of representatives; and

(5) the chair of the Senate Committee on International Relations and Trade, designated by the lieutenant governor.

(d) The members of the bureau's steering committee appointed under Subsections (c)(2) and (3) must represent a center, division, or institute for economic development, border studies, enterprise development, workforce development, or similar matters within the institution of higher education.

(e) The member of the bureau's steering committee appointed under Subsection (c)(1) must be a resident of the border region. The other appointed or designated members of the steering committee may be residents of the border region.

(f) Members of the bureau's steering committee must be selected to provide the bureau expertise in matters relating to financial planning and development, construction, engineering, economic development, employment, or trade.

(g) The institution of higher education that administers the bureau shall provide educational expertise to the bureau.

(h) An institution of higher education may decline to administer the bureau for a biennium if the institution notifies each of the members of the bureau's steering committee not later than the 30th day before the date the institution is scheduled to begin administering the bureau. If an institution declines to administer the bureau:

(1) the next institution of higher education scheduled to administer the bureau shall administer the bureau during the biennium;

(2) the member affiliated with the institution of higher education that has declined to administer the bureau must continue to participate in the steering committee but does not serve as the presiding officer for the biennium; and

(3) the institutions of higher education listed in Subsection (b) shall continue to alternate the administration of the bureau in the order required by that subsection for subsequent bienniums.

Sec. 490D.003. TERMS. (a) The members of the bureau's steering committee appointed under Sections 490D.002(c)(1), (2), and (3) serve staggered terms of two years, with four of the members' terms expiring September 1 of each odd-numbered year.

(b) A member may serve more than one term.

Sec. 490D.004. MEETINGS; OFFICERS. (a) The bureau's steering committee shall hold at least one regular meeting annually.

(b) The member of the steering committee affiliated with the institution of higher education that is administering the bureau as provided by Section 490D.002(b) serves as the presiding officer.

(c) The steering committee shall meet subject to the call of the presiding officer.

Sec. 490D.005. DUTIES. (a) Subject to Subsection (b), the bureau shall:

(1) facilitate research in fields of study affecting the economy in the border region;

(2) make recommendations to the legislature regarding the provision of economic and financial education to persons living in the border region;

(3) draft and submit reports to advise the legislature about economic development opportunities in the border region;

(4) provide evaluation of specific proposals for use of economic development funds in the border region, including tax abatement agreements;

(5) consult with the Texas Economic Development and Tourism Office within the office of the governor on issues related to the border region;

(6) study and report on opportunities to improve trade across the international border; and

(7) make recommendations to the legislature about the establishment of infrastructure projects to assist multiple counties in the border region.

(b) Before a recommendation or evaluation is made under Subsection (a), two-thirds of the members of the steering committee present at a meeting at which a quorum is present must approve the recommendation or evaluation.

Sec. 490D.006. FUNDING. (a) The bureau or any member of the bureau's steering committee may solicit and accept pledges, gifts, and endowments from private sources on the bureau's behalf. The bureau shall actively seek gifts from businesses and organizations that represent businesses to support the bureau's functions. A pledge, gift, or endowment solicited under this section must be consistent with the purposes of the bureau.

(b) The legislature may not make an appropriation for the duties or functions of the bureau.

Sec. 490D.007. FACILITIES AND OTHER ASSISTANCE. The institution of higher education that administers the bureau may provide facilities and services to further the purposes of the bureau.

Sec. 490D.008. DURATION. Section 2110.008 does not apply to the bureau.

SECTION 2. In appointing the initial appointed members of the steering committee of the Bureau for Economic Development of the Border Region under Section 490D.002, Government Code, as added by this Act:

(1) the lieutenant governor shall appoint one member to serve a term expiring September 1, 2013;

(2) the speaker of the house of representatives shall appoint the member under Section 490D.002(c)(2), as added by this Act, to serve a term expiring September 1, 2013;

(3) the administration of The University of Texas at Brownsville shall appoint one member to serve a term expiring September 1, 2013;

(4) the administration of The University of Texas–Pan American shall appoint one member to serve a term expiring September 1, 2013;

(5) the administration of The University of Texas at El Paso shall appoint one member to serve a term expiring September 1, 2014;

(6) the administration of The University of Texas at San Antonio shall appoint one member to serve a term expiring September 1, 2014; and

(7) the administration of Texas A&M International University shall appoint one member to serve a term expiring September 1, 2014.

SECTION 3. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 397** (senate committee printing) on third reading in SECTION 2 of the bill (page 3, lines 35, 38, and 41), by striking "2014" each place it appears and substituting "2012".

SB 201 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Callegari submitted the conference committee report on **SB 201**.

Representative Callegari moved to adopt the conference committee report on **SB 201**.

The motion to adopt the conference committee report on **SB 201** prevailed by (Record 1338): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, S.; 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, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Coleman; Davis, Y.; King, P.; Villarreal.

STATEMENT OF VOTE

When Record No. 1338 was taken, I was in the house but away from my desk. I would have voted yes.

P. King

HJR 109 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Orr called up with senate amendments for consideration at this time,

HJR 109, A joint resolution proposing a constitutional amendment to clarify references to the permanent school fund and to allow the General Land Office or other entity to distribute revenue derived from permanent school fund land or other properties to the available school fund.

Representative Orr moved to concur in the senate amendments to **HJR 109**.

The motion to concur in the senate amendments to **HJR 109** prevailed by (Record 1339): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Cain; Callegari; Carter; Castro; Christian; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; 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 — Menendez.

Absent — Button; Chisum; Coleman; Otto.

Senate Committee Substitute

CSHJR 109, A Joint Resolution proposing a constitutional amendment to clarify references to the permanent school fund, to allow the General Land Office to distribute revenue derived from permanent school fund land or other properties to the available school fund, and to provide for an increase in the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund.

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

SECTION 1. Section 49-b(h), Article III, Texas Constitution, is amended to read as follows:

(h) Lands purchased and comprising a part of the Veterans' Land Fund are declared to be held for a governmental purpose, but the individual purchasers of those lands shall be subject to taxation to the same extent and in the same manner as are purchasers of lands dedicated to the Permanent ~~[Free Public]~~ School Fund. The lands shall be sold to veterans in quantities, on terms, at prices, and at fixed, variable, floating, or other rates of interest, determined by the Board and in accordance with rules of the Board. Notwithstanding any provisions of this section to the contrary, lands in the Veterans' Land Fund that are offered for sale to veterans and that are not sold may be sold or resold to the purchasers in quantities, on terms, at prices, and at rates of interest determined by the Board and in accordance with rules of the Board.

SECTION 2. Sections 2 and 4, Article VII, Texas Constitution, are amended to read as follows:

Sec. 2. All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or other corporations of any nature whatsoever; one half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a permanent ~~[perpetual public]~~ school fund.

Sec. 4. The lands herein set apart to the Permanent ~~[Public Free]~~ School fund, shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the Legislature shall not have power to grant any relief to purchasers thereof. The proceeds of such sales must be used to acquire other land for the Permanent ~~[Public Free]~~ School fund as provided by law or the proceeds shall be invested by the comptroller of public accounts, as may be directed by the Board of Education herein provided for, in the bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the State shall be responsible for all investments.

SECTION 3. Section 5, Article VII, Texas Constitution, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) The permanent school fund consists of all land appropriated for public schools by this constitution or the other laws of this state, other properties belonging to the permanent school fund, and all revenue derived from the land or other properties. The available school fund consists of the distributions made to it from the total return on all investment assets of the permanent school fund, the taxes authorized by this constitution or general law to be part of the available school fund, and appropriations made to the available school fund by the legislature. The total amount distributed from the permanent school fund to the available school fund:

(1) in each year of a state fiscal biennium must be an amount that is not more than six percent of the average of the market value of the permanent school fund, excluding real property belonging to the fund that is managed, sold, or acquired under Section 4 of this article, but including discretionary real assets investments and cash in the state treasury derived from property belonging to the fund, on the last day of each of the 16 state fiscal quarters preceding the regular session of the legislature that begins before that state fiscal biennium, in accordance with the rate adopted by:

(A) a vote of two-thirds of the total membership of the State Board of Education, taken before the regular session of the legislature convenes; or

(B) the legislature by general law or appropriation, if the State Board of Education does not adopt a rate as provided by Paragraph (A) of this subdivision; and

(2) over the 10-year period consisting of the current state fiscal year and the nine preceding state fiscal years may not exceed the total return on all investment assets of the permanent school fund over the same 10-year period.

(g) Notwithstanding any other provision of this constitution or of a statute, the General Land Office or an entity other than the State Board of Education that has responsibility for the management of permanent school fund land or other properties may in its sole discretion distribute to the available school fund each year revenue derived during that year from the land or properties, not to exceed \$300 million each year.

SECTION 4. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by HJR 109, 82nd Legislature, Regular Session, 2011, providing for an increase in the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund.

(b) The change to Section 5(a), Article VII, of this constitution made by the amendment applies to a distribution from the permanent school fund to the available school fund made on or after September 1, 2011.

(c) This temporary provision expires December 1, 2015.

SECTION 5. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 8, 2011. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment clarifying references to the permanent school fund, allowing the

General Land Office to distribute revenue from permanent school fund land or other properties to the available school fund to provide additional funding for public education, and providing for an increase in the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund."

**HB 1168 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative D. Miller called up with senate amendments for consideration at this time,

HB 1168, A bill to be entitled An Act relating to smoke alarms and fire extinguishers in residential rental units.

Representative D. Miller moved to concur in the senate amendments to **HB 1168**.

The motion to concur in the senate amendments to **HB 1168** prevailed by (Record 1340): 144 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; 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, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; 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 — Howard, C.; Landtroop; Perry.

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

Absent, Excused — Menendez.

Senate Committee Substitute

CSHB 1168, A bill to be entitled An Act relating to smoke alarms and fire extinguishers in residential rental units.

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

SECTION 1. Sections 92.006(a) and (b), Property Code, are amended to read as follows:

(a) A landlord's duty or a tenant's remedy concerning security deposits, security devices, the landlord's disclosure of ownership and management, or utility cutoffs, as provided by Subchapter C, D, E, or G, respectively, may not be waived. A landlord's duty to install a smoke alarm [~~detector~~] under Subchapter F may not be waived, nor may a tenant waive a remedy for the landlord's noninstallation or waive the tenant's limited right of installation and removal. The landlord's duty of inspection and repair of smoke alarms [~~detectors~~] under Subchapter F may be waived only by written agreement.

(b) A landlord's duties and the tenant's remedies concerning security devices, the landlord's disclosure of ownership and management, or smoke alarms [~~detectors~~], as provided by Subchapter D, E, or F, respectively, may be enlarged only by specific written agreement.

SECTION 2. The heading to Subchapter F, Chapter 92, Property Code, is amended to read as follows:

SUBCHAPTER F. SMOKE ALARMS AND FIRE EXTINGUISHERS
[~~DETECTORS~~]

SECTION 3. Sections 92.251, 92.252, 92.253, 92.254, 92.255, 92.257, 92.2571, 92.258, and 92.259, Property Code, are amended to read as follows:

Sec. 92.251. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

(1) "Bedroom" means a room designed with the intent that it be used for sleeping purposes.

(2) "Dwelling [~~-,~~ "dwelling] unit" means a home, mobile home, duplex unit, apartment unit, condominium unit, or any dwelling unit in a multiunit residential structure. It also means a "dwelling" as defined by Section 92.001.

(3) "Smoke alarm" means a device designed to detect and to alert occupants of a dwelling unit to the visible and invisible products of combustion by means of an audible alarm.

Sec. 92.252. APPLICATION OF OTHER LAW; MUNICIPAL REGULATION. (a) The duties of a landlord and the remedies of a tenant under this subchapter are in lieu of common law, other statutory law, and local ordinances regarding a residential landlord's duty to install, inspect, or repair a fire extinguisher or smoke alarm [~~detector~~] in a dwelling unit. However, this subchapter does not:

(1) affect a local ordinance adopted before September 1, 1981, that requires landlords to install smoke alarms [~~detectors~~] in new or remodeled dwelling units before September 1, 1981, if the ordinance conforms with or is amended to conform with this subchapter;

(2) limit or prevent adoption or enforcement of a local ordinance relating to fire safety as a part of a building, fire, or housing code, including any requirements relating to the installation of smoke alarms [~~detectors~~] or the type of smoke alarms [~~detectors~~];

(3) otherwise limit or prevent the adoption of a local ordinance that conforms to this subchapter but which contains additional enforcement provisions, except as provided by Subsection (b); or

(4) affect a local ordinance that requires regular inspections by local officials of smoke alarms [~~detectors~~] in dwelling units and that requires smoke alarms [~~detectors~~] to be operational at the time of inspection.

(b) If a smoke alarm [~~detector~~] powered by battery has been installed in a dwelling unit built before September 1, 1987, in compliance with this subchapter and local ordinances, a local ordinance may not require that a smoke alarm [~~detector~~] powered by alternating current be installed in the unit unless:

(1) the interior of the unit is repaired, remodeled, or rebuilt at a projected cost of more than \$5,000 [~~\$2,500~~] and:

(A) the repair, remodeling, or rebuilding requires a municipal building permit; and

(B) either:

(i) the repair, remodeling, or rebuilding results in the removal of interior walls or ceiling finishes exposing the structure; or

(ii) the interior of the unit provides access for building wiring through an attic, crawl space, or basement without the removal of interior walls or ceiling finishes;

(2) an addition occurs to the unit at a projected cost of more than \$5,000 [~~\$2,500~~];

(3) a smoke alarm [~~detector~~] powered by alternating current was actually installed in the unit at any time prior to September 1, 1987; or

(4) a smoke alarm [~~detector~~] powered by alternating current was required by lawful city ordinance at the time of initial construction of the unit.

Sec. 92.253. EXEMPTIONS. (a) This subchapter does not apply to:

(1) a dwelling unit that is occupied by its owner, no part of which is leased to a tenant;

(2) a dwelling unit in a building five or more stories in height in which smoke alarms [~~detectors~~] are required or regulated by local ordinance; or

(3) a nursing or convalescent home licensed by the [Texas] Department of State Health Services and certified to meet the Life Safety Code under federal law and regulations.

(b) Notwithstanding this subchapter, a person licensed [~~by the State Board of Insurance~~] to install fire alarms or fire detection devices under Chapter 6002 [Article 5.43-2], Insurance Code, shall comply with that chapter [article] when installing smoke alarms [~~detectors~~].

Sec. 92.254. SMOKE ALARM [~~DETECTOR~~]. (a) A smoke alarm [~~detector~~] must be:

(1) designed to detect both the visible and invisible products of combustion;

(2) designed with an alarm audible to a person in the bedrooms it serves; and

(3) [~~powered by battery, alternating current, or other power source as required by local ordinance;~~

[~~(4)~~] tested and listed for use as a smoke alarm [~~detector~~] by Underwriters Laboratories, Inc., Factory Mutual Research Corporation, or United States Testing Company, Inc.]; and

~~[(5) in good working order.]~~

(a-1) If requested by a tenant as an accommodation for a person with a hearing-impairment disability or as required by law as a reasonable accommodation for a person with a hearing-impairment disability, a smoke alarm ~~[detector]~~ must, in addition to complying with Subsection (a), be capable of alerting a hearing-impaired person in the bedrooms it serves.

(b) Except as provided by Section 92.255(b), a smoke alarm may be powered by battery, alternating current, or other power source as required by local ordinance. The power system and installation procedure of a security device that is electrically operated rather than battery operated must comply with applicable local ordinances.

Sec. 92.255. INSTALLATION AND LOCATION ~~[IN NEW CONSTRUCTION]~~. (a) A ~~[Before the first tenant takes possession of a dwelling unit, the]~~ landlord shall install at least one smoke alarm in ~~[detector outside, but in the vicinity of,]~~ each separate bedroom in a ~~[the]~~ dwelling unit. In addition~~;~~ except:

(1) if the dwelling unit is designed to use a single room for dining, living, and sleeping, the smoke alarm ~~[detector]~~ must be located inside the room;

(2) if multiple ~~[the]~~ bedrooms are served by the same corridor, at least one smoke alarm ~~[detector]~~ must be installed in the corridor in the immediate vicinity of the bedrooms; and

(3) if the dwelling unit has multiple levels, at least one smoke alarm must be ~~[bedroom is]~~ located on each [a] level ~~[above the living and cooking area, the smoke detector for the bedrooms must be placed in the center of the ceiling directly above the top of the stairway].~~

(b) If a dwelling unit was occupied as a residence before September 1, 2011, or a certificate of occupancy was issued for the dwelling unit before that date, a smoke alarm installed in accordance with Subsection (a) may be powered by battery and is not required to be interconnected with other smoke alarms, except that a smoke alarm that is installed to replace a smoke alarm that was in place on the date the dwelling unit was first occupied as a residence must comply with residential building code standards that applied to the dwelling unit on that date or Section 92.252(b). ~~[In this section, "bedroom" means a room designed with the intent that it be used for sleeping purposes.]~~

Sec. 92.257. INSTALLATION PROCEDURE. (a) Subject to Subsections (b) and (c), a smoke alarm ~~[detector]~~ must be installed according to the manufacturer's recommended procedures.

(b) A smoke alarm ~~[detector]~~ must be installed on a ceiling or wall. If on a ceiling, it must be no closer than six inches to a wall or otherwise located in accordance with the manufacturer's installation instructions. If on a wall, it must be no closer than six inches and no farther than 12 inches from the ceiling or otherwise located in accordance with the manufacturer's installation instructions.

(c) A smoke alarm ~~[detector]~~ may be located other than as required by Subsection (a) or (b) if a local ordinance or a local or state fire marshal approves.

Sec. 92.2571. ALTERNATIVE COMPLIANCE. A landlord complies with the requirements of this subchapter relating to the provision of smoke alarms [~~detectors~~] in the dwelling unit if the landlord:

(1) has a fire detection device, as defined by Section 6002.002 [~~Article 5.43-2~~], Insurance Code, that includes a fire alarm [~~smoke detection~~] device, as defined by Section 6002.002, Insurance Code, installed in a dwelling unit; or

(2) for a dwelling unit that is a one-family or two-family dwelling unit, installs smoke detectors in compliance with Chapter 766, Health and Safety Code.

Sec. 92.258. INSPECTION AND REPAIR. (a) The landlord shall inspect and repair a smoke alarm [~~detector~~] according to this section.

(b) The landlord shall determine that the smoke alarm [~~detector~~] is in good working order at the beginning of the tenant's possession by testing the smoke alarm [~~detector~~] with smoke, by operating the testing button on the smoke alarm [~~detector~~], or by following other recommended test procedures of the manufacturer for the particular model.

(c) During the term of a lease or during a renewal or extension, the landlord has a duty to inspect and repair a smoke alarm [~~detector~~], but only if the tenant gives the landlord notice of a malfunction or requests to the landlord that the smoke alarm [~~detector~~] be inspected or repaired. This duty does not exist with respect to damage or a malfunction caused by the tenant, the tenant's family, or the tenant's guests or invitees during the term of the lease or a renewal or extension, except that the landlord has a duty to repair or replace the smoke alarm [~~detector~~] if the tenant pays in advance the reasonable repair or replacement cost, including labor, materials, taxes, and overhead.

(d) The landlord must comply with the tenant's request for inspection or repair of a smoke alarm within a reasonable time, considering the availability of material, labor, and utilities.

(e) The landlord has met the duty to inspect and repair if the smoke alarm [~~detector~~] is in good working order after the landlord tests the smoke alarm [~~detector~~] with smoke, operates the testing button on the smoke alarm [~~detector~~], or follows other recommended test procedures of the manufacturer for the particular model.

(f) The landlord is not obligated to provide batteries for a battery-operated smoke alarm [~~detector~~] after a tenant takes possession if the smoke alarm [~~detector~~] was in good working order at the time the tenant took possession.

(g) A smoke alarm [~~detector~~] that is in good working order at the beginning of a tenant's possession is presumed to be in good working order until the tenant requests repair of the smoke alarm [~~detector~~] as provided by this subchapter.

Sec. 92.259. LANDLORD'S FAILURE TO INSTALL, INSPECT, OR REPAIR. (a) A landlord is liable according to this subchapter if:

(1) the landlord did not install a smoke alarm [~~detector~~] at the time of initial occupancy by the tenant as required by this subchapter or a municipal ordinance permitted by this subchapter; or

(2) the landlord does not install, inspect, or repair the smoke alarm [~~detector~~] on or before the seventh day after the date the tenant gives the landlord written notice that the tenant may exercise his remedies under this subchapter if the landlord does not comply with the request within seven days.

(b) If the tenant gives notice under Subsection (a)(2) and the tenant's lease is in writing, the lease may require the tenant to make the initial request for installation, inspection, or repair of a smoke alarm in writing.

SECTION 4. The heading to Section 92.2611, Property Code, is amended to read as follows:

Sec. 92.2611. TENANT'S DISABLING OF A SMOKE ALARM [~~DETECTOR~~].

SECTION 5. Section 92.2611, Property Code, is amended by amending Subsections (a), (b), (c), (d), and (f) and adding Subsection (d-1) to read as follows:

(a) A tenant is liable according to this subchapter if the tenant removes a battery from a smoke alarm [~~detector~~] without immediately replacing it with a working battery or knowingly disconnects or intentionally damages a smoke alarm [~~detector~~], causing it to malfunction.

(b) Except as provided in Subsection (c), a landlord of a tenant who is liable under Subsection (a) may obtain a judgment against the tenant for damages suffered by the landlord because the tenant removed a battery from a smoke alarm [~~detector~~] without immediately replacing it with a working battery or knowingly disconnected or intentionally damaged the smoke alarm [~~detector~~], causing it to malfunction.

(c) A tenant is not liable for damages suffered by the landlord if the damage is caused by the landlord's failure to repair the smoke alarm [~~detector~~] within a reasonable time after the tenant requests it to be repaired, considering the availability of material, labor, and utilities.

(d) A landlord of a tenant who is liable under Subsection (a) may obtain or exercise one or more of the remedies in Subsection (e) if:

(1) a lease between the landlord and tenant contains a notice, in underlined or boldfaced print, which states in substance that the tenant must not disconnect or intentionally damage a smoke alarm [~~detector~~] or remove the battery without immediately replacing it with a working battery and that the tenant may be subject to damages, civil penalties, and attorney's fees under Section 92.2611 of the Property Code for not complying with the notice; and

(2) the landlord has given notice to the tenant that the landlord intends to exercise the landlord's remedies under this subchapter if the tenant does not reconnect, repair, or replace the smoke alarm [~~detector~~] or replace the removed battery within seven days after being notified by the landlord to do so.

(d-1) The notice in Subsection (d)(2) [~~Subdivision (2)~~] must be in a separate document furnished to the tenant after the landlord has discovered that the tenant has disconnected or damaged the smoke alarm [~~detector~~] or removed a battery from it.

(f) A tenant's guest or invitee who suffers damage because of a landlord's failure to install, inspect, or repair a smoke alarm ~~[detector]~~ as required by this subchapter may recover a judgment against the landlord for the damage. A tenant's guest or invitee who suffers damage because the tenant removed a battery without immediately replacing it with a working battery or because the tenant knowingly disconnected or intentionally damaged the smoke alarm ~~[detector]~~, causing it to malfunction, may recover a judgment against the tenant for the damage.

SECTION 6. Subchapter F, Chapter 92, Property Code, is amended by adding Sections 92.263 and 92.264 to read as follows:

Sec. 92.263. INSPECTION OF RESIDENTIAL FIRE EXTINGUISHER.

(a) If a landlord has installed a 1A10BC residential fire extinguisher as defined by the National Fire Protection Association or other non-rechargeable fire extinguisher in accordance with a local ordinance or other law, the landlord or the landlord's agent shall inspect the fire extinguisher:

(1) at the beginning of a tenant's possession; and

(2) within a reasonable time after receiving a written request by a tenant.

(b) At a minimum, an inspection under this section must include:

(1) checking to ensure the fire extinguisher is present; and

(2) checking to ensure the fire extinguisher gauge or pressure indicator indicates the correct pressure as recommended by the manufacturer of the fire extinguisher.

(c) A fire extinguisher that satisfies the inspection requirements of Subsection (b) at the beginning of a tenant's possession is presumed to be in good working order until the tenant requests an inspection in writing.

Sec. 92.264. DUTY TO REPAIR OR REPLACE. (a) The landlord shall repair or replace a fire extinguisher at the landlord's expense if:

(1) on inspection, the fire extinguisher is found:

(A) not to be functioning; or

(B) not to have the correct pressure indicated on the gauge or pressure indicator as recommended by the manufacturer of the fire extinguisher; or

(2) a tenant has notified the landlord that the tenant has used the fire extinguisher for a legitimate purpose.

(b) If the tenant or the tenant's invited guest removes, misuses, damages, or otherwise disables a fire extinguisher:

(1) the landlord is not required to repair or replace the fire extinguisher at the landlord's expense; and

(2) the landlord is required to repair or replace the fire extinguisher within a reasonable time if the tenant pays in advance the reasonable repair or replacement cost, including labor, materials, taxes, and overhead.

SECTION 7. Section 92.256, Property Code, is repealed.

SECTION 8. With respect to a dwelling unit first occupied or for which a certificate of occupancy was issued before September 1, 2011, a landlord shall comply with the change in law made by Section 92.255, Property Code, as amended by this Act, on or before January 1, 2013.

SECTION 9. This Act takes effect September 1, 2011.

POSTPONED BUSINESS

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

SB 499 ON SECOND READING

(Guillen - House Sponsor)

SB 499, A bill to be entitled An Act relating to the identification of breeder deer by microchips.

SB 499 was read second time on May 20, postponed until 8 a.m. today, and was again postponed until this time.

Representative Guillen moved to postpone consideration of **SB 499** until 8 a.m. tomorrow.

The motion prevailed.

SB 1543 ON SECOND READING

(Larson - House Sponsor)

SB 1543, A bill to be entitled An Act relating to the authority of an independent school district to invest in corporate bonds.

SB 1543 was read second time on May 20, an amendment was offered and disposed of, and **SB 1543** was postponed until 8 a.m. today. **SB 1543** was laid out as postponed business earlier today and was again postponed until this time.

Amendment No. 2

Representative Larson offered the following amendment to **SB 1543**:

Amend **SB 1543** (house committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 2256.0204(a), Government Code (page 1, line 9), strike "senior secured".

(2) In added Section 2256.0204(a)(1), Government Code (page 1, line 15), after the semicolon, add "or".

(3) In added Section 2256.0204(a), Government Code, strike Subdivisions (2) and (3) (page 1, lines 16-20).

(4) In added Section 2256.0204(a), Government Code (page 1, line 21), strike "(4)" and substitute "(2)".

(5) In added Section 2256.0204, Government Code, strike Subsection (c) (page 2, lines 1-11) and substitute the following:

(c) In addition to authorized investments permitted by this subchapter, an independent school district subject to this section may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of

purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

(6) In added Section 2256.0204(d)(1), Government Code (page 2, line 17), after the semicolon, add "or".

(7) In added Section 2256.0204(d)(2), Government Code (page 2, line 20), strike "; or" and substitute " .".

(8) In added Section 2256.0204(d), Government Code, strike Subdivision (3) (page 2, lines 21-22).

(9) In added Section 2256.0204(e)(1), Government Code (page 2, line 27), after the semicolon, add "and".

(10) In added Section 2256.0204(e)(2), Government Code (page 3, line 5), strike "; and" and substitute " .".

(11) In added Section 2256.0204(e), Government Code, strike Subdivision (3) (page 3, lines 6-8).

(12) In added Section 2256.0204(f)(1), Government Code (page 3, line 17), strike "AA" and substitute "AA-".

(13) In added Section 2256.0204, Government Code, strike Subsection (g) (page 3, lines 20-21).

Amendment No. 2 was adopted.

Amendment No. 3

Representative Coleman offered the following amendment to **SB 1543**:

Amend **SB 1543** (house committee printing) as follows:

On page 2, line 14, between "than" and "percent" strike "20" and insert "15".

Amendment No. 3 was adopted.

SB 1543, as amended, was passed to third reading. (Berman and Flynn recorded voting no.)

GENERAL STATE CALENDAR SENATE BILLS SECOND READING

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

SB 773 ON SECOND READING (Gallego and Muñoz - House Sponsors)

SB 773, A bill to be entitled An Act relating to telecommunications service discounts for educational institutions, libraries, hospitals, and telemedicine centers.

Amendment No. 1

Representative Brown offered the following amendment to **SB 773**:

Amend **SB 773** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.064 to read as follows:

Sec. 2054.064. ADVERTISING ON STATE ELECTRONIC INTERNET PORTALS. (a) In this section:

(1) "Department" means the Department of Information Resources or a successor agency.

(2) "State agency" means any department, board, commission, or other agency in the executive branch of state government, including the office of the governor. The term does not include an institution of higher education, as defined by Section 61.003, Education Code.

(b) In accordance with rules adopted by the department and to the extent allowed under federal law:

(1) a state agency shall contract with a private entity to lease advertising space on the agency's official electronic Internet portal; and

(2) the department shall contract with a private entity by awarding a 10-year license to the entity to lease advertising space on the official electronic Internet portal for the State of Texas.

(c) The department shall develop a standard contract for the lease of advertising space on an electronic Internet portal under this section. The standard contract developed by the department must include terms that:

(1) provide for the payment of a fee by the person leasing the advertising space in an amount set by department rule; and

(2) require the advertisements to comply with the rules adopted by the department relating to content and composition.

(d) The department shall adopt rules to implement this section. The rules must establish:

(1) guidelines relating to the content and composition of advertisements that may be placed on an electronic Internet portal;

(2) procedures for procuring advertisements that relate, to the greatest extent practicable, to the stated purpose of the state agency;

(3) policies that require:

(A) each advertisement to be clearly labeled on the electronic Internet portal as an advertisement; and

(B) a disclaimer on each electronic Internet portal that clearly states that the State of Texas does not endorse the products or services advertised on the state agency electronic Internet portal;

(4) a schedule of fees to be charged for the lease of advertising space under this section; and

(5) the amount of the lease payment that a private entity may retain for administering the lease contract.

(e) A private entity administering a lease under this section shall collect the fees due from the leasing entity. After deduction of the private entity's fees, the remainder of the fees collected under this section shall be forwarded to the comptroller to be deposited to the credit of the general revenue fund.

(f) Before entering into a contract under this section, a state agency or the department must evaluate:

(1) the effect of the contract on the bandwidth that the agency or the department requires to perform its official duties; and

(2) whether the contract increases vulnerability to malware or other potential threats to the security of the electronic Internet portal or computer network.

(g) Except as provided by Subsection (h), using the results of the evaluation required under Subsection (f), a state agency or the department shall develop and implement a plan to ensure that state electronic Internet portals and computer networks are secure and that sufficient bandwidth is available to host the advertising required under the contract and to allow for performance of official duties. The plan must include provisions to:

(1) prevent inappropriate content on electronic Internet portals and computer networks associated with this state;

(2) efficiently route data used by the agency or the department to perform its official duties;

(3) manage and reduce the quantity of bandwidth used by the agency or the department; and

(4) ensure the continued security and integrity of electronic Internet portals, computer networks, and confidential and sensitive data associated with this state.

(h) A state agency or the department may accept free or discounted services to assist in performing the evaluation and planning requirements under Subsections (f) and (g) from a provider designated as qualified by the department. The department shall maintain a list of qualified providers on the department's electronic Internet portal.

(i) A state agency or the department is not required to implement a plan developed under Subsection (g) if:

(1) money appropriated to the agency or the department may not be lawfully spent for the purposes of this section; or

(2) the agency or the department determines that the cost of implementing the plan will exceed the income received from a contract under this section.

Amendment No. 2

Representative Brown offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Brown to **SB 773** (house committee printing) on page 3 of the amendment, line 28, by striking "deposited" and substituting "allocated as follows:"

(1) 50 percent to the credit of the foundation school fund; and

(2) the remainder".

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

SB 773, as amended, was passed to third reading by (Record 1341): 117 Yeas, 19 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Aycock; Berman; Branch; Brown; Burkett; Burnam; Callegari; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Lavender; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Vo; Walle; Woolley; Zerwas.

Nays — Anderson, R.; Beck; Bohac; Cain; Carter; Flynn; Gooden; Harper-Brown; Huberty; Isaac; Laubenberg; Legler; Madden; Simpson; Taylor, V.; Weber; White; Workman; Zedler.

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

Absent, Excused — Menendez.

Absent — Alonzo; Button; Coleman; Eiland; Gutierrez; Kolkhorst; Orr; Phillips; Sheets; Veasey; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1341. I intended to vote no.

Berman

I was shown voting no on Record No. 1341. I intended to vote yes.

Bohac

I was shown voting no on Record No. 1341. I intended to vote yes.

Huberty

When Record No. 1341 was taken, my vote failed to register. I would have voted yes.

Kolkhorst

I was shown voting yes on Record No. 1341. I intended to vote no.

Parker

I was shown voting yes on Record No. 1341. I intended to vote no.

Paxton

When Record No. 1341 was taken, my vote failed to register. I would have voted no.

Phillips

When Record No. 1341 was taken, I was in the house but away from my desk. I would have voted no.

Sheets

When Record No. 1341 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

CSSB 17 ON SECOND READING
(Truitt - House Sponsor)

CSSB 17, A bill to be entitled An Act relating to the regulation of residential mortgage loan servicers; providing an administrative penalty.

Amendment No. 1

Representative Rodriguez offered the following amendment to **CSSB 17**:

Amend **CSSB 17** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. RESIDENTIAL MORTGAGE SERVICERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 397.001. DEFINITION. In this chapter, "mortgagee" and "mortgage servicer" have the meanings assigned by Section 51.0001, Property Code.

Sec. 397.002. APPLICABILITY. This chapter applies only to a loan secured by a first lien on residential real property that:

(1) is not a federally related mortgage loan, as defined by 12 U.S.C. Section 2602; and

(2) is serviced by a mortgage servicer other than the mortgagee of the loan.

[Sections 397.003-397.050 reserved for expansion]

SUBCHAPTER B. DEBTOR REQUESTS FOR INFORMATION

Sec. 397.051. RECORDKEEPING. A mortgage servicer shall maintain written or electronic records of each written request for information regarding a dispute or error involving the debtor's account until the loan is paid in full, otherwise satisfied, or sold.

Sec. 397.052. PROVISION OF GENERAL INFORMATION ON REQUEST. (a) A mortgage servicer shall provide the following to a debtor in response to a debtor's written request:

(1) a copy of the original note or, if the original note is unavailable, an affidavit of lost note; and

(2) a statement that:

(A) identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the debtor, and other activity on the loan, including any escrow or suspense account activity; and

(B) covers the two years preceding the receipt of the request or the period for which the servicer has serviced the loan, whichever is shorter.

(b) If the mortgage servicer claims that delinquent or outstanding sums were owed on the loan before the two-year period preceding the receipt of the request under Subsection (a) or before the servicer began servicing the loan, whichever is shorter, the servicer shall provide an account history beginning with the earliest month for which the servicer claims outstanding sums were owed on the loan and ending on the date of the request for information. For purposes of this subsection, the date of the request for information is presumed to be not later than the 30th day before the date the servicer receives the request.

(c) A mortgage servicer must provide a statement under Subsection (a) on or before the 25th business day after the date the servicer receives a written request from the debtor that:

(1) includes or otherwise enables the servicer to identify the name and account of the debtor; and

(2) includes a statement that the account is or may be in error or otherwise provides sufficient detail to the servicer regarding information sought by the debtor.

Sec. 397.053. PROVISION OF INFORMATION REGARDING DISPUTE OR ERROR. (a) A mortgage servicer shall provide a written statement to a debtor in response to a debtor's written request for information regarding a dispute or error involving the debtor's account that includes the following information, if requested:

(1) whether the account is current and an explanation of any default and the date the account went into default;

(2) the current balance due on the loan, including the principal due, the amount of any funds held in a suspense account, the amount of any escrow balance known to the servicer, and whether there are any escrow deficiencies or shortages known to the servicer;

(3) the identity, address, and other relevant information about the current holder, owner, or assignee of the loan; and

(4) the telephone number and mailing address of a servicer representative with the information and authority to answer questions and resolve disputes.

(b) A mortgage servicer must provide a statement under Subsection (a) on or before the 10th day after the date the servicer receives a written request from the debtor that:

(1) includes or otherwise enables the servicer to identify the name and account of the debtor; and

(2) includes a statement that the account is or may be in error or otherwise provides sufficient detail to the servicer regarding information sought by the debtor.

[Sections 397.054-397.100 reserved for expansion]

SUBCHAPTER C. REMEDIES

Sec. 397.101. ENFORCEMENT GENERALLY. The Department of Savings and Mortgage Lending, the attorney general, or any party to a loan to which this chapter applies may enforce this chapter.

Sec. 397.102. ACTION BY DEBTOR. In addition to any other legal and equitable remedy available, a debtor injured by a violation of this chapter may bring an action for recovery of actual damages, including reasonable attorney's fees.

Amendment No. 1 was withdrawn.

CSSB 17 was passed to third reading. (V. Taylor recorded voting no.)

**CSSB 731 ON SECOND READING
(Kolkhorst - House Sponsor)**

CSSB 731, A bill to be entitled An Act relating to the attorney general's legal sufficiency review of a comprehensive development agreement.

CSSB 731 was passed to third reading.

**CSSB 332 ON SECOND READING
(Ritter - House Sponsor)**

CSSB 332, A bill to be entitled An Act relating to the ownership of groundwater below the surface of land, the right to produce that groundwater, and the management of groundwater in this state.

Amendment No. 1

Representative Ritter offered the following amendment to **CSSB 332**:

Amend **CSSB 332** (house committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 36.002(b)(1), Water Code (page 1, line 20), strike "his" and substitute "that landowner's".

(2) In SECTION 1 of the bill, in added Section 36.002(e)(2), Water Code (page 3, line 3), strike "Coastal".

(3) In SECTION 2 of the bill, in added Section 36.101(a)(4), Water Code (page 3, line 26), strike "water" and substitute "groundwater".

(4) In SECTION 2 of the bill, in added Section 36.101(a)(5), Water Code (page 4, line 3), strike "comprehensive".

Amendment No. 1 was adopted.

CSSB 332 - POINT OF ORDER

Representative Farrar raised a point of order against further consideration of **CSSB 332** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Ritter moved to postpone consideration of **CSSB 332** until 11:30 p.m. today.

The motion prevailed.

SB 773 - HOUSE SPONSORS AUTHORIZED

On motion of Representative Gallego, Representatives Strama and Chisum were authorized as house sponsors to **SB 773**.

CSSB 223 ON SECOND READING

(Gonzalez - House Sponsor)

CSSB 223, A bill to be entitled An Act relating to certain facilities and care providers, including providers under the state Medicaid program; providing penalties.

CSSB 223 was passed to third reading.

CSSB 1909 ON SECOND READING

(Oliveira - House Sponsor)

CSSB 1909, A bill to be entitled An Act relating to The University of Texas at Brownsville, including its partnership agreement with the Texas Southmost College District.

CSSB 1909 was passed to third reading.

SB 173 ON SECOND READING

(Dutton - House Sponsor)

SB 173, A bill to be entitled An Act relating to civil remedy of violations of certain municipal health and safety ordinances.

The chair postponed consideration of **SB 173** until 11:30 p.m. today.

SB 370 ON SECOND READING

(Ritter - House Sponsor)

SB 370, A bill to be entitled An Act relating to the authority of the Texas Water Development Board to provide financial assistance for certain projects if the applicant has failed to complete a request for information relevant to the project.

SB 370 was passed to third reading.

SB 681 ON SECOND READING

(J. Davis - House Sponsor)

SB 681, A bill to be entitled An Act relating to the establishment of a task force to study the assessments of children in the child welfare system.

Amendment No. 1

Representative J. Davis offered the following amendment to **SB 681**:

Amend **SB 681** (house committee printing) in SECTION 1 of the bill, adding Section 40.074(g), Human Resources Code (page 3, line 8), by striking "adopt" and substituting "recommend to the legislature".

Amendment No. 1 was adopted.

SB 681, as amended, failed to pass to third reading by (Record 1342): 63 Yeas, 76 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Branch; Brown; Burnam; Castro; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Isaac; Johnson; Keffer; King, T.; Lavender; Lewis; Lucio; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Morrison; Murphy; Naishtat; Patrick; Peña; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Scott; Simpson; Smithee; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, S.; Driver; Eissler; Fletcher; Flynn; Frullo; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Howard, C.; Huberty; Hughes; Hunter; Jackson; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Legler; Madden; Margo; Miller, D.; Miller, S.; Nash; Orr; Otto; Parker; Paxton; Perry; Phillips; Price; Riddle; Ritter; Schwertner; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Menendez.

Absent — Callegari; Elkins; Lozano; Muñoz; Oliveira; Rodriguez; Torres.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1342. I intended to vote no.

Lewis

When Record No. 1342 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. 1342. I intended to vote no.

Peña

I was shown voting yes on Record No. 1342. I intended to vote no.

Pitts

**SB 781 ON SECOND READING
(Cook - House Sponsor)**

SB 781, A bill to be entitled An Act relating to the repeal of certain legislative oversight committees.

(Speaker in the chair)

Amendment No. 1

Representatives D. Miller, T. King, and Hilderbran offered the following amendment to **SB 781**:

Amend **SB 781** (house committee printing), in SECTION 1 of the bill, as follows:

(1) At the end of Subdivision (2), immediately following the semicolon, insert "and".

(2) At the end of Subdivision (3), strike "; and" and substitute "."

(3) Strike Subdivision (4), repealing Section 3.01, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

Amendment No. 1 was adopted.

SB 781, as amended, was passed to third reading.

SB 1799 ON SECOND READING
(Branch and Alonzo - House Sponsors)

SB 1799, A bill to be entitled An Act relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

SB 1799 was passed to third reading.

CSSB 1714 ON SECOND READING
(Chisum - House Sponsor)

CSSB 1714, A bill to be entitled An Act relating to certain actions against an employer by an employee who is not covered by workers' compensation insurance.

Amendment No. 1

Representative Chisum offered the following amendment to **CSSB 1714**:

Amend **CSSB 1714** (house committee printing) as follows:

(1) In SECTION 2 of the bill, in amended Section 406.034(d), Labor Code (page 2, line 8), strike "under" and substitute "in connection with".

(2) In SECTION 3 of the bill, in Subsection (b) of that section (page 2, lines 25 and 26), strike "accrues" each time that word appears and substitute "is filed".

Amendment No. 1 was adopted.

CSSB 1714, as amended, was passed to third reading.

SB 542 ON SECOND READING
(Fletcher - House Sponsor)

SB 542, A bill to be entitled An Act relating to the regulation of law enforcement officers by the Commission on Law Enforcement Officer Standards and Education.

Amendment No. 1

Representative Fletcher offered the following amendment to **SB 542**:

Amend **SB 542** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION _____. The heading to Section 96.641, Education Code, is amended to read as follows:

Sec. 96.641. INITIAL TRAINING AND CONTINUING EDUCATION FOR POLICE CHIEFS AND COMMAND STAFF.

SECTION _____. Section 96.641, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The institute may establish and offer a continuing education program for command staff for individuals who are second in command to police chiefs. The command staff continuing education program must satisfy the requirements for the police chief continuing education program under Subsection (a).

SECTION _____. Section 1701.351, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) A peace officer who is second in command to a police chief of a law enforcement agency and who attends a continuing education program for command staff provided by the Bill Blackwood Law Enforcement Management Institute of Texas under Section 96.641, Education Code, is exempt from the continuing education requirements of this subchapter.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Walle offered the following amendment to **SB 542**:

Amend **SB 542** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Subchapter M, Chapter 1701, Occupations Code, is amended to read as follows:

SUBCHAPTER M. SCHOOL ~~[VISITING]~~ RESOURCE OFFICERS AND ~~[OFFICER IN PUBLIC]~~ SCHOOL DISTRICT PEACE OFFICERS

SECTION _____. Subchapter M, Chapter 1701, Occupations Code, is amended by adding Section 1701.604 to read as follows:

Sec. 1701.604. EDUCATION AND TRAINING PROGRAM. (a) Except as provided by Subsection (b), this section applies only to:

(1) a school district peace officer commissioned under Section 37.081, Education Code; or

(2) a school resource officer, as defined by Section 1701.601.

(b) This section does not apply to a peace officer while the peace officer is assigned to a school-sponsored event at which formal classroom instruction is not offered.

(c) A peace officer may not serve as a school district peace officer for more than 30 days unless the peace officer has completed a 16-hour or longer education and training program approved by the commission under this section, except as provided by Subsection (d), and has received a certificate under Subsection (e). A peace officer may not serve as a school resource officer for

more than 90 days unless the officer has completed a 16-hour or longer education and training program approved by the commission under this section, except as provided by Subsection (d), and has received a certificate under Subsection (e).

(d) A peace officer who has received comparable education and training through the Bexar County children's crisis intervention training program or the Texas School Safety Center at Texas State University is not required to complete the education and training program approved by the commission under this section to serve as a school district peace officer or school resource officer.

(e) The commission shall issue a professional achievement or proficiency certificate to a peace officer on successful completion of an education and training program:

(1) approved by the commission under this section; or

(2) described by Subsection (d).

(f) The commission shall appoint 12 members to a school resource curriculum committee to develop the curriculum for the education and training program under this section. The school resource curriculum committee shall be composed as follows:

(1) one representative of the Bexar County children's crisis intervention training program;

(2) one representative of the Texas School Safety Center at Texas State University;

(3) one representative of the commission;

(4) one representative of the Texas Municipal Police Association;

(5) one representative of the Texas Education Agency;

(6) one representative of a local mental health authority, as defined by Section 571.003, Health and Safety Code;

(7) a peace officer with certification in crisis intervention;

(8) a school district peace officer;

(9) one representative of an organization that advocates for juvenile justice;

(10) one representative of an organization that advocates for civil liberties;

(11) one representative of an organization representing parents of public school students; and

(12) one representative of the Texas School District Police Chiefs' Association.

(g) Members of the school resource curriculum committee serve terms of two years.

(h) The school resource curriculum committee shall develop the curriculum for the education and training program under this section based on the model curriculum used for the Bexar County children's crisis intervention training program and in accordance with Subsection (i). The curriculum must be approved by the commission. After developing the program, the committee may review and revise the curriculum for the program annually or as the committee determines

necessary. Any revision must be approved by the commission. In carrying out its duties, the committee may use technology, including teleconferencing or videoconferencing, to eliminate travel expenses.

(i) The curriculum for the education and training program under this section must incorporate learning objectives regarding:

(1) child and adolescent development and psychology;

(2) positive behavioral interventions and supports, conflict resolution techniques, and restorative justice techniques;

(3) force usage limitations, including physical restraint, and de-escalation techniques;

(4) children with disabilities or special needs, including mental or behavioral health needs; and

(5) cultural competency.

(j) The education and training program under this section may be provided:

(1) as a collaborative model within a community that:

(A) involves local stakeholders; and

(B) incorporates didactic and experiential training using the best practice model of the Bexar County children's crisis intervention training program;

(2) by a school determined appropriate for operation under Section 1701.251; or

(3) as an online training program sponsored by an online training provider if the training provider also provides training under Section 1701.251.

(k) A school district may offer additional, commission-approved preparatory education or training to its school district peace officers and school resource officers.

(l) The superintendent of a school district that employs a peace officer or to which a school resource officer is assigned shall maintain on file the certification issued to the officer under Subsection (e).

(m) Notwithstanding Section 1701.351(a), the commission may not suspend the license of a peace officer solely because the peace officer fails to meet the requirements of this section.

SECTION _____. Not later than March 31, 2012, the Commission on Law Enforcement Officer Standards and Education shall approve the curriculum for the education and training program as required by Section 1701.604, Occupations Code, as added by this Act.

SECTION _____. Section 1701.604, Occupations Code, as added by this Act, applies only to a school district peace officer or school resource officer who is serving or has been assigned, appointed, commissioned, or employed by a school district to serve in that capacity on or after March 31, 2012.

Amendment No. 2 was adopted.

SB 542, as amended, was passed to third reading.

**HB 2499 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Cook called up with senate amendments for consideration at this time,

HB 2499, A bill to be entitled An Act relating to the continuation and functions of the Department of Information Resources and the transfer of certain department functions to the comptroller of public accounts.

Representative Cook moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2499**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2499**: Cook, chair; Bonnen, Branch, Geren, and Menendez.

**HB 1951 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative L. Taylor called up with senate amendments for consideration at this time,

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 that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1951**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1951**: L. Taylor, chair; Smithee, Hancock, Vo, and Bonnen.

POSTPONED BUSINESS

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

**CSSB 332 ON SECOND READING
(Ritter - House Sponsor)**

CSSB 332, A bill to be entitled An Act relating to the ownership of groundwater below the surface of land, the right to produce that groundwater, and the management of groundwater in this state.

CSSB 332 was read second time earlier today, an amendment was offered and disposed of, and **CSSB 332** was postponed until this time.

CSSB 332 - POINT OF ORDER

Representative Farrar raised a point of order against further consideration of **CSSB 332** 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.

CSSB 332 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PRICE: Mr. Chairman, you know I support this bill, and we worked hard in our committee to get this to the point where it is. But, I have a few questions I wanted to ask you for legislative intent. First, I wanted to ask you and clarify that water rights can be severed by the landowner and lease transferred or conveyed under current law, correct?

REPRESENTATIVE RITTER: Yes. That's true.

PRICE: So, this bill will not and is not intended to change the right to sever groundwater rights, is it?

RITTER: No, it does not.

PRICE: So, even though this bill refers to a landowner who owns groundwater below the surface of his land, it does not preclude an owner of water rights who is not also the surface owner from transferring, leasing, reserving, or conveying his water?

RITTER: No, it does not.

PRICE: Finally, there was a sentence in an earlier version of the bill that stated, "Groundwater ownership and rights may be transferred, conveyed, or leased in the same manner and by the same means as any other ownership interest in real property." That was removed in the final committee substitute as a redundant statement since the bill already states the landowner owns the groundwater below the surface as real property. Is that correct?

RITTER: That's correct.

PRICE: So, by removing that text I just read, there's no implication that one who owns groundwater rights, whether severed previously or not, is in any way precluded from transferring, conveying, or leasing their water rights. Is that accurate?

RITTER: That's accurate, Mr. Price.

REMARKS ORDERED PRINTED

Representative Price moved to print remarks between Representative Ritter and Representative Price.

The motion prevailed.

CSSB 332, as amended, was passed to third reading.

**HB 592 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Pitts called up with senate amendments for consideration at this time,

HB 592, A bill to be entitled An Act relating to certain counties that are not required to operate a juvenile justice alternative education program.

Representative Pitts moved to concur in the senate amendments to **HB 592**.

The motion to concur in the senate amendments to **HB 592** prevailed by (Record 1343): 140 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; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; 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 — Menendez.

Absent — Callegari; Coleman; Davis, J.; Gallego; Hochberg; Hopson; Hughes; Naishtat.

STATEMENTS OF VOTE

When Record No. 1343 was taken, I was in the house but away from my desk. I would have voted yes.

Gallego

When Record No. 1343 was taken, I was in the house but away from my desk. I would have voted yes.

Hopson

When Record No. 1343 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

Senate Committee Substitute

CSHB 592, A bill to be entitled An Act relating to certain counties that are not required to operate a juvenile justice alternative education program.

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

SECTION 1. Section 37.011, Education Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of 250,000 or less;

(2) is adjacent to two counties, each of which has a population of more than 1.7 million, or is adjacent to two counties, each of which has a population of less than 150,000; and

(3) has seven or more school districts located wholly within the county's boundaries.

SECTION 2. This Act applies beginning with the 2011-2012 school year.

SECTION 3. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 592** (senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 37.011(a-2)(1), Education Code (page 1, line 18), strike "250,000" and substitute "180,000".

(2) In SECTION 1 of the bill, in added Section 37.011(a-2)(2), Education Code (page 1, lines 20 and 21), strike ", or is adjacent to two counties, each of which has a population of less than 150,000".

PROVIDING FOR ADJOURNMENT

Representative Berman moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the signing of bills and resolutions in the presence of the house, and the receipt of senate messages, the house adjourn until 9 a.m. tomorrow.

The motion prevailed.

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. 32).

(Hughes in the chair)

RESOLUTIONS REFERRED TO COMMITTEES

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Kolkhorst in the chair)

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).

ADJOURNMENT

In accordance with a previous motion, the house, at 11:47 p.m., adjourned until 9 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HR 2094 (By Allen), Congratulating Marivel Holguin on her 2011 graduation from the Texas School for the Deaf.

To Rules and Resolutions.

HR 2095 (By Perry), Commemorating the 100th anniversary of the founding of Slaton.

To Rules and Resolutions.

HR 2096 (By Reynolds), Honoring city council member Don Smith of Missouri City for his public service.

To Rules and Resolutions.

HR 2097 (By Reynolds), Honoring city council member Jerry Wyatt of Missouri City for his public service.

To Rules and Resolutions.

HR 2098 (By Reynolds), Honoring city council member Robin Elackatt of Missouri City for his public service.

To Rules and Resolutions.

HR 2099 (By Reynolds), Honoring city council member Bobby Marshall of Missouri City for his public service.

To Rules and Resolutions.

HR 2100 (By Reynolds), Honoring Mayor Allen Owen of Missouri City for his public service.

To Rules and Resolutions.

HR 2101 (By Reynolds), Honoring city council member Danny Nguyen of Missouri City for his public service.

To Rules and Resolutions.

HR 2102 (By Reynolds), Honoring Mayor Joe M. Gurecky for his many years of service to the citizens of Rosenberg.

To Rules and Resolutions.

HR 2103 (By Reynolds), Honoring Mayor Hilmar Moore of Richmond for his public service.

To Rules and Resolutions.

HR 2104 (By Carter), Honoring Dallas attorney Starlett Carter for her pro bono service.

To Rules and Resolutions.

HR 2105 (By Carter), Commending U.S. Army Private Heather Row for her desire to serve her country.

To Rules and Resolutions.

HR 2106 (By Carter), Congratulating Lanet Greenhaw of Richardson on her new position as director of education for the Dallas Regional Chamber.

To Rules and Resolutions.

HR 2107 (By Carter), Commending Linda Jaresh for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2108 (By Dutton), In memory of Charles Edward Cheeks, Sr., of Houston.

To Rules and Resolutions.

HR 2109 (By Anchia), Honoring Edgar Morales for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

HR 2110 (By Anchia), Congratulating Roy R. Barrera, Sr., on the 60th anniversary of his State Bar of Texas licensure and his six decades as a practicing lawyer.

To Rules and Resolutions.

HR 2111 (By Gutierrez), Honoring Jorge L. Reyes of El Paso for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

HR 2112 (By Harper-Brown), Congratulating the City of Irving on its receipt of a 2011 Texas Award for Performance Excellence from the Quality Texas Foundation.

To Rules and Resolutions.

HR 2113 (By Paxton), Congratulating the McKinney Police Department 9-1-1 dispatchers on their receipt of the 2011 Team 9-1-1 Award of Merit.

To Rules and Resolutions.

HR 2114 (By Margo), Congratulating Maddison Kahner Dowdy, Alejandro Marquez, Mariana Villanueva, Natalie Felsen, and Katherine Nielson from Franklin High School in El Paso for placing first in the Stock Market Game Legislative Challenge, sponsored by the Texas Council on Economic Education.

To Rules and Resolutions.

HR 2115 (By Hopson), In memory of James Edgar Brown of Jacksonville.

To Rules and Resolutions.

HR 2116 (By Peña), In memory of Jaime J. "Bino" Zapata of Edinburg.

To Rules and Resolutions.

HR 2118 (By Workman), Congratulating J. O. and Nancy Duncan on their 60th wedding anniversary.

To Rules and Resolutions.

HR 2119 (By Geren), In memory of Colonel Philip J. Kuhl.

To Rules and Resolutions.

HR 2121 (By Reynolds), Honoring Joel F. Fitzgerald, Sr., for his service as chief of police in Missouri City.

To Rules and Resolutions.

HR 2122 (By Strama), Congratulating the Concordia University baseball team on winning the 2011 American Southwest Conference championship.

To Rules and Resolutions.

HR 2123 (By Christian), Commending Jonathon McClellan on his service as chief of staff to State Representative Wayne Christian.

To Rules and Resolutions.

HR 2124 (By Christian), Commending Brady Colby for his service as an intern in the office of State Representative Wayne Christian.

To Rules and Resolutions.

HR 2125 (By Christian), Commending Wesley Luke Bullock on his service as legislative director for State Representative Wayne Christian.

To Rules and Resolutions.

HR 2126 (By Christian), Commending Travis McCormick for his service as a legislative assistant in the office of State Representative Wayne Christian.

To Rules and Resolutions.

HR 2127 (By Christian), Congratulating Christopher Herrington on the occasion of his retirement as a teacher at the Martin School of Choice in Nacogdoches.

To Rules and Resolutions.

HR 2128 (By Christian), Commending Cameron Harley for his service as an intern in the office of State Representative Wayne Christian.

To Rules and Resolutions.

HR 2129 (By Christian), Honoring teacher and coach Kay Butler for her service to the Buna Independent School District.

To Rules and Resolutions.

HR 2130 (By Christian), Commending Gabriele Nestande for her service as an administrative aide in the office of State Representative Wayne Christian.

To Rules and Resolutions.

HR 2131 (By Cain), Recognizing Jarrian Roberts of Clarksville on being chosen for the Texas Association of Basketball Coaches 1A Division 1 All-State Team.

To Rules and Resolutions.

HR 2132 (By Cain), Honoring the fifth-grade choir of Chapel Hill Elementary School in Mount Pleasant on the occasion of its 2011 performance in the Capitol Rotunda.

To Rules and Resolutions.

HR 2134 (By Hilderbran), Honoring Joe Herring, Jr., of Kerrville for his contributions to his community and congratulating him on the publication of his book *Home: Photographs of Kerrville*.

To Rules and Resolutions.

HR 2135 (By Rodriguez), Congratulating Matthew Curtis on being named the 2011 Austinite of the Year at the Austin Under 40 Awards sponsored by the Young Women's Alliance and Young Men's Business League.

To Rules and Resolutions.

HR 2136 (By Rodriguez), Honoring Valerie Lila Danielle Vera for her participation in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

HR 2137 (By Deshotel), Congratulating Lamar University chief of police Dale Fontenot on his retirement.

To Rules and Resolutions.

HR 2138 (By Truitt), Congratulating the boys' swimming and diving team of Carroll High School in Southlake on winning the UIL 5A state championship.

To Rules and Resolutions.

HR 2139 (By W. Smith), Congratulating the Lady Rangers water polo team of Ross S. Sterling High School in Baytown on winning the 2010-2011 TISCA state title.

To Rules and Resolutions.

HR 2140 (By W. Smith), Recognizing May 21 to 27, 2011, as National Safe Boating Week.

To Rules and Resolutions.

HR 2141 (By Dukes), Honoring Juan Carlos Garcia of Dallas for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

HR 2143 (By Darby), In memory of Hope Wilson Huffman of San Angelo.

To Rules and Resolutions.

HR 2144 (By Isaac), Commending Gregory R. Bentsch for his service as an intern in the office of State Representative Jason Isaac.

To Rules and Resolutions.

HR 2145 (By Isaac), Honoring Brian C. Mitchell for his service as an intern in the office of State Representative Jason Isaac during the 82nd Legislative Session.

To Rules and Resolutions.

HR 2146 (By Harper-Brown), Commemorating the 25th anniversary of FigDesign in Irving.

To Rules and Resolutions.

HR 2147 (By Bohac), In memory of William Arnold McMinn, Jr., of Brookshire.

To Rules and Resolutions.

HR 2148 (By Workman), Congratulating Jacob Hume on attaining the rank of Eagle Scout.

To Rules and Resolutions.

HR 2149 (By Workman), Congratulating Thomas Dunn on attaining the rank of Eagle Scout.

To Rules and Resolutions.

HR 2150 (By Weber), In memory of Thomas Patton Alexander, Sr., of Pearland.

To Rules and Resolutions.

HR 2152 (By S. Miller), In memory of Michael Cook Walton of Stephenville.

To Rules and Resolutions.

HR 2153 (By S. Miller), In memory of Brack Barnard Jones.

To Rules and Resolutions.

HR 2154 (By Torres), Honoring Tristan Summers for his service in the office of State Representative Raul Torres.

To Rules and Resolutions.

HR 2155 (By Torres), Commending Katie Gleghorn for her service as an intern in the office of State Representative Raul Torres.

To Rules and Resolutions.

HR 2156 (By V. Taylor), Commending Drinda Randall for her service as district director for State Representative Van Taylor.

To Rules and Resolutions.

HR 2157 (By V. Taylor), Commending James Zhu for his service as an intern in the office of State Representative Van Taylor.

To Rules and Resolutions.

HR 2158 (By V. Taylor), Commending Rachel Pace for her service as an intern in the office of State Representative Van Taylor.

To Rules and Resolutions.

HR 2159 (By V. Taylor), Commending Jordan Willford for her service as a legislative aide in the office of State Representative Van Taylor.

To Rules and Resolutions.

HR 2160 (By V. Taylor), Commending Madeleine Bell for her service as a scheduler and legislative aide in the office of State Representative Van Taylor.

To Rules and Resolutions.

HR 2161 (By Torres), Honoring Chase Skjolsvik for his service in the office of State Representative Raul Torres.

To Rules and Resolutions.

HR 2162 (By Quintanilla), In memory of Alfonso "Poncho" Cardenas of El Paso.

To Rules and Resolutions.

HR 2164 (By Workman), Congratulating the Lake Travis High School boys' golf team on winning the 2011 UIL 4A state championship.

To Rules and Resolutions.

HR 2165 (By Workman), Congratulating Conor O'Rourke and Austin Mayo of Lake Travis High School on winning the 4A state championship in doubles tennis.

To Rules and Resolutions.

HR 2166 (By V. Gonzales), Honoring Katherine Mendiola of Edinburg for her participation in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

HR 2167 (By V. Gonzales), Recognizing April 2011 as National Foot Health Awareness Month.

To Rules and Resolutions.

HR 2168 (By V. Gonzales), In memory of Jaime Longoria, Jr., of Edinburg.

To Rules and Resolutions.

HR 2169 (By V. Gonzales), Congratulating Lupe Silva on being named the March 2011 McAllen Cancer Fighter of the Month by the American Cancer Society.

To Rules and Resolutions.

HR 2170 (By V. Gonzales), Commemorating the 20th anniversary of Gonzalez Elementary School in McAllen.

To Rules and Resolutions.

HR 2171 (By V. Gonzales), In memory of Stuart Mason Wilkinson of McAllen.

To Rules and Resolutions.

HR 2172 (By V. Gonzales), In memory of Grace Neuhaus Richards of McAllen.

To Rules and Resolutions.

HR 2173 (By V. Gonzales), In memory of Maria Teresa "Terrie" Rabago.

To Rules and Resolutions.

HR 2174 (By S. Miller), Congratulating State Representative Bill Callegari and his wife, Ann, on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2175 (By Madden), In memory of former Plano mayor James Wyatt Edwards.

To Rules and Resolutions.

HR 2176 (By Y. Davis), Commending Nimi Noble Kemuel for his service as an intern in the office of State Representative Yvonne Davis.

To Rules and Resolutions.

HR 2178 (By Truitt), In memory of Clayton Eugene "Gene" Reynolds of North Richland Hills.

To Rules and Resolutions.

HR 2179 (By Harper-Brown), Congratulating Bethany Noel Harper on her graduation from Kaufman High School.

To Rules and Resolutions.

HR 2180 (By Torres), Honoring Gene Seaman for his service during the 82nd Legislative Session.

To Rules and Resolutions.

HR 2182 (By Madden), Congratulating Captain Kevin Hughes on his retirement from the Richardson Police Department.

To Rules and Resolutions.

HR 2183 (By Madden), Congratulating Assistant Chief Mike Corley on his retirement from the Richardson Police Department.

To Rules and Resolutions.

HR 2184 (By Madden), Congratulating Officer Diane Bartek on her retirement from the Richardson Police Department.

To Rules and Resolutions.

HR 2185 (By Madden), Congratulating Dan White on his retirement as a full-time officer with the Richardson Police Department.

To Rules and Resolutions.

HR 2186 (By Madden), Congratulating Sergeant Tommy Ellis on his retirement from the Richardson Police Department.

To Rules and Resolutions.

HR 2187 (By Madden), Congratulating Officer Tom Koch on being named the 2010 Rookie of the Year by the Richardson Police Department.

To Rules and Resolutions.

HR 2188 (By Madden), Congratulating Sergeant Ed Coleman on his retirement from the Richardson Police Department.

To Rules and Resolutions.

HR 2189 (By Madden), Congratulating Sergeant Steve Moore of the Richardson Police Department on being named the 2010 Officer of the Year.

To Rules and Resolutions.

HR 2190 (By Madden), Congratulating Officer John Corbitt on his retirement from the Richardson Police Department.

To Rules and Resolutions.

HR 2192 (By Craddick), Congratulating the boys' track team of Midland Christian School on winning the 2011 TAPPS 4A state championship.

To Rules and Resolutions.

HR 2193 (By Craddick), Commemorating the 25th anniversary of the Helen L. Greathouse Children's Center in 2011.

To Rules and Resolutions.

HR 2194 (By Schwertner), Congratulating the girls' track and field team of C. H. Yoe High School in Cameron on winning the UIL 2A state championship.

To Rules and Resolutions.

HR 2195 (By Schwertner), Congratulating the Cooke family on 100 consecutive years of ownership of the Rockdale Reporter.

To Rules and Resolutions.

HR 2196 (By Harper-Brown), Commending Valeria Dayer for her service as an intern in the district office of State Representative Linda Harper-Brown.

To Rules and Resolutions.

HR 2197 (By Harper-Brown), Congratulating Helen Bradley of the Irving Independent School District on her receipt of a 2010-2011 Outstanding Teaching of the Humanities Award.

To Rules and Resolutions.

HR 2198 (By Harper-Brown), Commending Katie Rebecca Bennett for her service as an administrative assistant in the office of State Representative Linda Harper-Brown.

To Rules and Resolutions.

HR 2199 (By Harper-Brown), Commending James W. Carter for his service as legislative director in the office of State Representative Linda Harper-Brown.

To Rules and Resolutions.

HR 2200 (By C. Anderson), Congratulating Tiffany Kristen Jeske and Bryan Clay Fleming of Riesel on their wedding.

To Rules and Resolutions.

HR 2201 (By C. Anderson), In memory of Jo Ann Darden of Waco.

To Rules and Resolutions.

HR 2202 (By C. Anderson), In memory of Ruby Jewel King of Robinson.

To Rules and Resolutions.

HR 2203 (By Flynn), Congratulating Van High School's Way Off Broadway theater company on winning the 2011 UIL Conference 3A State One-Act Play Contest.

To Rules and Resolutions.

HR 2204 (By Flynn), Commemorating the 75th anniversary of the Canton FFA.

To Rules and Resolutions.

HR 2205 (By C. Anderson), In memory of Glidden D. O'Connor, Jr., of Waco.

To Rules and Resolutions.

HR 2206 (By C. Anderson), In memory of Judy Letitia Bales of Waco.

To Rules and Resolutions.

HR 2207 (By C. Anderson), Congratulating Betty Lou and Paul D. Marable of Waco on their 65th wedding anniversary.

To Rules and Resolutions.

HR 2208 (By C. Anderson), In memory of Bette Pape Skinner of Waco.

To Rules and Resolutions.

HR 2209 (By C. Anderson), In memory of Julius Albert Backus of Waco.

To Rules and Resolutions.

HR 2210 (By C. Anderson), In memory of Laura Lumpkin of Waco.

To Rules and Resolutions.

HR 2211 (By C. Anderson), In memory of Margaret Sugg McNamara of Waco.

To Rules and Resolutions.

HR 2212 (By C. Anderson), In memory of Dr. Albert Ray Niederer of Woodway.

To Rules and Resolutions.

HR 2213 (By C. Anderson), In memory of Bob L. Corbitt of Speegleville.

To Rules and Resolutions.

HR 2214 (By C. Anderson), In memory of Margaret Vandever of Waco.

To Rules and Resolutions.

HR 2215 (By C. Anderson), In memory of Lewis Edwards Champ of Waco.

To Rules and Resolutions.

HR 2216 (By C. Anderson), In memory of Geraldine Howard of Waco.

To Rules and Resolutions.

HR 2217 (By C. Anderson), In memory of Ina Mae Allen of McGregor.

To Rules and Resolutions.

HR 2218 (By C. Anderson), In memory of Maria Emma Castro of Waco.

To Rules and Resolutions.

HR 2219 (By C. Anderson), In memory of James Edward Jones of Waco.

To Rules and Resolutions.

HR 2220 (By C. Anderson), In memory of Esther Hilda Schimschat of Waco.

To Rules and Resolutions.

HR 2221 (By C. Anderson), In memory of Martha Louise "Suzie" Hamilton of Waco.

To Rules and Resolutions.

HR 2222 (By C. Anderson), In memory of Mary Ann McManus of Waco.

To Rules and Resolutions.

HR 2223 (By C. Anderson), Congratulating Louis and Shirley Sims of Waco on their 38th wedding anniversary.

To Rules and Resolutions.

HR 2224 (By C. Anderson), Congratulating Wilburn and Doris Schuette of McGregor on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2225 (By C. Anderson), In memory of Audrey Ellen Davidson of Waco.

To Rules and Resolutions.

HR 2226 (By C. Anderson), In memory of Ruth Marie Warren of Axtell.

To Rules and Resolutions.

HR 2227 (By C. Anderson), In memory of Marion Herring of Waco.

To Rules and Resolutions.

HR 2228 (By C. Anderson), In memory of Bob Parsons of Waco.

To Rules and Resolutions.

HR 2229 (By C. Anderson), In memory of Betty Jane Dalrymple of Waco.

To Rules and Resolutions.

HR 2230 (By C. Anderson), In memory of Sam Moses of Waco.

To Rules and Resolutions.

HR 2231 (By C. Anderson), In memory of Bridger Wayne Hogan of Eddy.

To Rules and Resolutions.

HR 2232 (By C. Anderson), In memory of Ross S. Tennison of Waco.

To Rules and Resolutions.

HR 2233 (By C. Anderson), In memory of Lawrence James Tanner, Jr., of Waco.

To Rules and Resolutions.

HR 2234 (By C. Anderson), In memory of Richard Buck Ashley of Waco.

To Rules and Resolutions.

HR 2235 (By C. Anderson), In memory of Professor F. Gordon A. Stone of Waco.

To Rules and Resolutions.

HR 2236 (By C. Anderson), In memory of Gladys Virginia Burton of Moody and Waco.

To Rules and Resolutions.

HR 2237 (By C. Anderson), In memory of Donald E. Harris of Lorena.

To Rules and Resolutions.

HR 2238 (By C. Anderson), In memory of Nora Mae Sommerfeld England of Waco.

To Rules and Resolutions.

HR 2239 (By C. Anderson), Congratulating A. J. and Mickey Uptmore on their 65th wedding anniversary.

To Rules and Resolutions.

HR 2240 (By C. Anderson), In memory of Nell Yates Helka of Waco.

To Rules and Resolutions.

HR 2241 (By C. Anderson), In memory of Helen Marie Brady Hunter of Waco.

To Rules and Resolutions.

HR 2242 (By C. Anderson), Congratulating Jake and Bettye Tucker of West on their 60th wedding anniversary.

To Rules and Resolutions.

HR 2243 (By C. Anderson), In memory of Norvil Lavel Flatt.

To Rules and Resolutions.

HR 2244 (By C. Anderson), In memory of Johnna Lynn Behringer of Waco.

To Rules and Resolutions.

HR 2245 (By C. Anderson), In memory of Wayne Roy Neumann.

To Rules and Resolutions.

HR 2246 (By C. Anderson), In memory of Benjamin Aviles of McGregor.

To Rules and Resolutions.

HR 2247 (By C. Anderson), In memory of Ernest E. "Gene" King of Robinson.

To Rules and Resolutions.

HR 2248 (By C. Anderson), In memory of Dora Kate Howell of Waco.

To Rules and Resolutions.

HR 2249 (By C. Anderson), In memory of Ernest "Ray" Hicks of Waco.

To Rules and Resolutions.

HR 2250 (By C. Anderson), In memory of Gloria St. John of Waco.

To Rules and Resolutions.

HR 2251 (By C. Anderson), In memory of Ida Mae Niekamp of Waco.

To Rules and Resolutions.

HR 2252 (By C. Anderson), In memory of Mary Ann Harold of Waco.

To Rules and Resolutions.

HR 2253 (By C. Anderson), In memory of Dorothy Nolan of Waco.

To Rules and Resolutions.

HR 2254 (By Isaac), Congratulating State Representative Paul Workman and his wife, Sherry, on the occasion of their 40th wedding anniversary.

To Rules and Resolutions.

HR 2255 (By Bohac), In memory of U.S. Army Specialist Andrew J. Roughton of Houston.

To Rules and Resolutions.

HR 2256 (By Woolley), Congratulating David and Caroline Pierce of Houston on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2257 (By Alvarado), Honoring Drayton McLane, Jr., on his successful tenure as the owner of the Houston Astros.

To Rules and Resolutions.

HR 2258 (By Sheffield), Congratulating D. L. and Aggie Shannon of Temple on their 70th wedding anniversary.

To Rules and Resolutions.

HR 2259 (By Sheffield), Congratulating Robert and Kathy Ranly of Temple on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2260 (By Sheffield), Congratulating Felipe and Corina Martinez of Temple on their 55th wedding anniversary.

To Rules and Resolutions.

HR 2261 (By Marquez), Honoring the Good Luck Cafe in El Paso and recognizing its owners, the Puentes family, for more than 50 years in the restaurant business.

To Rules and Resolutions.

HR 2262 (By Marquez), In memory of Carlos Marquez, Sr., of El Paso.

To Rules and Resolutions.

HR 2263 (By Marquez), In memory of Cesar Marquez of El Paso.

To Rules and Resolutions.

HR 2264 (By Marquez), In memory of Daisy Marquez-Starr of El Paso.

To Rules and Resolutions.

HR 2265 (By Marquez), Congratulating the boys' track and field team from Chapin High School in El Paso on winning the District 1-4A championship.

To Rules and Resolutions.

HR 2266 (By Marquez), Honoring the Braden About Memorial Foundation.

To Rules and Resolutions.

HR 2267 (By Marquez), Congratulating the Mithoff Burton Partners advertising firm in El Paso on its 80th anniversary.

To Rules and Resolutions.

HR 2268 (By Marquez), Honoring the life of Rosa Macias Van Sweringen of El Paso and recognizing her bequest to the Bowie Alumni Association.

To Rules and Resolutions.

HR 2269 (By Marquez), Honoring the El Paso County Sheriff's Office Special Operations Bureau for its contributions to area public safety.

To Rules and Resolutions.

HR 2270 (By Frullo), Congratulating the Texas Home School Coalition on the 25th anniversary of its founding.

To Rules and Resolutions.

HR 2271 (By Frullo), Congratulating Art and Nancy Howard of Lubbock on their 60th wedding anniversary.

To Rules and Resolutions.

HR 2272 (By Hilderbran), In memory of Rodney Dean Castleberry of Luling.

To Rules and Resolutions.

HR 2273 (By Isaac), Commending Laura Campos for her service as an intern in the office of State Representative Jason Isaac.

To Rules and Resolutions.

HR 2274 (By Anchia), Commemorating the groundbreaking for the Adelfa Botello Callejo Elementary School in Dallas.

To Rules and Resolutions.

HR 2275 (By Strama), Congratulating Cynthia Diaz de Leon on being named the 2010-2011 Teacher of the Year at Union Hill Elementary School in Round Rock.

To Rules and Resolutions.

HR 2276 (By L. Gonzales), Honoring the buddies and volunteers of the Miracle League of Austin.

To Rules and Resolutions.

HR 2278 (By Coleman), Recognizing the Texas Legislative Internship Program and congratulating its alumni and all those who have contributed to the program's success.

To Rules and Resolutions.

HR 2279 (By Martinez Fischer), Congratulating the Harlandale Independent School District on its receipt of the 2011 H-E-B Excellence in Education Award for large districts.

To Rules and Resolutions.

HR 2280 (By Gooden), Honoring Richard E. Dwelle of Athens for his service to this country and to the Lone Star State.

To Rules and Resolutions.

HR 2281 (By Gooden), Honoring Major General (Ret.) Paul E. Landers, Jr., for his service to the United States.

To Rules and Resolutions.

HR 2282 (By Gooden), In memory of Charles Benjamin Stiff of Gun Barrel City.

To Rules and Resolutions.

HR 2283 (By Gooden), Honoring John Trischitti III for his service as the assistant director of the Riter C. Hulse Public Library in Terrell.

To Rules and Resolutions.

HR 2284 (By Gooden), Honoring George Robert Ludwig for his heroism during the Vietnam War.

To Rules and Resolutions.

HR 2285 (By Gooden), Congratulating Connor Oakley of Terrell on attaining the rank of Eagle Scout.

To Rules and Resolutions.

HR 2286 (By Madden), Honoring Dixie Clem for her service to the Collin County Republican Party.

To Rules and Resolutions.

HR 2287 (By Y. Davis), Commending Shalette N. Mitchell for her service as a legislative intern in the office of State Representative Yvonne Davis.

To Rules and Resolutions.

HR 2288 (By C. Anderson), In memory of Roy E. Kokel of Waco.

To Rules and Resolutions.

HR 2289 (By Torres), Commending Evan Grady Stewart for his service as a staff member in the office of State Representative Raul Torres.

To Rules and Resolutions.

HR 2290 (By Lewis), In memory of U.S. Army Sergeant John Paul Castro.

To Rules and Resolutions.

HR 2291 (By V. Taylor), Commending Thomas Fulton for his service as an intern in the office of State Representative Van Taylor.

To Rules and Resolutions.

HR 2292 (By Zedler), Congratulating Carol Daley of Arlington on her selection as America's Most Deserving Mom.

To Rules and Resolutions.

HR 2294 (By McClendon), Honoring the 2011 Class of UTSA Legislative Scholars.

To Rules and Resolutions.

HR 2295 (By Dukes), Honoring State Representative Ruth Jones McClendon for her work in developing the McClendon Legislative Scholars Program.

To Rules and Resolutions.

HR 2296 (By D. Howard), Congratulating Janet Espinosa of Westlake High School on her selection as the 2011 Eanes Independent School District Teacher of the Year.

To Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 35

HB 150, HB 265, HB 361, HB 596, HB 707, HB 960, HB 969, HB 976, HB 1110, HB 1120, HB 1215, HB 1379, HB 1383, HB 1395, HB 1426, HB 1481, HB 1514, HB 1525, HB 1614, HB 1666, HB 1678, HB 1682, HB 1771, HB 1830, HB 1866, HB 1906, HB 2286, HB 2289, HB 2295, HB 2366, HB 2370, HB 2385, HB 2418, HB 2482, HB 2519, HB 2538, HB 2582, HB 2624, HB 2633, HB 2690, HB 2742, HB 2809, HB 2825, HB 2937, HB 2978, HB 3146, HB 3174, HB 3307, HB 3465, HB 3470, HB 3506, HB 3573, HB 3818, HB 3857, HCR 151

Senate List No. 32

SB 31, SB 36, SB 41, SB 58, SB 74, SB 80, SB 122, SB 131, SB 155, SB 219, SB 246, SB 247, SB 256, SB 258, SB 264, SB 310, SB 311, SB 315, SB 387, SB 400, SB 402, SB 419, SB 431, SB 432, SB 436, SB 514, SB 520, SB 540, SB 545, SB 558, SB 601, SB 794, SB 795, SB 813, SB 822, SB 860, SB 882, SB 896, SB 910, SB 953, SB 992, SB 1047, SB 1057, SB 1154, SB 1187, SB 1208, SB 1248, SB 1295, SB 1311, SB 1352, SB 1410, SB 1414, SB 1578, SB 1598, SB 1660, SB 1667, SB 1668, SB 1669, SB 1687, SB 1692, SB 1719, SB 1755, SB 1831, SCR 57

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

Monday, May 23, 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:

HB 159 Raymond SPONSOR: Zaffirini
Relating to the resumption of employment by certain retirees within the Texas Municipal Retirement System.

HB 254 Hilderbran SPONSOR: Wentworth
Relating to establishing the Texas Derbies.

(Amended)

HB 338 Aycock SPONSOR: Seliger
Relating to disclaimers by certain entities promulgating lists of noxious or invasive terrestrial plant species.

(Amended)

HB 364 Turner SPONSOR: Ellis
Relating to condominiums in certain municipalities, including the exercise of eminent domain authority by those municipalities with respect to certain condominiums.

(Amended)

HB 725 Callegari SPONSOR: Fraser
Relating to the operation, powers, and duties of certain water districts.

(Committee Substitute/Amended)

HB 886 Smith, Wayne SPONSOR: Gallegos
Relating to the creation of the Harris County Municipal Utility District No. 528; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

HB 1242 Geren SPONSOR: Harris
Relating to the regulation of certain metal dealers; providing criminal penalties.

(Committee Substitute/Amended)

HB 1315 Aliseda SPONSOR: Zaffirini
Relating to the use of municipal hotel occupancy tax revenue in certain municipalities.

(Committee Substitute)

HB 1469 Hernandez Luna SPONSOR: Gallegos
Relating to exempting certain fraternal and veterans organizations from certain bond requirements to obtain an alcoholic beverage permit or license.

HB 1610 Gonzales, Larry SPONSOR: Patrick
Relating to employment termination procedures applicable to a teacher who is convicted of or receives deferred adjudication for a felony.

(Committee Substitute/Amended)

HB 2507 Chisum SPONSOR: Seliger
Relating to the offense of installing an irrigation system without a license.

HB 2604 Taylor, Larry SPONSOR: Harris
Relating to unencumbered assets held by title agents.

(Committee Substitute)

HB 2729 Callegari SPONSOR: Watson
Relating to local government contracts with private entities for civil works projects and improvements to real property.

(Amended)

HB 3727 Hilderbran SPONSOR: Uresti
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.

(Amended)

SB 1193

Rodriguez

Relating to coordination of services provided by Medicaid managed care organizations and certain community centers and local mental health or mental retardation authorities.

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 1811

Senate Conferees: Duncan - Chair/Deuell/Patrick/West/Williams

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Monday, May 23, 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 CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 61	(30 Yeas, 0 Nays)
SB 116	(30 Yeas, 0 Nays)
SB 141	(30 Yeas, 0 Nays)
SB 260	(30 Yeas, 0 Nays)
SB 544	(30 Yeas, 0 Nays)
SB 639	(30 Yeas, 0 Nays)
SB 690	(30 Yeas, 0 Nays)
SB 1431	(30 Yeas, 0 Nays)

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Monday, May 23, 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 336 Marquez SPONSOR: Rodriguez
Relating to the filing and posting on the Internet of reports of political contributions and expenditures required in connection with the office of member of the board of trustees of certain school districts.
(Amended)

HB 675 Lucio III SPONSOR: Lucio
Relating to football helmet safety requirements in public schools.

HB 1010 Bonnen SPONSOR: Jackson
Relating to enforcement of commercial motor vehicle safety standards in certain municipalities.

HB 1178 Flynn SPONSOR: Birdwell
Relating to employment protection for members of the state military forces.
(Amended)

HB 1353 Elkins SPONSOR: Williams
Relating to speed limits.

HB 1371 Gonzalez, Naomi SPONSOR: Rodriguez
Relating to vehicle parking requirements in certain municipal housing authority communities.
(Committee Substitute)

HB 1619 Orr SPONSOR: Patrick
Relating to emergency service districts.
(Committee Substitute)

HB 1732 Ritter SPONSOR: Hinojosa
Relating to the applicability of the constitutional limit on state debt payable from the general revenues of the state to bonds issued by the Texas Water Development Board.
(Committee Substitute/Amended)

HB 1756 Rodriguez, Eddie SPONSOR: Watson
Relating to the creation of the Pilot Knob Municipal Utility District No. 2; providing authority to impose a tax and issue bonds.

(Committee Substitute)

HB 1757 Rodriguez, Eddie SPONSOR: Watson
 Relating to the creation of the Pilot Knob Municipal Utility District No. 1;
 providing authority to impose a tax and issue bonds.
 (Committee Substitute)

HB 1942 Patrick, Diane SPONSOR: Van de Putte
 Relating to bullying in public schools.
 (Committee Substitute)

HB 2136 Guillen SPONSOR: Zaffirini
 Relating to regional contracted brokers and subcontractors of regional contracted
 brokers providing Medicaid nonemergency medical transportation services.
 (Committee Substitute/Amended)

HB 2226 Truitt SPONSOR: Carona
 Relating to authorized investments for governmental entities.
 (Amended)

HB 2277 Eiland SPONSOR: Williams
 Relating to the sale, exchange, or replacement of life insurance and annuity
 contracts.
 (Amended)

HB 2380 Shelton SPONSOR: Shapiro
 Relating to employment by school districts of certain persons under probationary
 contracts.
 (Amended)

HB 2396 McClendon SPONSOR: Zaffirini
 Relating to the pledge of advanced transportation district sales and use taxes to
 certain bonds.
 (Committee Substitute)

HB 2408 Darby SPONSOR: Harris
 Relating to title insurance.
 (Committee Substitute)

HB 2490 Solomons SPONSOR: Carona
 Relating to the regulation of crafted precious metal dealers; providing criminal
 penalties.
 (Committee Substitute/Amended)

HB 2779 Bohac SPONSOR: Patrick
 Relating to provisions in the dedicatory instruments of property owners'
 associations regarding display of flags.
 (Committee Substitute)

HB 2902 Zerwas SPONSOR: Hegar
 Relating to the extraterritorial jurisdiction of certain municipalities.

HB 3109 Craddick SPONSOR: Seliger
 Relating to the rulemaking power of certain groundwater conservation districts.
 (Committee Substitute)

HB 3111 Craddick SPONSOR: Seliger

Relating to fees to finance capital improvements in certain municipalities.
(Amended)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas
Monday, May 23, 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:

HB 33 Branch SPONSOR: Zaffirini
Relating to measures to increase the affordability of textbooks used for courses at public or private institutions of higher education.

HB 530 Shelton SPONSOR: Davis
Relating to the definition of local law enforcement authority for purposes of the sex offender registration program.

HB 826 Farias SPONSOR: Zaffirini
Relating to facilitating the enrollment in or transfer to a public school district of a student in the conservatorship of the state.

HB 1228 Dutton SPONSOR: West
Relating to payment and collection of assessments and other charges owed to a property owners' association and foreclosure of a property owners' association assessment lien.
(Committee Substitute/Amended)

HB 1568 Coleman SPONSOR: Gallegos
Relating to the authority of certain local governmental entities in certain populous counties to appoint, contract for, or employ physicians.
(Committee Substitute)

HB 1758 Rodriguez, Eddie SPONSOR: Watson
Relating to the creation of the Pilot Knob Municipal Utility District No. 3; providing authority to impose a tax and issue bonds.
(Committee Substitute)

HB 1812 Phillips SPONSOR: Seliger
Relating to the type of newspaper required for publication of notice in certain counties.

- HB 1821** Anderson, Rodney SPONSOR: West
Relating to certain information or guidelines provided by or concerning a property owners' association or concerning subdivisions that are subject to restrictive covenants.
(Committee Substitute/Amended)
- HB 1932** Schwertner SPONSOR: Ogden
Relating to the powers and duties of the Williamson-Liberty Hill Municipal Utility District.
- HB 2173** Torres SPONSOR: Van de Putte
Relating to the adoption of certain voting procedures and to certain elections, including procedures necessary to implement the federal Military and Overseas Voter Empowerment Act, deadlines for declaration of candidacy and dates for certain elections, and to terms of certain elected officials.
(Committee Substitute/Amended)
- HB 2207** Oliveira SPONSOR: Lucio
Relating to the authority of the board of trustees to set rates for certain municipal utility systems.
(Committee Substitute/Amended)
- HB 2560** Sheffield SPONSOR: Estes
Relating to transporting a foster child in a vehicle where a handgun is in the possession of a foster parent licensed to carry a concealed handgun.
(Amended)
- HB 2784** Alonzo SPONSOR: Hinojosa
Relating to the refund policy for courses and programs at career schools and colleges.
(Committee Substitute/Amended)
- HB 3161** Hancock SPONSOR: Van de Putte
Relating to limited purpose subsidiary life insurance companies.
(Committee Substitute)
- HB 3268** Lyne SPONSOR: Estes
Relating to permits for air contaminant emissions of stationary natural gas engines used in combined heating and power systems.
(Amended)
- HB 3278** Shelton SPONSOR: Shapiro
Relating to membership of the commissioner of education and the Texas Education Agency in certain advisory committees, commissions, task forces, and other similar entities.
(Committee Substitute)
- HB 3324** McClendon SPONSOR: Watson
Relating to the operations and monitoring of fusion centers in this state.
(Committee Substitute)
- HB 3722** Guillen SPONSOR: Zaffirini
Relating to the boater education program of the Parks and Wildlife Department.

Respectfully,

Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 23, 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:

HB 411 Laubenberg SPONSOR: Deuell
Relating to the confidentiality of newborn screening information.
(Committee Substitute/Amended)

HB 1173 Riddle SPONSOR: Huffman
Relating to the release on bond of certain persons arrested for a misdemeanor without a warrant in certain counties.
(Amended)

HB 1334 Allen SPONSOR: Davis
Relating to the effect of a delay by the State Board for Educator Certification in renewing an educator's certification.
(Committee Substitute)

HB 1335 Allen SPONSOR: Van de Putte
Relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.
(Committee Substitute/Amended)

HB 1386 Coleman SPONSOR: Ellis
Relating to the public health threat presented by youth suicide.
(Committee Substitute/Amended)

HB 1616 Geren SPONSOR: Estes
Relating to the reporting of political contributions, political expenditures, and personal financial information, and to complaints filed with the Texas Ethics Commission.
(Committee Substitute/Amended)

HB 1839 Phillips SPONSOR: Jackson
Relating to excluding a provider of recreational classes that do not lead to an educational credential from regulation as a career school or college.

HB 1969 Christian SPONSOR: Nichols

Relating to the applicability of commercial fertilizer regulations to a substance containing animal manure or plant remains.

(Amended)

HB 2169 Aycock SPONSOR: Shapiro
Relating to the authority of the governing body of a taxing unit to rescind a discount for early payment of ad valorem taxes.
(Amended)

HB 2592 Truitt SPONSOR: Carona
Relating to notice and disclosure requirements for certain credit services organizations regarding charges and consumer borrowing; providing an administrative penalty.
(Committee Substitute)

HB 2594 Truitt SPONSOR: Carona
Relating to the licensing and regulation of certain credit services organizations and the regulation of certain extensions of consumer credit obtained by those organizations or with regard to which the organizations provide assistance; providing an administrative penalty.
(Amended)

HB 2608 Harper-Brown SPONSOR: Hinojosa
Relating to the continuation and functions of the Texas Department of Housing and Community Affairs.
(Committee Substitute/Amended)

HB 2707 Burnam SPONSOR: Davis
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.

HB 2735 Madden SPONSOR: Hinojosa
Relating to procedures for certain persons charged with an administrative violation of a condition of release from the Texas Department of Criminal Justice on parole or to mandatory supervision.

HB 2911 Branch SPONSOR: Patrick
Relating to guaranteed student loans and alternative education loans.

HB 3199 Cain SPONSOR: Estes
Relating to the repeal of requirements and penalties related to the grading of roses.

HB 3404 Naishtat SPONSOR: Watson
Relating to establishing a child care advisory committee to advise the Texas Facilities Commission.

HCR 42 Madden SPONSOR: Williams
Expressing support for the current FBI effort to reevaluate existing policies, standards, and protocols for forensic DNA testing laboratories and expressing support for any new policies, standards, and protocols that would hold public and private labs to the same standards, audits, and review process, urging Congress to pass any necessary federal legislation that ensures continued quality in forensic

science while holding public and private lab DNA analysis to the same standards, and encouraging Texas law enforcement agencies to use forensic science review methods that will eliminate DNA testing backlogs.

HJR 63

Pickett

SPONSOR: Wentworth

Proposing a constitutional amendment authorizing the legislature to permit a county to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area and to pledge for repayment of the bonds or notes increases in ad valorem taxes imposed by the county on property in the area.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Monday, May 23, 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:**HB 272**

Smithee

SPONSOR: Carona

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.

(Committee Substitute/Amended)

HB 359

Allen

SPONSOR: Lucio

Relating to discipline in public schools, including the use of corporal punishment and the prosecution of certain children for school-related offenses.

(Amended)

HB 1090

Gonzalez, Naomi

SPONSOR: Seliger

Relating to the calculation of interest on certain ad valorem tax refunds.

(Amended)

HB 1451

Thompson

SPONSOR: Whitmire

Relating to the licensing and regulation of certain dog and cat breeders; providing penalties.

(Committee Substitute/Amended)

HB 1797

Naishtat

SPONSOR: Rodriguez

Relating to a person's eligibility to obtain a license in social work.

(Amended)

HB 2093 Thompson SPONSOR: Van de Putte
Relating to the operation and regulation of certain consolidated insurance programs.

(Amended)

HB 2734 Madden SPONSOR: Williams
Relating to certain mandatory conditions of parole or mandatory supervision for illegal criminal aliens and the revocation of parole or mandatory supervision as a result of violating those conditions.

(Amended)

HB 2889 Madden SPONSOR: Hinojosa
Relating to the expunction of records and files relating to a person's arrest.

HCR 163 Pickett SPONSOR: Van de Putte
Convening a joint memorial session to honor Texans killed while serving in the Global War on Terrorism, commemorating Memorial Day 2011, and paying tribute to all those who have died in the service of the United States.

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 166	(31 Yeas, 0 Nays)
SB 233	(31 Yeas, 0 Nays)
SB 234	(31 Yeas, 0 Nays)
SB 650	(31 Yeas, 0 Nays)
SB 864	(31 Yeas, 0 Nays)
SB 900	(31 Yeas, 0 Nays)
SB 1082	(31 Yeas, 0 Nays)
SB 1106	(31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 23
Senate Conferees: Nelson - Chair/Deuell/Hinojosa/Shapiro/Williams

SB 263
Senate Conferees: Carona - Chair/Eltife/Rodriguez/Seliger/Zaffirini

SB 652
Senate Conferees: Hegar - Chair/Hinojosa/Huffman/Nichols/Whitmire

SB 655
Senate Conferees: Hegar - Chair/Hinojosa/Huffman/Nelson/Nichols

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 275

Senate Conferees: Ogden - Chair/Duncan/Eltife/Fraser/Patrick

HB 1286

Senate Conferees: Davis - Chair/Deuell/Nichols/Ogden/Patrick

HB 2154

Senate Conferees: Ellis - Chair/Deuell/Duncan/Lucio/Van de Putte

HB 2457

Senate Conferees: Jackson - Chair/Eltife/Fraser/Shapiro/Watson

HB 2694

Senate Conferees: Huffman - Chair/Fraser/Hegar/Hinojosa/Nichols

HB 3302

Senate Conferees: Hegar - Chair/Eltife/Hinojosa/Jackson/Patrick

HB 3726

Senate Conferees: Van de Putte - Chair/Eltife/Uresti/Wentworth/Zaffirini

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1555 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 21

Criminal Jurisprudence - **SB 348**

Defense and Veterans' Affairs - **SB 34**

Energy Resources - **SB 1296**

Environmental Regulation - **SB 1520**

Higher Education - **SB 945**

Homeland Security and Public Safety - **SB 9, SB 1572, SB 1658, SB 1696, SB 1787**

Judiciary and Civil Jurisprudence - **SB 286**

Licensing and Administrative Procedures - **SB 1036, SB 1334**

Natural Resources - **SB 907, SB 1225, SB 1920**

Public Education - **SB 49, SB 66, SB 127, SB 205, SB 570, SB 1214, SB 1511, SB 1581**

Public Health - **SB 44, SB 270, SB 622, SB 1081**

State Affairs - **SB 365, SB 937, SB 1219**

Transportation - **SB 1138, SB 1402, SB 1742**

ENROLLED

May 21 - HB 114, HB 123, HB 253, HB 265, HB 451, HB 533, HB 549, HB 627, HB 649, HB 824, HB 942, HB 962, HB 976, HB 1128, HB 1135, HB 1245, HB 1381, HB 1383, HB 1426, HB 1514, HB 1529, HB 1559, HB 1643, HB 1678, HB 1694, HB 1772, HB 1774, HB 1908, HB 1965, HB 1983, HB 2061, HB 2069, HB 2108, HB 2162, HB 2189, HB 2245, HB 2258, HB 2289, HB 2312, HB 2354, HB 2385, HB 2482, HB 2538, HB 2624, HB 2633, HB 2727, HB 2908, HB 2928, HB 3065, HB 3470, HB 3547, HB 3814

SENT TO THE GOVERNOR

May 21 - HB 215, HB 423, HB 555, HB 591, HB 901, HB 1550, HB 1770, HB 2007, HB 2014, HB 2342, HB 2851, HB 3051, HB 3234

SIGNED BY THE GOVERNOR

May 21 - HB 438, HB 444, HB 571, HB 610, HB 755, HB 841, HB 1322, HB 1404, HB 1527, HB 1806, HB 1832, HB 1917, HB 2559, HB 2680, HB 2785, HCR 116, HCR 119, HCR 132, HCR 139

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-FOURTH DAY — TUESDAY, MAY 24, 2011

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

The roll of the house was called and a quorum was announced present (Record 1344).

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; 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; Lucio; 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.

The invocation was offered by Michael Pender, pastor, Fallbrook Church, Houston.

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

CAPITOL PHYSICIAN

The speaker recognized Representative D. Miller who presented Dr. Beverly Nuckols of New Braunfels as the "Doctor for the Day."

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

(Burkett in the chair)

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. 1).

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, House List No. 36).

HR 2072 - ADOPTED

(by Muñoz)

Representative Muñoz moved to suspend all necessary rules to take up and consider at this time **HR 2072**.

The motion prevailed.

The following resolution was laid before the house:

HR 2072, Honoring Mario and Carlos Bracamontes for creating the Toros rugby program in Pharr.

HR 2072 was read and was adopted.

On motion of Representative Guillen, the names of all the members of the house were added to **HR 2072** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Muñoz who introduced Mario and Carlos Bracamontes.

HR 2089 - ADOPTED

(by Guillen)

Representative Guillen moved to suspend all necessary rules to take up and consider at this time **HR 2089**.

The motion prevailed.

The following resolution was laid before the house:

HR 2089, Congratulating Lizbeth Martinez on her selection as the 2010-2011 U.S. Border Patrol Youth of the Year.

HR 2089 was read and was adopted.

On motion of Representative Muñoz, the names of all the members of the house were added to **HR 2089** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Guillen who introduced Lizbeth Martinez and members of her family and friends.

SB 681 - NOTICE GIVEN

Pursuant to the provisions of Rule 7, Section 37(c) of the House Rules, at 9:35 a.m., Representative C. Anderson announced his intention to make the motion to reconsider the vote by which **SB 681**, as amended, failed to pass to third reading on May 23.

(Ritter in the chair)

**MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 694 ON THIRD READING
(W. Smith, Cook, Dutton, Fletcher, et al. - House Sponsors)**

SB 694, A bill to be entitled An Act relating to the regulation of metal recycling entities; providing penalties.

Amendment No. 1

Representative Weber offered the following amendment to **SB 694**:

SB 694 is amended by removing everything below the caption and replacing it with the following:

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

SECTION 1. Subdivision (10), Section 1956.001, Occupations Code, is amended to read as follows:

(10) "Regulated metal" means:

- (A) manhole covers;
- (B) guardrails;
- (C) metal cylinders designed to contain compressed air, oxygen, gases, or liquids;
- (D) beer kegs made from metal other than aluminum;
- (E) historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum;
- (F) unused rebar;
- (G) street signs;
- (H) drain gates;
- (I) safes;
- (J) communication, transmission, and service wire or cable;
- (K) condensing or evaporator coils for central heating or air conditioning units;
- (L) utility structures, including the fixtures and hardware;
- (M) aluminum or stainless steel containers designed to hold propane for fueling forklifts; ~~and~~
- (N) metal railroad equipment, including tie plates, signal houses, control boxes, signs, signals, traffic devices, traffic control devices, traffic control signals, switch plates, e-clips, and rail tie functions;
- (O) catalytic converters not attached to a vehicle;

(P) fire hydrants;

(Q) metal bleachers or other seating facilities used in recreational areas or sporting arenas;

(R) any metal item clearly and conspicuously marked with any form of the name, initials, or logo of a governmental entity, utility, cemetery, or railroad;

(S) insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation;

(T) backflow valves; and

(U) metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals.

SECTION 2. The heading to Section 1956.003, Occupations Code, is amended to read as follows:

Sec. 1956.003. LOCAL LAW; CRIMINAL PENALTY.

SECTION 3. Section 1956.003, Occupations Code, is amended by adding Subsections (a-1), (a-2), (f), (g), and (h) to read as follows:

(a-1) A county, municipality, or other political subdivision may require the record of purchase described under Section 1956.033 to contain a clear and legible thumbprint of a seller of regulated material.

(a-2) A county, municipality, or other political subdivision that, as authorized under Subsection (a), requires a metal recycling entity to report to the county, municipality, or political subdivision information relating to a sale of regulated material shall:

(1) include in any contract entered into by the county, municipality, or political subdivision relating to the reporting of the information a provision that:

(A) requires any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information relating to a sale of regulated material to maintain the confidentiality of all information received, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(B) allows the county, municipality, or political subdivision to terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Paragraph (A); and

(2) investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

(f) A person commits an offense if the person owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Subsection (b). An offense under this subsection is a Class B misdemeanor unless it is shown on the trial of the offense that the person has been previously convicted under this subsection, in which event the offense is a Class A misdemeanor.

(g) It is an exception to the application of Subsection (f) that:

(1) the person held a license or permit issued by the appropriate county, municipality, or other political subdivision at one point during the 12-month period preceding the date of the alleged offense; and

(2) the person obtains or submits an application for the appropriate license or permit not later than the 15th day after the date the person receives notice from the appropriate county, municipality, or other political subdivision informing the person that the metal recycling entity is operating without the required license or permit.

(h) This subsection and Subsection (g) expire March 1, 2013.

SECTION 4. Subchapter A, Chapter 1956, Occupations Code, is amended by adding Section 1956.004 to read as follows:

Sec. 1956.004. CIVIL PENALTY. (a) A person who owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b) is subject to a civil penalty of not more than \$1,000 for each violation. In determining the amount of the civil penalty, the court shall consider:

(1) any other violations by the person; and

(2) the amount necessary to deter future violations.

(b) A district attorney, county attorney, or municipal attorney may institute an action to collect the civil penalty provided by this section.

(c) Each day a violation occurs or continues to occur is a separate violation.

(d) The district attorney, county attorney, or municipal attorney may recover reasonable expenses incurred in obtaining a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(e) It is an exception to the application of this section that:

(1) the person held a license or permit issued by the appropriate county, municipality, or other political subdivision at one point during the 12-month period preceding the date of the alleged violation; and

(2) the person obtains or submits an application for the appropriate license or permit not later than the 15th day after the date the person receives notice from the appropriate county, municipality, or other political subdivision informing the person that the metal recycling entity is operating without the required license or permit.

(f) This subsection and Subsection (e) expire March 1, 2013.

SECTION 5. Section 1956.015, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Information provided under this section is not subject to disclosure under Chapter 552, Government Code. The department may use information provided under this section for law enforcement purposes. Except as provided by this subsection, the department shall maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased ~~[that relates to the financial condition or business affairs of a~~

~~metal recycling entity or that is otherwise commercially sensitive. The confidential information is not subject to disclosure under Chapter 552, Government Code].~~

(e) The department may enter into contracts relating to the operation of the statewide electronic reporting system established by this section. A contract under this subsection must:

(1) require that any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information provided under this section maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(2) provide that the department may terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Subdivision (1).

(f) The department shall investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

SECTION 6. Subchapter A-1, Chapter 1956, Occupations Code, is amended by adding Sections 1956.016 and 1956.017 to read as follows:

Sec. 1956.016. REGISTRATION DATABASE. The department shall make available on its Internet website a publicly accessible list of all registered metal recycling entities. The list must contain the following for each registered metal recycling entity:

(1) the entity's name;

(2) the entity's physical address; and

(3) the name of and contact information for a representative of the entity.

Sec. 1956.017. ADVISORY COMMITTEE. (a) The department shall establish an advisory committee to advise the department on matters related to the department's regulation of metal recycling entities under this chapter.

(b) The advisory committee consists of 12 members appointed by the director as follows:

(1) one representative of the department;

(2) two representatives of local law enforcement agencies located in different municipalities, each with a population of 500,000 or more;

(3) two representatives of local law enforcement agencies located in different municipalities, each with a population of 200,000 or more but less than 500,000;

(4) one representative of a local law enforcement agency located in a municipality with a population of less than 200,000;

(5) four representatives of metal recycling entities; and

(6) two members who represent industries that are impacted by theft of regulated material.

(c) The director shall ensure that the members of the advisory committee reflect the diverse geographic regions of this state.

(d) The advisory committee shall elect a presiding officer from among its members to serve a two-year term. A member may serve more than one term as presiding officer.

(e) The advisory committee shall meet annually and at the call of the presiding officer or the director.

(f) An advisory committee member is not entitled to compensation or reimbursement of expenses.

(g) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

SECTION 7. The heading to Section 1956.032, Occupations Code, is amended to read as follows:

Sec. 1956.032. INFORMATION REGARDING ~~[PROVIDED BY]~~ SELLER.

SECTION 8. Section 1956.032, Occupations Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) Except as provided by Subsection (f), a person attempting to sell regulated material to a metal recycling entity shall:

(1) display to the metal recycling entity the person's personal identification document;

(2) provide to the metal recycling entity the make, model, color, and license plate number of the motor vehicle used to transport the regulated material and the name of the state issuing the license plate; ~~and~~

(3) either:

(A) present written documentation evidencing that the person is the legal owner or is lawfully entitled to sell the regulated material; or

(B) sign a written statement provided by the metal recycling entity that the person is the legal owner of or is lawfully entitled to sell the regulated material offered for sale; and

(4) if the regulated material includes condensing or evaporator coils for central heating or air conditioning units, display to the metal recycling entity:

(A) the person's air conditioning and refrigeration contractor license issued under Subchapter F or G, Chapter 1302;

(B) the person's air conditioning and refrigeration technician registration issued under Subchapter K, Chapter 1302;

(C) a receipt, bill of sale, or other documentation showing that the seller purchased the coils the seller is attempting to sell; or

(D) a receipt, bill of sale, or other documentation showing that the seller has purchased a replacement central heating or air conditioning unit.

(g) Notwithstanding Section 1956.002, the metal recycling entity shall verify the registration of a person attempting to sell regulated material who represents that the person is a metal recycling entity as follows:

(1) by using the database described by Section 1956.016; or

(2) by obtaining from the person a copy of the person's certificate of registration issued under Section 1956.022 in addition to the information required under Subsection (a).

SECTION 9. Section 1956.033, Occupations Code, is amended to read as follows:

Sec. 1956.033. RECORD OF PURCHASE. (a) Each metal recycling entity in this state shall keep an accurate electronic record or an accurate and legible written record of each purchase of regulated material made in the course of the entity's business from an individual ~~[of:~~

- ~~[(1) copper or brass material;~~
- ~~[(2) bronze material;~~
- ~~[(3) aluminum material; or~~
- ~~[(4) regulated metal].~~

(b) The record must be in English and include:

- (1) the place and date of the purchase;
- (2) the name and address of the seller in possession of ~~[each individual from whom]~~ the regulated material ~~[is]~~ purchased ~~[or obtained]~~;
- (3) the identifying number of the seller's personal identification document;
- (4) a description made in accordance with the custom of the trade of the commodity type and quantity of regulated material purchased; ~~[and]~~
- (5) the information required by Sections 1956.032(a)(2) and (3);
- (6) as applicable:
 - (A) the identifying number of the seller's air conditioning and refrigeration contractor license displayed under Section 1956.032(a)(4)(A);
 - (B) a copy of the seller's air conditioning and refrigeration technician registration displayed under Section 1956.032(a)(4)(B);
 - (C) a copy of the documentation described by Section 1956.032(a)(4)(C); or
 - (D) a copy of the documentation described by Section 1956.032(a)(4)(D); and
- (7) a copy of the documentation described by Section 1956.032(g) [Section 1956.032(a)(3)].

SECTION 10. Subchapter A-3, Chapter 1956, Occupations Code, is amended by adding Section 1956.0331 to read as follows:

Sec. 1956.0331. PHOTOGRAPH OR RECORDING REQUIREMENT FOR REGULATED METAL TRANSACTION. (a) In addition to the requirements of Sections 1956.032 and 1956.033, for each purchase by a metal recycling entity of an item of regulated metal, the entity shall obtain a digital photograph or video recording that accurately depicts the seller's entire face and each type of regulated metal purchased.

(b) A metal recycling entity shall preserve a photograph or recording required under Subsection (a) as follows:

- (1) for a video recording, until the 91st day after the date of the transaction; and
- (2) for a digital photograph, until the 181st day after the date of the transaction.

(c) The photograph or recording must be made available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

SECTION 11. Section 1956.034, Occupations Code, is amended to read as follows:

Sec. 1956.034. PRESERVATION OF RECORDS. A metal recycling entity shall preserve each record required by Sections 1956.032 and 1956.033 until the second ~~[third]~~ anniversary of the date the record was made. The records must be kept in an easily retrievable format and must be available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

SECTION 12. Section 1956.035, Occupations Code, is amended to read as follows:

Sec. 1956.035. INSPECTION OF RECORDS ~~[BY PEACE OFFICER]~~.

(a) On request, a metal recycling entity shall permit a peace officer of this state, a representative of the department, or a representative of a county, municipality, or other political subdivision that issues a license or permit under Section 1956.003(b) to inspect, during the entity's usual business hours:

(1) a record required by Section 1956.033; ~~[or]~~

(2) a digital photograph or video recording required by Section 1956.0331; or

(3) regulated material in the entity's possession.

(b) The person seeking to inspect a record or material ~~[inspecting officer]~~ shall:

(1) inform the entity of the officer's status as a peace officer; or

(2) if the person is a representative of the department or a representative of a county, municipality, or other political subdivision, inform the entity of the person's status and display to the entity an identification document or other appropriate documentation establishing the person's status as a representative of the department or of the appropriate county, municipality, or political subdivision.

SECTION 13. Section 1956.036, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

(a) Except as provided by Subsections ~~[Subsection]~~ (b) and (d), not later than the close of business on a metal recycling entity's second working ~~[seventh]~~ day after the date of the purchase or other acquisition of material for which a record is required under Section 1956.033, the ~~[a metal recycling]~~ entity shall send an electronic transaction report to the department via the department's Internet website. The ~~[by facsimile or electronic mail to or file with the department a]~~ report must contain ~~[containing]~~ the information required to be recorded under Section 1956.033 ~~[that section].~~

(b) If a metal recycling entity purchases bronze material that is a cemetery vase, receptacle, memorial, or statuary or a pipe that can reasonably be identified as aluminum irrigation pipe, the entity shall:

(1) not later than the close of business on the entity's first working day after the purchase date, notify the department by telephone, by e-mail, or via the department's Internet website; and

(2) not later than the close of business on the entity's second working ~~five~~ day after the purchase date, submit to the department electronically via the department's Internet website ~~mail to~~ or file with the department a report containing the information required to be recorded under Section 1956.033.

(d) A metal recycling entity may submit the transaction report required under Subsection (a) by facsimile if:

(1) the entity submits to the department annually:

(A) an application requesting an exception to the electronic reporting requirement; and

(B) an affidavit stating that the entity does not have an available and reliable means of submitting the transaction report electronically; and

(2) the department approves the entity's application under this subsection.

(e) The department, after notice and an opportunity for a hearing, may prohibit a metal recycling entity from paying cash for a purchase of regulated material for a period determined by the department if the department finds that the entity has failed to comply with this section.

SECTION 14. Section 1956.038, Occupations Code, is amended to read as follows:

Sec. 1956.038. PROHIBITED ACTS. (a) A person may not, with the intent to deceive:

(1) display to a metal recycling entity a false or invalid personal identification document in connection with the person's attempted sale of regulated material;

(2) make a false, material statement or representation to a metal recycling entity in connection with:

(A) that person's execution of a written statement required by Section 1956.032(a)(3); or

(B) the entity's efforts to obtain the information required under Section 1956.033(b); ~~or~~

(3) display or provide to a metal recycling entity any information required under Section 1956.032 that the person knows is false or invalid; or

(4) display another individual's personal identification document in connection with the sale of regulated material.

(b) A metal recycling entity may not pay for a purchase of regulated material in cash if:

(1) the entity does not hold a certificate of registration under Subchapter A-2 and, if applicable, a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b); or

(2) the entity has been prohibited by the department from paying cash under Section 1956.036(e).

(c) Notwithstanding Section 1956.003(a) or any other law, a county, municipality, or other political subdivision may not adopt or enforce a rule, charter, or ordinance or issue an order or impose standards that limit the use of cash by a metal recycling entity in a manner more restrictive than that provided by Subsection (b).

(d) Subsection (c) does not apply to a rule, charter, ordinance, or order of a county, municipality, or other political subdivision in effect on January 1, 2011.

(d-1) Not later than January 1, 2012, the department shall issue a notice to each known owner or operator of a metal recycling entity in this state informing the owner or operator of the requirement to obtain a certificate of registration under Subchapter A-2 and, if applicable, to obtain a license or permit required by a county, municipality, or other political subdivision under Section 1956.003. The notice must also state:

(1) that the owner or operator shall submit an application for a certificate of registration and the appropriate license or permit required by a county, municipality, or other political subdivision on or before March 1, 2012; and

(2) the penalties under this chapter for failure to comply with Subdivision (1).

(d-2) This subsection and Subsection (d-1) expire March 1, 2012.

(e) The department or a county, municipality, or other political subdivision may bring an action in the county in which a metal recycling entity is located to enjoin the business operations of the owner or operator of the metal recycling entity for a period of not less than 30 days and not more than 90 days if the owner or operator has not submitted an application for a certificate of registration or the appropriate license or permit required by a county, municipality, or other political subdivision.

(f) An action under Subsection (e) must be brought in the name of the state. If judgment is in favor of the state, the court shall:

(1) enjoin the owner or operator from maintaining or participating in the business of a metal recycling entity for a definite period of not less than 30 days and not more than 90 days, as determined by the court; and

(2) order that the place of business of the owner or operator be closed for the same period.

SECTION 15. Section 1956.040, Occupations Code, is amended by adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a-1) A person commits an offense if the person knowingly violates Section 1956.021, 1956.023(d), 1956.036(a), or 1956.039.

(a-2) An offense under Subsection (a-1) is a misdemeanor punishable by a fine not to exceed \$10,000, unless it is shown on trial of the offense that the person has previously been convicted of a violation of Subsection (a-1), in which event the offense is a state jail felony.

(a-3) It is an affirmative defense to prosecution of a violation of Section 1956.021 or 1956.023(d) that the person made a diligent effort to obtain or renew a certificate of registration at the time of the violation.

(a-4) A municipality or county may retain 10 percent of the money collected from a fine for a conviction of an offense under Subsection (a-1) as a service fee for that collection and the clerk of the court shall remit the remainder of the fine collected for conviction of an offense under Subsection (a-1) to the comptroller in the manner provided for the remission of fees to the comptroller under Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit proceeds received under this subsection to the credit of an account in the general revenue fund, and those proceeds may be appropriated only to the department and used to:

(1) finance the department's administration of Subchapters A, A-1, A-2, and A-3; and

(2) fund grants distributed under the prevention of scrap metal theft grant program established under Subchapter N, Chapter 411, Government Code.

SECTION 16. Subsection (a), Section 1956.103, Occupations Code, is amended to read as follows:

(a) A person may not sell or otherwise transfer to a metal recycling entity:

(1) a lead-acid battery, fuel tank, or PCB-containing capacitor that is included with another type of scrap, used, or obsolete metal without first obtaining from the metal recycling entity a written and signed acknowledgment that the scrap, used, or obsolete metal includes one or more lead-acid batteries, fuel tanks, or PCB-containing capacitors;

(2) any of the following items that contain or enclose a lead-acid battery, fuel tank, or PCB-containing capacitor or of which a lead-acid battery, fuel tank, or PCB-containing capacitor is a part:

(A) a motor vehicle;

(B) a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle;

(C) an appliance; or

(D) any other item of scrap, used, or obsolete metal; ~~or~~

(3) a motor vehicle or a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle if the motor vehicle includes, contains, or encloses a tire or scrap tire; or

(4) a metal alcoholic beverage keg, regardless of condition, unless the seller is the manufacturer of the keg, the brewer or distiller of the beverage that was contained in the keg, or an authorized representative of the manufacturer, brewer, or distiller.

SECTION 17. Section 1956.151, Occupations Code, is amended to read as follows:

Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. The department shall deny an application for a certificate of registration, suspend or revoke a certificate of registration, or reprimand a person who is registered under this chapter if the person:

(1) obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) sells, barter, or offers to sell or barter a certificate of registration;

(3) violates a provision of this chapter or a rule adopted under this chapter; or

(4) violates Section 1956.021.

SECTION 18. Subsection (d), Section 1956.202, Occupations Code, is amended to read as follows:

(d) A civil penalty may not be assessed under this section for conduct described by Section 1956.021, 1956.023(d), 1956.036(a), 1956.038, or 1956.039.

SECTION 19. Chapter 411, Government Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. PREVENTION OF SCRAP METAL THEFT GRANT PROGRAM

Sec. 411.421. DEFINITION. In this subchapter, "regulated material" has the meaning assigned by Section 1956.001, Occupations Code.

Sec. 411.422. GRANTS TO FUND SCRAP METAL THEFT PREVENTION. (a) From fines collected and distributed to the department under Sections 1956.040(a-2) and (a-4), Occupations Code, the commission by rule shall establish and implement a grant program to provide funding to assist local law enforcement agencies in preventing the theft of regulated material.

(b) To be eligible for a grant, a recipient must be a local law enforcement agency that has established a program designed to prevent the theft of regulated material.

(c) Rules adopted under this section must:

(1) include accountability measures for grant recipients and provisions for loss of eligibility for grant recipients that fail to comply with the measures; and

(2) require grant recipients to provide to the department information on program outcomes.

SECTION 20. Subsection (e), Section 31.03, Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than \$20,000 and the property stolen is [~~insulated or noninsulated tubing, rods, water gate stems, wire, or cable that consists of at least 50 percent~~]:

(i) aluminum;

(ii) bronze; ~~or~~

(iii) copper; or

(iv) brass;

(5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:

(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or

(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;

(6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION 21. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(c) The enhancement of the punishment of an offense provided under Subsection (a-2), Section 1956.040, Occupations Code, as added by this Act, applies only to an offense committed on or after January 1, 2012. For purposes of this subsection, an offense is committed before January 1, 2012, if any element of the offense occurs before that date. An offense committed before January 1, 2012, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(d) Not later than January 1, 2012, the public safety director of the Department of Public Safety of the State of Texas shall appoint the members of the advisory committee established under Section 1956.017, Occupations Code, as added by this Act, and designate the time and place of the committee's first meeting.

SECTION 22. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Subsection (f), Section 1956.003, Section 1956.004, and Subsections (b) and (e), Section 1956.038, Occupations Code, as added by this Act, take effect March 1, 2012.

Representative Cook moved to table Amendment No. 1.

The motion to table prevailed by (Record 1345): 81 Yeas, 58 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Aycock; Bohac; Brown; Button; Chisum; Coleman; Cook; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Dutton; Eissler; Farrar; Fletcher; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Hancock; Harper-Brown; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Keffer; King, S.; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Menendez; Miles; Miller, D.; Muñoz; Murphy; Oliveira; Orr; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Truitt; Turner; Veasey; Vo; Walle; Woolley; Zerwas.

Nays — Alonzo; Anderson, C.; Anderson, R.; Beck; Berman; Bonnen; Branch; Burkett; Burnam; Cain; Callegari; Carter; Christian; Craddick; Davis, Y.; Elkins; Farias; Flynn; Frullo; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hochberg; Hughes; Johnson; King, P.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Legler; Martinez Fischer; Miller, S.; Morrison; Naishtat; Nash; Paxton; Perry; Price; Reynolds; Riddle; Rodriguez; Sheets; Simpson; Smithee; Strama; Thompson; Torres; Weber; White; Workman; Zedler.

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

Absent — Castro; Dukes; Eiland; Geren; Hernandez Luna; Kolkhorst; Martinez; McClendon; Villarreal.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1345. I intended to vote yes.

Callegari

When Record No. 1345 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 1345 was taken, I was temporarily out of the house chamber. I would have voted no.

Eiland

When Record No. 1345 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

When Record No. 1345 was taken, I was in the house but away from my desk. I would have voted yes.

Kolkhorst

When Record No. 1345 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. 1345. I intended to vote yes.

Nash

Amendment No. 2

Representative Hancock offered the following amendment to **SB 694**:

Amend **SB 694** on third reading in SECTION 3 of the bill by adding subsection (h) to read as follows:

(h) Notwithstanding any other law, a governmental entity shall provide a minimum 30 day notice followed by a public hearing prior to enacting a prohibition on the sale or use of a recyclable product.

Amendment No. 2 was adopted.

SB 694, as amended, was passed by (Record 1346): 106 Yeas, 29 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Bohac; Branch; Brown; Button; Cain; Callegari; Castro; Chisum; Cook; Craddick; Creighton; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farrar; Fletcher; Frullo; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Jackson; Johnson; Keffer; King, S.; Kolkhorst; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Murphy; Naishtat;

Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; White; Woolley; Zerwas.

Nays — Anderson, C.; Anderson, R.; Beck; Berman; Bonnen; Burkett; Carter; Christian; Elkins; Flynn; Gooden; Hughes; Isaac; King, P.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Morrison; Paxton; Perry; Rodriguez; Simpson; Smithee; Weber; Workman; Zedler.

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

Absent — Aycock; Burnam; Coleman; Crownover; Darby; Farias; Garza; Geren; Hernandez Luna; Miller, S.; Taylor, L.; Veasey.

STATEMENTS OF VOTE

When Record No. 1346 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1346 was taken, I was in the house but away from my desk. I would have voted yes.

Garza

When Record No. 1346 was taken, I was in the house but away from my desk. I would have voted no.

Geren

When Record No. 1346 was taken, I was in the house but away from my desk. I would have voted yes.

L. Taylor

When Record No. 1346 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

I was shown voting yes on Record No. 1346. I intended to vote no because I feel it's too onerous on the economic freedom of small business.

White

HR 1982 - ADOPTED (by Sheets)

Representative Sheets moved to suspend all necessary rules to take up and consider at this time **HR 1982**.

The motion prevailed.

The following resolution was laid before the house:

HR 1982, Congratulating Sarah Mason Thomas, Ashley Stallard, Nicole Johnson, and Savannah Still of Faith Academy in Marble Falls on winning titles at the 2010 and 2011 TAPPS Tennis State Championships.

HR 1982 was read and was adopted.

On motion of Representative Fletcher, the names of all the members of the house were added to **HR 1982** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Sheets who introduced Sarah Mason Thomas, Ashley Stallard, Nicole Johnson, and Savannah Still.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Guillen requested permission for the Committee on Culture, Recreation, and Tourism to meet while the house is in session, at 11 a.m. today, in 3W.9, to consider **HR 1955**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Culture, Recreation, and Tourism, 11 a.m. today, 3W.9, for a formal meeting, to consider **HR 1955**.

SB 1717 ON THIRD READING (Lewis and Jackson - House Sponsors)

SB 1717, A bill to be entitled An Act relating to the operation and administration of the judicial branch of state government.

Amendment No. 1

Representative Hartnett offered the following amendment to **SB 1717**:

Amend Amendment No. 8 by Harnett, as added on second reading, to **SB 1717** on third reading by striking Subsection (c) (page 1, lines 29-30) and substituting the following:

- (c) Statistical information collected under this section may not include:
- (1) the name of the judge or court that issued the order;
 - (2) the minor's name; and
 - (3) any other confidential information of the minor.

Amendment No. 1 was adopted.

SB 1717, as amended, was passed by (Record 1347): 117 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzalez; Gooden; Guillen; 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; Lozano; Lucio; Lyne; Madden; Margo; Martinez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Rodriguez; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Burnam; Carter; Castro; Davis, Y.; Dukes; Farias; Farrar; Gonzales, L.; Gonzales, V.; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Mallory Caraway; Marquez; Martinez Fischer; McClendon; Menendez; Reynolds; Schwertner; Strama; Veasey; Vo; Walle.

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

Absent — Coleman; Dutton; Miles.

**HR 1835 - PREVIOUSLY ADOPTED
(by Menendez)**

The chair laid out and had read the following previously adopted resolution:

HR 1835, Honoring Michael Gerber for his service as executive director of the Texas Department of Housing and Community Affairs.

On motion of Representative Murphy, the names of all the members of the house were added to **HR 1835** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Menendez who introduced Michael Gerber and members of his family.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 271 ON THIRD READING
(Menendez and Larson - House Sponsors)**

SB 271, A bill to be entitled An Act relating to the board of directors of the Bexar Metropolitan Water District.

SB 271 was passed by (Record 1348): 137 Yeas, 8 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Beck; Cain; Hughes; Landtroop; Miller, S.; Perry; White; Zedler.

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

Absent — Eiland; Villarreal.

STATEMENT OF VOTE

When Record No. 1348 was taken, I was temporarily out of the house chamber. I would have voted yes.

Eiland

SB 773 ON THIRD READING (Gallego and Muñoz - House Sponsors)

SB 773, A bill to be entitled An Act relating to telecommunications service discounts for educational institutions, libraries, hospitals, and telemedicine centers.

SB 773 was passed by (Record 1349): 111 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycocck; Beck; Branch; Brown; Burkett; Button; Callegari; Castro; Chisum; Christian; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kuempel; Lavender; Lewis; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Orr; Otto; Patrick; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Scott; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Aliseda; Anderson, R.; Berman; Bohac; Bonnen; Cain; Carter; Creighton; Elkins; Flynn; Hughes; Landtroop; Larson; Laubenberg; Legler; Madden; Parker; Paxton; Phillips; Schwertner; Sheets; Sheffield; Simpson; Taylor, V.; Weber; White; Workman; Zedler.

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

Absent — Burnam; Coleman; Garza; Gutierrez; Hartnett; Kleinschmidt; Kolkhorst; Lozano; Oliveira.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1349. I intended to vote yes.

Bohac

I was shown voting no on Record No. 1349. I intended to vote yes.

Bonnen

When Record No. 1349 was taken, I was in the house but away from my desk. I would have voted yes.

Garza

I was shown voting yes on Record No. 1349. I intended to vote no.

Harper-Brown

When Record No. 1349 was taken, I was in the house but away from my desk. I would have voted yes.

Kolkhorst

I was shown voting no on Record No. 1349. I intended to vote yes.

Sheffield

SB 17 ON THIRD READING (Truitt - House Sponsor)

SB 17, A bill to be entitled An Act relating to the regulation of residential mortgage loan servicers; providing an administrative penalty.

SB 17 was passed by (Record 1350): 143 Yeas, 1 Nays, 2 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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.; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Taylor, V.

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

Absent — Coleman; Garza; Gonzales, L.; Kleinschmidt.

STATEMENT OF VOTE

When Record No. 1350 was taken, I was in the house but away from my desk. I would have voted yes.

Garza

SB 731 ON THIRD READING (Kolkhorst - House Sponsor)

SB 731, A bill to be entitled An Act relating to the attorney general's legal sufficiency review of a comprehensive development agreement.

SB 731 was passed by (Record 1351): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; 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.; Gooden; Guillen; Gutierrez; Hamilton; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; 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; Lucio; 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; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; 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; Ritter(C).

Absent — Alvarado; Burnam; Coleman; Cook; Gonzalez; Hancock; Hardcastle; Johnson; Smith, W.

STATEMENT OF VOTE

When Record No. 1351 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

**SB 223 ON THIRD READING
(Gonzalez - House Sponsor)**

SB 223, A bill to be entitled An Act relating to certain facilities and care providers, including providers under the state Medicaid program; providing penalties.

Amendment No. 1

Representative Callegari offered the following amendment to **SB 223**:

Amend **SB 223** on third reading (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsections (a) and (c), Section 242.005, Health and Safety Code, are amended to read as follows:

(a) The department [~~and the attorney general each~~] shall prepare annually a full report of the operation and administration of the department's [~~their respective~~] responsibilities under this chapter, including recommendations and suggestions considered advisable.

(c) The department [~~and the attorney general~~] shall submit the required report [~~reports~~] to the governor and the legislature not later than October 1 of each year.

SECTION _____. Subsection (c), Section 247.050, Health and Safety Code, is amended to read as follows:

(c) The department [~~and the attorney general~~] shall file a copy of the quarterly reports required by this section with the substantive committees of each house of the legislature with jurisdiction over regulation of assisted living facilities.

SECTION _____. Subsection (b), Section 247.050, Health and Safety Code, is repealed.

Amendment No. 1 was adopted.

SB 223, as amended, was passed by (Record 1352): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycocck; 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; 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; Lucio; 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; 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; Ritter(C).

Absent — Coleman; Rodriguez.

SB 1909 ON THIRD READING
(Oliveira - House Sponsor)

SB 1909, A bill to be entitled An Act relating to The University of Texas at Brownsville, including its partnership agreement with the Texas Southmost College District.

SB 1909 was passed by (Record 1353): 144 Yeas, 0 Nays, 2 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; 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; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; 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; Ritter(C).

Absent — Coleman; Hughes; Menendez; Miles.

SB 370 ON THIRD READING**(Ritter - House Sponsor)**

SB 370, A bill to be entitled An Act relating to the authority of the Texas Water Development Board to provide financial assistance for certain projects if the applicant has failed to complete a request for information relevant to the project.

SB 370 was passed by (Record 1354): 146 Yeas, 0 Nays, 2 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; 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; Lucio; 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; 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; Ritter(C).

Absent — Coleman; McClendon.

STATEMENT OF VOTE

When Record No. 1354 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

SB 781 ON THIRD READING**(Cook - House Sponsor)**

SB 781, A bill to be entitled An Act relating to the repeal of certain legislative oversight committees.

Amendment No. 1

Representative Hartnett offered the following amendment to **SB 781**:

Amend **SB 781** on third reading, as amended on second reading, in SECTION 1 of the bill as follows:

(1) At the end of Subdivision (2), strike "and".

- (2) At the end of Subdivision (3), strike the period and substitute "; and".
 (3) Immediately following Subdivision (3), insert the following:
 (4) Section 2059.060, Government Code.

Amendment No. 1 was adopted.

SB 781, as amended, was passed by (Record 1355): 146 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; 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; 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; Lucio; 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; 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 — Anchia.

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

Absent — Coleman.

SB 1799 ON THIRD READING
(Branch and Alonzo - House Sponsors)

SB 1799, A bill to be entitled An Act relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

SB 1799 was passed by (Record 1356): 133 Yeas, 13 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Bohac; Branch; Brown; Burkett; Burnam; Button; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; 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; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Strama; Taylor, L.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Beck; Berman; Bonnen; Cain; Callegari; Elkins; Flynn; Lavender; Legler; Miller, S.; Paxton; Smithee; Taylor, V.

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

Absent — Coleman; Truitt.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1356. I intended to vote yes.

Elkins

I was shown voting yes on Record No. 1356. I intended to vote no.

Kolkhorst

SB 1714 ON THIRD READING (Chisum - House Sponsor)

SB 1714, A bill to be entitled An Act relating to certain actions against an employer by an employee who is not covered by workers' compensation insurance.

SB 1714 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BRANCH: Is the reference in the new language in 406.034(d) to an "agreement" intended to cover any agreement, plan, or practice by an employer to provide benefits outside of workers' compensation to employees that waive workers' compensation coverage?

REPRESENTATIVE CHISUM: Yes.

BRANCH: Is the intent in Section 3 of the bill, relating to the applicability section, that Section (3)(a)(2)(B) only refers to those benefits payable by an employer in exchange for a pre-injury waiver of the employee's right of action?

CHISUM: Yes.

REMARKS ORDERED PRINTED

Representative Chisum moved to print remarks between Representative Branch and Representative Chisum.

The motion prevailed.

REPRESENTATIVE GIDDINGS: Mr. Chisum, I'm sorry, I'm trying to figure out exactly—in a thumbnail sketch—what your bill does. Does this affect nonsubscribers?

CHISUM: This only affects one nonsubscriber, and I'll just tell you their name is Cargill, they're a very large employer in my and Mr. Smithee's district and around Lubbock, Texas, all the way up to the northern parts of the Panhandle. It allows them, because they have an agreement with their employees, to be a nonsubscriber. We grandfather them in and we just say that you cannot any longer have an alternative to workers' comp that requires the employee to waive their right to sue, and so, we don't want to continue those because that's a very large place where they could abuse the privilege. This company has not abused it—their employee representatives are just fine with the way we—so we did not want to change that at all. We want them to be allowed to go forward, but we don't want to proliferate this with some bad actors, so that's—but if you want to be a nonsubscriber, you can do that.

GIDDINGS: Okay. So, to be sure I get this correct, your bill is only intended to affect this one employer in your area, and you're grandfathering them?

CHISUM: We are grandfathering them in, yes.

GIDDINGS: They have an agreement—a non-sue agreement with their workers?

CHISUM: They do.

GIDDINGS: And so, what is their history? Have their workers been taken care of—you know—

CHISUM: They have a long history. They've had only one complaint that we're aware of, and it seems to be a program that is working for them, and they continue to be a large employer in that area of the state.

GIDDINGS: Okay, so this is just grandfathering this one particular company in your area and has no effect on the rest of the state?

CHISUM: Absolutely.

REMARKS ORDERED PRINTED

Representative Giddings moved to print remarks between Representative Chisum and Representative Giddings.

The motion prevailed.

SB 1714 was passed by (Record 1357): 145 Yeas, 0 Nays, 2 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; 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; Lucio; 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; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; 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; Ritter(C).

Absent — Coleman; Eissler; Perry.

STATEMENT OF VOTE

When Record No. 1357 was taken, I was in the house but away from my desk. I would have voted yes.

Perry

SB 542 ON THIRD READING (Fletcher - House Sponsor)

SB 542, A bill to be entitled An Act relating to the regulation of law enforcement officers by the Commission on Law Enforcement Officer Standards and Education.

SB 542 was passed by (Record 1358): 147 Yeas, 0 Nays, 2 Present, not voting. (The vote was reconsidered later today, and **SB 542** was amended and passed by Record No. 1395.)

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; 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; Lucio; 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; 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; Ritter(C).

Absent — Coleman.

SB 332 ON THIRD READING
(Ritter - House Sponsor)

SB 332, A bill to be entitled An Act relating to the ownership of groundwater below the surface of land, the right to produce that groundwater, and the management of groundwater in this state.

SB 332 was passed by (Record 1359): 147 Yeas, 0 Nays, 2 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; 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; Lucio; 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; 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; Ritter(C).

Absent — Coleman.

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR
SENATE BILLS
THIRD READING

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

SB 303 ON THIRD READING
(Scott and White - House Sponsors)

SB 303, A bill to be entitled An Act relating to health care services provided or paid by a hospital district.

SB 303 was passed by (Record 1360): 144 Yeas, 1 Nays, 3 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; 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; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Shelton.

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

Absent — Coleman; Lucio.

SB 1543 ON THIRD READING
(Larson - House Sponsor)

SB 1543, A bill to be entitled An Act relating to the authority of an independent school district to invest in corporate bonds.

SB 1543 was passed by (Record 1361): 126 Yeas, 20 Nays, 2 Present, not voting.

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

Nays — Beck; Berman; Cain; Elkins; Flynn; Geren; Gooden; Kolkhorst; Landtroop; Laubenberg; Madden; Miller, S.; Paxton; Perry; Sheets; Simpson; Solomons; Taylor, V.; White; Zedler.

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

Absent — Hughes; Lucio.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1361. I intended to vote yes.

Laubenberg

I was shown voting yes on Record No. 1361. I intended to vote no.

Weber

SB 1816 ON THIRD READING (Raymond - House Sponsor)

SB 1816, A bill to be entitled An Act relating to county and municipal land development regulation.

Amendment No. 1

Representative Guillen offered the following amendment to **SB 1816**:

Amend **SB 1816** on third reading as follows:

(1) In SECTION 2 of the bill, in the recital, strike "Subsections (a) and (d), Section 232.022, Local Government Code, are" and substitute "Subsection (d), Section 232.022, Local Government Code, is".

(2) In SECTION 2 of the bill, strike amended Section 232.022(a), Local Government Code.

(3) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Section 232.0031, Local Government Code, is amended to read as follows:

Sec. 232.0031. STANDARD FOR ROADS IN SUBDIVISION. A county may not impose under Section 232.003 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of new streets or roads with a similar type and amount of traffic.

SECTION _____. Section 232.033, Local Government Code, is amended by amending Subsections (a) and (h) and adding Subsections (a-1), (a-2), (a-3), (a-4), and (a-5) to read as follows:

(a) Brochures, publications, ~~and~~ advertising of any form, and earnest money contracts relating to ~~[subdivided]~~ land required to be platted under this subchapter:

(1) may not contain any misrepresentation; ~~and~~

(2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities; and

(3) if a plat for the land has not been finally approved and recorded, must include a notice that:

(A) subject to Subsection (a-1), a contract for the sale of any portion of the land may not be entered into until the land receives final plat approval under Section 232.024; and

(B) the land may not be possessed or occupied until:

(i) the land receives final plat approval under Section 232.024;
and

(ii) all water and sewer service facilities for the lot are connected or installed in compliance with the model rules adopted under Section 16.343, Water Code.

(a-1) This subsection applies in addition to other applicable law and prevails to the extent of a conflict with that other law. This subsection applies only to a person who is a seller or subdivider and who is a licensed, registered, or otherwise credentialed residential mortgage loan originator under applicable state law, federal law, and the Nationwide Mortgage Licensing System and Registry. A person may, before a plat has been finally approved and recorded for the land:

(1) enter into an earnest money contract with a potential purchaser and accept payment under the contract in an amount of \$250 or less; and

(2) advertise in accordance with this section.

(a-2) An earnest money contract entered into under Subsection (a-1) is void if the plat for the land has not been finally approved and recorded before the 91st day after the date the earnest money contract is signed by the potential purchaser, unless the potential purchaser agrees in writing to extend the period for plat approval and recording for an additional 90-day period. Only one extension may be granted under this subsection.

(a-3) If an earnest money contract is void under Subsection (a-2), the seller shall refund all earnest money paid to the potential purchaser not later than the 30th day after the date the earnest money contract becomes void under Subsection (a-2). If the seller fails to refund the earnest money to the potential purchaser in violation of this subsection, the potential purchaser, in a suit to recover the earnest money, may recover an amount equal to three times the amount of the earnest money required to be refunded, plus reasonable attorney's fees.

(a-4) Before entering into an earnest money contract with a potential purchaser and before a plat has been finally approved and recorded for the land as permitted under Subsection (a-1), a person must provide written notice to the attorney general and to the local government responsible for approving the plat. The notice must include:

(1) a statement of intent to enter into an earnest money contract under Subsection (a-1);

(2) a legal description of the land to be included in the subdivision;

(3) each county in which all or part of the subdivision is located; and

(4) the number of proposed individual lots to be included in the subdivision.

(a-5) The attorney general may adopt rules regarding the notice to be provided under Subsection (a-4).

(h) A person who is a seller of lots for which a plat is required under this subchapter [in a subdivision], or a subdivider or an agent of a seller or subdivider, commits an offense if the person knowingly authorizes or assists in the

publication, advertising, distribution, or circulation of any statement or representation that the person knows is false concerning any ~~[subdivided]~~ land offered for sale or lease. An offense under this section is a Class A misdemeanor.

SECTION _____. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.0375 to read as follows:

Sec. 232.0375. NOTICE AND OPPORTUNITY TO CURE REQUIRED BEFORE FILING ENFORCEMENT ACTION. (a) Before a civil enforcement action may be filed against a subdivider under this subchapter, the subdivider must be notified in writing about the general nature of the alleged violation and given 90 days from the notification date to cure the violation. After the 90th day after the date of the notification, the enforcement action may proceed.

(b) This section does not apply to a civil enforcement action if the attorney general, district attorney, or county attorney asserts that:

(1) an alleged violation or threatened violation poses a threat to a consumer or to the health and safety of any person; or

(2) a delay in bringing an enforcement action may result in financial loss or increased costs to any person, including the county.

(c) This section does not apply if an enforcement action has previously been filed against the subdivider for the same or another alleged violation.

(d) This section does not apply to an action filed by a private individual.

SECTION _____. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.045 to read as follows:

Sec. 232.045. EARNEST MONEY CONTRACTS. (a) An earnest money contract entered into under Section 232.033(a-1) must contain the following statement:

"NOTICE: THIS IS AN EARNEST MONEY CONTRACT ONLY. THE MAXIMUM AMOUNT THAT THE SELLER MAY COLLECT UNDER THIS CONTRACT IS \$250. THE SELLER MAY NOT DEMAND ANY ADDITIONAL PAYMENT UNTIL A PLAT OF THE SUBDIVISION HAS BEEN APPROVED."

(b) An earnest money contract entered into under Section 232.033(a-1) must contain the notice required by Section 232.033.

SECTION _____. Subchapter C, Chapter 232, Local Government Code, is amended by adding Sections 232.0805 and 232.0806 to read as follows:

Sec. 232.0805. NOTICE AND OPPORTUNITY TO CURE REQUIRED BEFORE FILING ENFORCEMENT ACTION. (a) In this section, "subdivider" has the meaning assigned by Section 232.021.

(b) Before a civil enforcement action may be filed against a subdivider under this subchapter, the subdivider must be notified in writing about the general nature of the alleged violation and given 90 days from the notification date to cure the violation. After the 90th day after the date of the notification, the enforcement action may proceed.

(c) This section does not apply to a civil enforcement action if the attorney general, district attorney, or county attorney asserts that:

(1) an alleged violation or threatened violation poses a threat to a consumer or to the health and safety of any person; or

(2) a delay in bringing an enforcement action may result in financial loss or increased costs to any person, including the county.

(d) This section does not apply if an enforcement action has previously been filed against the subdivider for the same or another alleged violation.

(e) This section does not apply to an action filed by a private individual.

Sec. 232.0806. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. A person who has purchased or is purchasing a lot in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void, require the subdivider to return the purchase price of the property, and recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees; or

(2) enjoin a violation or threatened violation of Section 232.072, require the subdivider to plat or amend an existing plat under Sections 232.011 and 232.081, and recover from the subdivider:

(A) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(B) court costs; and

(C) reasonable attorney's fees.

SECTION _____. Section 233.152, Local Government Code, is amended to read as follows:

Sec. 233.152. APPLICABILITY. (a) Except as provided by Subsection (b), this [This] subchapter applies only to new residential construction in a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

(1) is located within 50 miles of an international border; or

(2) has a population of more than 100.

(b) This subchapter does not apply to new residential construction if:

(1) the property on which the new residential construction is located is appraised for ad valorem tax purposes as land for agricultural use or open-space land under Subchapter C or D, Chapter 23, Tax Code;

(2) the new residential construction will not be located within 1,000 feet of a platted subdivision;

(3) the new residential construction is intended to be used as the primary residence of an individual who is the builder of, or acts as the general contractor for, the construction; and

(4) the new residential construction is:

(A) the first residential construction, as described by Section 233.151(a)(1), to be built on the property; or

(B) an addition to an existing single-family house or duplex, as described by Section 233.151(a)(2).

SECTION _____. Subchapter F, Chapter 233, Local Government Code, is amended by adding Section 233.1546 to read as follows:

Sec. 233.1546. CERTIFICATION OF COMPLIANCE; CONNECTION OF UTILITIES. (a) A county may require the issuance of a certificate of compliance as a precondition to obtaining utility services as provided by this section.

(b) The county shall, not later than the fifth business day after the date a request is received under this subsection, issue the requesting party a written certificate of compliance if:

(1) the county receives a written request from a person who builds new residential construction subject to this section, the person for whom the new residential construction is built, or an entity that provides utility service; and

(2) the requesting party demonstrates that the new residential construction has complied with all requirements applicable under this subchapter.

(c) An electric, gas, water, or sewer service utility may not permanently serve or connect new residential construction subject to this section with electricity, gas, water, sewer, or other utility service unless the utility receives a certificate issued by the county that states that compliance with all requirements applicable under this subchapter was demonstrated as provided by Subsection (b).

(d) Subsection (c) does not prevent the temporary use or connection of utilities necessary to complete new residential construction, including temporary use or connection of utilities to pass an inspection under this subchapter.

SECTION _____. Subchapter J, Chapter 16, Water Code, is amended by adding Section 16.3541 to read as follows:

Sec. 16.3541. NOTICE AND OPPORTUNITY TO CURE REQUIRED BEFORE FILING ENFORCEMENT ACTION. (a) In this section, "subdivider" has the meaning assigned by Section 232.021, Local Government Code.

(b) Before a civil enforcement action may be filed against a subdivider under this subchapter, the subdivider must be notified in writing about the general nature of the alleged violation and given 90 days from the notification date to cure the violation. After the 90th day after the date of the notification, the enforcement action may proceed.

(c) This section does not apply to a civil enforcement action if the attorney general, district attorney, or county attorney asserts that:

(1) an alleged violation or threatened violation poses a threat to a consumer or to the health and safety of any person; or

(2) a delay in bringing an enforcement action may result in financial loss or increased costs to any person, including the county.

(d) This section does not apply if an enforcement action has previously been filed against the subdivider for the same or another alleged violation.

SECTION _____. Section 232.021(9), Local Government Code, is repealed.

SECTION _____. This Act applies only to an enforcement action filed on or after the effective date of this Act. An enforcement action filed before the effective date of this Act is governed by the law as it existed when the action was filed, and the former law is continued in effect for that purpose.

SECTION _____. The changes in law made by this Act to Chapter 233, Local Government Code, apply only to new residential construction that commences on or after the effective date of this Act, except that if the county requires notice under Section 233.154(b), Local Government Code, this Act applies only to new residential construction for which notice was given on or after the effective date of this Act.

(4) Renumber the SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

Amendment No. 2

On behalf of Representative Marquez, Representative Gonzalez offered the following amendment to **SB 1816**:

Amend **SB 1816** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 233.152, Local Government Code, is amended to read as follows:

Sec. 233.152. APPLICABILITY. (a) Except as provided by Subsection (b), this [This] subchapter applies only to new residential construction in a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

- (1) is located within 50 miles of an international border; or
- (2) has a population of more than 100.

(b) This subchapter does not apply to new residential construction if:

(1) the property on which the new residential construction is located is appraised for ad valorem tax purposes as land for agricultural use or open-space land under Subchapter C or D, Chapter 23, Tax Code;

(2) the new residential construction will not be located within 1,000 feet of a platted subdivision;

(3) the new residential construction is intended to be used as the primary residence of an individual who is the builder of, or acts as the general contractor for, the construction; and

(4) the new residential construction is:

(A) the first residential construction, as described by Section 233.151(a)(1), to be built on the property; or

(B) an addition to an existing single-family house or duplex, as described by Section 233.151(a)(2).

SECTION _____. Subchapter F, Chapter 233, Local Government Code, is amended by adding Section 233.1546 to read as follows:

Sec. 233.1546. CERTIFICATION OF COMPLIANCE; CONNECTION OF UTILITIES. (a) A county may require the issuance of a certificate of compliance as a precondition to obtaining utility services as provided by this section.

(b) The county shall, not later than the fifth business day after the date a request is received under this subsection, issue the requesting party a written certificate of compliance if:

(1) the county receives a written request from a person who builds new residential construction subject to this section, the person for whom the new residential construction is built, or an entity that provides utility service; and

(2) the requesting party demonstrates that the new residential construction has complied with all requirements applicable under this subchapter.

(c) An electric, gas, water, or sewer service utility may not permanently serve or connect new residential construction subject to this section with electricity, gas, water, sewer, or other utility service unless the utility receives a certificate issued by the county that states that compliance with all requirements applicable under this subchapter was demonstrated as provided by Subsection (b).

(d) Subsection (c) does not prevent the temporary use or connection of utilities necessary to complete new residential construction, including temporary use or connection of utilities to pass an inspection under this subchapter.

SECTION _____. The changes in law made by Section 233.152, Local Government Code, as amended by this Act, and Section 233.1546, Local Government Code, as added by this Act, apply only to new residential construction that commences on or after the effective date of this Act, except that if the county requires notice under Section 233.154(b), Local Government Code, the changes in law described by this section apply only to new residential construction for which notice was given on or after the effective date of this Act.

Amendment No. 2 was adopted.

AMENDMENT NO. 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HANCOCK: Yes, Representative Guillen, we talked about it a little bit. You brought up the fact that this bill did pass the house, but this bill actually failed the house originally, did it not?

REPRESENTATIVE GUILLEN: I don't remember.

HANCOCK: The amendment.

GUILLEN: Yes.

HANCOCK: And then it was brought back up—

GUILLEN: Back up, and we added, I think—well, we amended it, and it failed. It was brought back up in the same form and passed.

HANCOCK: Okay. My question is, as you bring this as an amendment to this bill, did you address in this amendment the concerns with the original bill?

GUILLEN: Oh yes. We included the exact amendment that we applied on the house floor at that time.

HANCOCK: So, this is the amended version of the original bill, corrected, and no changes from that.

GUILLEN: Right.

REMARKS ORDERED PRINTED

Representative Hancock moved to print remarks between Representative Guillen and Representative Hancock.

The motion prevailed.

SB 1816, as amended, was passed by (Record 1362): 76 Yeas, 68 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Burnam; Callegari; Castro; Chisum; Coleman; Cook; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Gallego; Garza; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Hartnett; Hilderbran; Hochberg; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, T.; Kuempel; Larson; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Muñoz; Naishtat; Nash; Oliveira; Otto; Peña; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Shelton; Solomons; Strama; Taylor, V.; Thompson; Torres; Turner; Villarreal; Vo; Walle; Woolley; Workman.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Christian; Craddick; Creighton; Crownover; Darby; Davis, S.; Elkins; Farrar; Fletcher; Flynn; Frullo; Geren; Gonzales, L.; Gooden; Hancock; Harless; Harper-Brown; Hernandez Luna; Hopson; Howard, C.; Huberty; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lewis; Madden; Miller, S.; Morrison; Murphy; Orr; Parker; Patrick; Paxton; Perry; Phillips; Price; Riddle; Schwertner; Sheets; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee; Taylor, L.; Truitt; Weber; White; Zedler; Zerwas.

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

Absent — Alvarado; Hughes; Miles; Veasey.

STATEMENTS OF VOTE

When Record No. 1362 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

I was shown voting yes on Record No. 1362. I intended to vote no.

Kuempel

I was shown voting yes on Record No. 1362. I intended to vote no.

Otto

When Record No. 1362 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

POSTPONED BUSINESS

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

SB 738 ON SECOND READING (Villarreal - House Sponsor)

SB 738, A bill to be entitled An Act relating to a parental role in determining sanctions applied to a public school campus under certain circumstances.

SB 738 was read second time on May 21 and was passed to third reading, as amended. The vote was later reconsidered on May 23, amendments were offered and disposed of, and **SB 738** was postponed until later that day.

Amendment No. 2 - Vote Reconsidered

Representative Villarreal moved to reconsider the vote by which Amendment No. 2 was adopted.

The motion to reconsider prevailed.

Amendment No. 2 was withdrawn.

SB 738 was passed to third reading. (Christian and Weber recorded voting no.)

SB 173 ON SECOND READING (Dutton - House Sponsor)

SB 173, A bill to be entitled An Act relating to civil remedy of violations of certain municipal health and safety ordinances.

SB 173 was read second time on May 23 and was postponed until 11:30 p.m. May 23.

SB 173 was passed to third reading.

CSSJR 5 ON SECOND READING (Pitts - House Sponsor)

CSSJR 5, A joint resolution proposing a constitutional amendment to clarify references to the permanent school fund, to allow the General Land Office to distribute revenue derived from permanent school fund land or other properties to the available school fund, and to provide for an increase in the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund.

CSSJR 5 was read second time on May 23 and was postponed until 8 a.m. today.

Representative Pitts moved to postpone consideration of **CSSJR 5** until 8 a.m. Sunday, January 1, 2012.

The motion prevailed.

SB 542 - NOTICE GIVEN

Pursuant to the provisions of Rule 7, Section 37(c) of the House Rules, at 11:20 a.m., Representative Walle announced his intention to make the motion to reconsider the vote by which **SB 542** was passed earlier today.

**POSTPONED BUSINESS
(consideration continued)****SB 499 ON SECOND READING
(Guillen - House Sponsor)**

SB 499, A bill to be entitled An Act relating to the identification of breeder deer by microchips.

SB 499 was read second time on May 20, postponed until May 23, and was again postponed until 8 a.m. today.

SB 499 was withdrawn and, pursuant to Rule 6, Section 24 of the House Rules, was returned to the Committee on Calendars.

**MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING**

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

**CSSB 142 ON SECOND READING
(Solomons - House Sponsor)**

CSSB 142, A bill to be entitled An Act relating to real property that is subject to restrictive covenants, including the operation of property owners' associations of subdivisions that are subject to restrictive covenants, and to certain foreclosure actions.

(Schwertner in the chair)

Amendment No. 1

Representative Solomons offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) in SECTION 1 of the bill in amended Section 5.006(a), Property Code (page 1, lines 10-12), by striking "or a statute pertaining to real property subject to a restrictive covenant or to restrictive covenants to which real property is subject".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Solomons offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) in SECTION 15 of the bill, in added Section 209.0051(e), Property Code (page 22, line 18), by striking "emergency".

Amendment No. 2 was adopted.

Amendment No. 3

Representative Solomons offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) in SECTION 9 of the bill, in added Section 202.012(e), Property Code (page 8, line 22), between "instrument" and the period, by inserting "and that has been approved by all adjoining property owners".

Amendment No. 3 was adopted.

Amendment No. 4

Representative Solomons offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing), in SECTION 10 of the bill, in amended Section 207.003(c), Property Code (page 12, lines 16-18), by striking the following:

The prescribed charges shall be presumed to be reasonable if they do not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Vo offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) as follows:

(1) In SECTION 15 of the bill, in added Section 209.0051(e)(1), Property Code (page 22, line 22), between "mailed" and "to each", insert "or delivered".

(2) In SECTION 21 of the bill, in added Section 209.014(b), Property Code (page 38, line 12), between "must be sent" and "to each", insert "or delivered".

Amendment No. 5 was adopted.

Amendment No. 6

Representative Kuempel offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) in SECTION 13 of the bill as follows:

(1) In the recital (page 13, line 14), strike "Section 209.0041" and substitute "Sections 209.0041 and 209.0042".

(2) Following added Section 209.0041, Property Code (page 14, between lines 15 and 16), insert the following:

Sec. 209.0042. VARIANCE FOR COMMERCIAL DEVELOPMENT.

(a) This section applies to a residential subdivision in which property owners are subject to mandatory membership in a property owners' association.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(c) Notwithstanding any provision in a dedicatory instrument, a property owners' association board may grant a variance to a restrictive covenant to permit the commercial development of a lot restricted to residential development by the restrictive covenant if:

- (1) the lot is adjacent to a US highway with four or more lanes;
- (2) the lot is substantially similar to other lots in the subdivision that are not subject to a restrictive covenant requiring residential development and for which commercial use is permitted; and
- (3) the lot is not adjacent to a road in the subdivision that accesses the interior portion of the subdivision.

(d) A property owners' association board that grants a variance under Subsection (c) may impose reasonable conditions on the commercial activity permitted by the variance.

(e) A variance granted by the board for a lot under Subsection (c) is not a waiver of the association's authority to enforce the restrictive covenant with respect to other lots that do not qualify for a variance under that subsection.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Workman offered the following amendment to **CSSB 142**:

Amend **CSSB 142** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Chapter 202, Property Code, is amended by adding Section 202.015 to read as follows:

Sec. 202.015. RESTRICTIONS REQUIRING USE OF LIQUID PROPANE GAS. A property owners' association may not adopt or enforce a dedicatory instrument provision that requires a property owner to use liquid propane gas as a sole fuel source for the owner's property.

Amendment No. 7 was adopted.

Amendment No. 8

Representative Menendez offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) as follows:

(1) In SECTION 21 of the bill, in the recital (page 37, line 26), strike "Sections 209.014 and 209.015" and substitute "Sections 209.0121, 209.014, and 209.015".

(2) In SECTION 21 of the bill, between the recital and added Section 209.014, Property Code (page 37, between lines 26 and 27), insert the following:

Sec. 209.0121. REGULATION OF LAND USE: RESIDENTIAL PURPOSE. (a) In this section:

(1) "Adjacent lot" means:

(A) a lot that is contiguous to another lot that fronts on the same street;

(B) with respect to a corner lot, a lot that is contiguous to the corner lot either by a side or back property line; or

(C) if permitted by the dedicatory instrument, any lot that is contiguous to another lot at the back property line.

(2) "Residential purpose" with respect to the use of a lot:

(A) means the location on the lot of any building, structure, or other improvement customarily appurtenant to a residence, as opposed to use for a business or commercial purpose; and

(B) includes the location on the lot of a garage, sidewalk, driveway, parking area, children's swing or playscape, fence, septic system, swimming pool, utility line, or water well and, if otherwise specifically permitted by the provisions of the dedicatory instrument, the parking or storage of a recreational vehicle.

(b) A property owners' association may not adopt or enforce a provision in a dedicatory instrument that prohibits or restricts the owner of a lot on which a residence is located from using for residential purposes an adjacent lot owned by the property owner.

(c) An owner must obtain the approval of the property owners' association or, if applicable, an architectural committee established by the association, based on criteria prescribed by the dedicatory instruments specific to the use of a lot for residential purposes, including reasonable restrictions regarding size, location, shielding, and aesthetics of the residential purpose, before the owner begins the construction, placement, or erection of a building, structure, or other improvement for the residential purpose on an adjacent lot.

(d) An owner who elects to use an adjacent lot for residential purposes under this section shall, on the sale or transfer of the lot containing the residence:

(1) include the adjacent lot in the sales agreement and transfer the lot to the new owner under the same dedicatory conditions; or

(2) restore the adjacent lot to the original condition before the addition of the improvements allowed under this section to the extent that the lot would again be suitable for the construction of a separate residence as originally platted and provided for in the conveyance to the owner.

(e) An owner may sell the adjacent lot separately only for the purpose of the construction of a new residence that complies with existing requirements in the dedicatory instrument unless the lot has been restored as described by Subsection (d)(2).

(f) A provision in a dedicatory instrument that violates this section is void.

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. 2).

CSSB 142 - (consideration continued)

Amendment No. 8 was adopted.

Amendment No. 9

Representative Veasey offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) in SECTION 9 of the bill as follows:

(1) In the recital (page 6, line 9), between "Sections" and "202.011," insert "202.010,".

(2) Following the recital (page 6, between lines 9 and 10), insert the following:

Sec. 202.010. SELECTION OF CONTRACTORS FOR PROPERTY ALTERATION, MAINTENANCE, AND REPAIR. (a) Except as otherwise provided by this section, a property owners' association may not enforce or adopt a restrictive covenant that requires a property owner to use a contractor selected by the property owners' association when contracting for alteration, maintenance, or repair of the property owner's property.

(b) This section does not prohibit enforcement or adoption of a restrictive covenant that allows the property owners' association to designate a specific contractor to:

(1) alter, maintain, or repair property that the property owners' association is required to maintain; or

(2) provide services to or for the benefit of all members of the property owners' association.

Amendment No. 9 was adopted.

Amendment No. 10

Representative McClendon offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 1101.151(a), Occupations Code, is amended to read as follows:

(a) The commission shall:

(1) administer this chapter and Chapter 1102;

(2) adopt rules and establish standards relating to permissible forms of advertising by a license holder acting as a residential rental locator;

(3) maintain a registry of certificate holders; ~~and~~

(4) design and adopt a seal; and

(5) administer Sections 82.1031, 82.1032, 209.0041, and 209.0042,

Property Code.

SECTION _____. Section 1101.152, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall adopt rules to set and collect fees in amounts reasonable and necessary to cover the costs of administering the filing of an application for registration under Sections 82.1031 and 209.0041, Property Code, and a renewal of registration under Sections 82.1032 and 209.0042, Property Code.

SECTION _____. Section 82.003(a), Property Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Commission" means the Texas Real Estate Commission.

SECTION _____. Subchapter C, Chapter 82, Property Code, is amended by adding Sections 82.1031, 82.1032, and 82.1033 to read as follows:

Sec. 82.1031. BOARD REGISTRATION REQUIRED. (a) A board of a unit owners' association may not act on behalf of the association unless the board is registered with the commission as provided by this section.

(b) An application for registration must contain:

(1) the information required to be included in a management certificate under Section 82.116; and

(2) any other information required by the commission by rule.

(c) An applicant shall promptly supplement or amend an application to report any material mistake or omission or any actual or expected change in any document or information contained in the application.

(d) The application must be sworn to and accompanied by an initial registration fee in an amount set by the commission by rule as provided by Section 1101.152(d), Occupations Code.

Sec. 82.1032. RENEWAL OF REGISTRATION. A unit owners' association board must renew the board's registration annually by filing a report with the commissioner. The report must:

(1) be in a form prescribed by the commission by rule; and

(2) be accompanied by a renewal fee in an amount set by the commission by rule as provided by Section 1101.152(d), Occupations Code.

Sec. 82.1033. EXEMPTION. Sections 82.1031 and 82.1032 do not apply to a unit owners' association that consists of 15 or fewer units.

SECTION ____. Section 209.002, Property Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Commission" means the Texas Real Estate Commission.

SECTION ____. Chapter 209, Property Code, is amended by adding Sections 209.0041, 209.0042, and 209.0043 to read as follows:

Sec. 209.0041. BOARD REGISTRATION REQUIRED. (a) A board of a property owners' association may not act on behalf of the association unless the board is registered with the commission as provided by this section.

(b) An application for registration must contain:

(1) the information required to be included in a management certificate under Section 209.004; and

(2) any other information required by the commission by rule.

(c) An applicant shall promptly supplement or amend an application to report any material mistake or omission or any actual or expected change in any document or information contained in the application.

(d) The application must be sworn to and accompanied by an initial registration fee in an amount set by the commission by rule as provided by Section 1101.152(d), Occupations Code.

Sec. 209.0042. RENEWAL OF REGISTRATION. A property owners' association board must renew the board's registration annually by filing a report with the commissioner. The report must:

(1) be in a form prescribed by the commission by rule; and

(2) be accompanied by a renewal fee in an amount set by the commission by rule as provided by Section 1101.152(d), Occupations Code.

Sec. 209.0043. EXEMPTION. Sections 209.0041 and 209.0042 do not apply to a property owners' association that consists of 15 or fewer lots or units.

SECTION _____. (a) Sections 82.1031, 82.1032, 82.1033, 209.0041, 209.0042, and 209.0043, Property Code, as added by this Act, apply to a unit owners' association or property owners' association regardless of whether the unit owners' association or property owners' association was created before, on, or after the effective date of this Act.

(b) The changes in law made by this Act apply to a unit owners' association or property owners' association beginning January 1, 2012.

(c) Not later than December 1, 2011, the Texas Real Estate Commission shall adopt rules necessary to implement Sections 82.1031, 82.1032, 82.1033, 209.0041, 209.0042, and 209.0043, Property Code, as added by this Act.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Bohac offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) as follows:

(1) In SECTION 7 of the bill, strike the recital (page 5, lines 14-15) and substitute the following:

Section 202.004, Property Code, is amended by amending Subsection (c) and adding Subsections (d), (e), (f), and (g) to read as follows:

(2) In SECTION 7 of the bill, after amended Section 202.004(c), Property Code (page 5, between lines 22 and 23), insert the following:

(d) In evaluating an alleged or potential violation of a restrictive covenant, a property owners' association board shall make a reasonable accommodation with respect to a person with a disability that has been evidenced by a written report by a physician. In the absence of clear and convincing evidence that the accommodation will create a substantial and imminent risk to public safety or require a substantial expenditure by the property owners' association for physical improvements, the board may not enforce a restrictive covenant in a manner that is inconsistent with the physician's report or that imposes an undue hardship on the person.

(e) A determination by the property owners' association board to not enforce a restrictive covenant under Subsection (d) may not be considered a waiver of the association's authority to enforce any dedicatory instrument provision in the future.

(f) A property owners' association board shall document the following information in the minutes of the board meeting and provide a copy of the minutes to a person subject to an enforcement of a restrictive covenant under circumstances described by Subsection (d):

(1) the specific facts and circumstances constituting a public safety risk or requiring a substantial expenditure under Subsection (d);

(2) the person subjected to the enforcement of the covenant; and

(3) the board members voting for and against the enforcement of the covenant.

(g) A determination made in violation of Subsection (d) or (f) is void and unenforceable.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Gallego offered the following amendment to **CSSB 142**:

Amend **CSSB 142** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering SECTIONS of the bill accordingly:

SECTION _____. Subsection (a), Section 202.007, Property Code, is amended to read as follows:

(a) A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from:

(1) implementing measures promoting solid-waste composting of vegetation, including grass clippings, leaves, or brush, or leaving grass clippings uncollected on grass;

(2) installing rain barrels or a rainwater harvesting system; ~~or~~

(3) implementing efficient irrigation systems, including underground drip or other drip systems; or

(4) implementing landscaping design, including xeriscaping, that promotes water conservation.

Amendment No. 12 was adopted.

Amendment No. 13

Representative P. King offered the following amendment to **CSSB 142**:

Amend **CSSB 142** by striking all below the enacting clause and substituting the following:

SECTION 1. Subsection (a), Section 5.006, Property Code, is amended to read as follows:

(a) In an action based on breach of a restrictive covenant pertaining to real property, the court shall allow to a prevailing party ~~[who asserted the action]~~ reasonable attorney's fees in addition to the party's costs and claim.

SECTION 2. Section 5.012, Property Code, is amended by amending Subsection (a) and adding Subsections (a-1), (f), and (g) to read as follows:

(a) A seller of residential real property that is subject to membership in a property owners' association and that comprises not more than one dwelling unit located in this state shall give to the purchaser of the property a written notice that reads substantially similar to the following:

NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION
CONCERNING THE PROPERTY AT (street address) (name of residential
community)

As a purchaser of property in the residential community in which this property is located, you are obligated to be a member of a property owners' association. Restrictive covenants governing the use and occupancy of the property and all ~~[a]~~ dedicatory instruments ~~[instrument]~~ governing the

establishment, maintenance, or ~~and~~ operation of this residential community have been or will be recorded in the Real Property Records of the county in which the property is located. Copies of the restrictive covenants and dedicatory instruments ~~[instrument]~~ may be obtained from the county clerk.

You are obligated to pay assessments to the property owners' association. The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's [a] lien on and the foreclosure of your property.

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

Date: _____

Signature of Purchaser

(a-1) The second paragraph of the notice prescribed by Subsection (a) must be in bold print and underlined.

(f) On the purchaser's request for a resale certificate from the property owners' association or the association's agent, the association or its agent shall promptly deliver a copy of the most recent resale certificate issued for the property under Chapter 207 so long as the resale certificate was prepared not earlier than the 60th day before the date the resale certificate is delivered to the purchaser and reflects any special assessments approved before and due after the resale certificate is delivered. If a resale certificate that meets the requirements of this subsection has not been issued for the property, the seller shall request the association or its agent to issue a resale certificate under Chapter 207, and the association or its agent shall promptly prepare and deliver a copy of the resale certificate to the purchaser.

(g) The purchaser shall pay the fee to the property owners' association or its agent for issuing the resale certificate unless otherwise agreed by the purchaser and seller of the property. The property owners' association may not process a payment for a resale certificate requested under Chapter 207 until the certificate is available for delivery. The association may not charge a fee if the certificate is not provided in the time prescribed by Section 207.003(a).

SECTION 3. Section 51.002, Property Code, is amended by adding Subsection (i) to read as follows:

(i) Notice served under Subsection (b)(3) or (d) must state the name and address of the sender of the notice and contain a statement that is conspicuous, printed in boldface or underlined type, and substantially similar to the following: "Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including

active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately."

SECTION 4. Subsection (a), Section 51.015, Property Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Assessment" and "assessments" have the meanings assigned by Sections 82.113(a) and 209.002, as applicable.

SECTION 5. Subsection (b), Section 51.015, Property Code, is amended to read as follows:

(b) This section applies only to an obligation:

(1) that is secured by a mortgage, deed of trust, or other contract lien, including a lien securing payment of an assessment or assessments, as applicable, on real property or personal property that is a dwelling owned by a military servicemember;

(2) that originates before the date on which the servicemember's active duty military service commences; and

(3) for which the servicemember is still obligated.

SECTION 6. Subdivision (1), Section 202.001, Property Code, is amended to read as follows:

(1) "Dedictory instrument" means each document governing [instrument covering] the establishment, maintenance, or [and] operation of a residential subdivision, planned unit development, condominium or townhouse regime, or any similar planned development. The term includes a declaration or similar instrument subjecting real property to:

(A) restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association;

(B)[, to] properly adopted rules and regulations of the property owners' association; or

(C)[, or to] all lawful amendments to the covenants, bylaws, instruments, rules, or regulations.

SECTION 7. Subsection (c), Section 202.004, Property Code, is amended to read as follows:

(c) For a violation of a restrictive covenant of a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines, a [A] court may assess civil damages [for the violation of a restrictive covenant] in an amount not to exceed \$200 for each day of the violation.

SECTION 8. Section 202.006, Property Code, is amended to read as follows:

Sec. 202.006. PUBLIC RECORDS. (a) A property owners' association shall file all [the] dedicatory instruments [instrument] in the real property records of each county in which the property to which the dedicatory instruments relate [instrument relates] is located.

(b) A dedicatory instrument has no effect until the instrument is filed in accordance with this section.

SECTION 9. Chapter 202, Property Code, is amended by adding Sections 202.011, 202.012, and 202.013 to read as follows:

Sec. 202.011. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In this section, "development period" means a period stated in a declaration during which a declarant reserves:

(1) a right to facilitate the development, construction, and marketing of the subdivision; and

(2) a right to direct the size, shape, and composition of the subdivision.

(b) To the extent a restrictive covenant provides a right of first refusal for the sale or lease of a residential unit or residential lot in favor of the property owners' association or the association's members, the covenant is void.

(c) This section does not apply to a restrictive covenant that provides a right of first refusal in favor of a developer or builder during the development period.

Sec. 202.012. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section, "solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by this section, a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) A property owners' association may include or enforce a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) as adjudicated by a court:

(A) threatens the public health or safety; or

(B) violates a law;

(2) is located on property owned or maintained by the property owners' association;

(3) is located on property owned in common by the members of the property owners' association;

(4) is located in an area on the property owner's property other than:

(A) on the roof of the home or of another structure allowed under a dedicatory instrument; or

(B) in a fenced yard or patio owned and maintained by the property owner;

(5) if mounted on the roof of the home:

(A) extends higher than or beyond the roofline;

(B) is located in an area other than an area designated by the property owners' association, unless the alternate location increases the estimated annual energy production of the device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than 10 percent above the energy production of the device if located in an area designated by the property owners' association;

(C) does not conform to the slope of the roof and has a top edge that is not parallel to the roofline; or

(D) has a frame, a support bracket, or visible piping or wiring that is not in a silver, bronze, or black tone commonly available in the marketplace;

(6) if located in a fenced yard or patio, is taller than the fence line;

(7) as installed, voids material warranties; or

(8) was installed without prior approval by the property owners' association or by a committee created in a dedicatory instrument for such purposes that provides decisions within a reasonable period or within a period specified in the dedicatory instrument.

(e) A property owners' association or the association's architectural review committee may not withhold approval for installation of a solar energy device if the provisions of the dedicatory instruments, to the extent authorized by this section, are met or exceeded, unless the association or committee, as applicable, determines in writing that placement of the device as proposed by the property owner constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities.

Sec. 202.013. RESTRICTIONS REQUIRING CAPITAL IMPROVEMENTS. (a) A dedicatory instrument may not be amended to retroactively require a person who owns property subject to the dedicatory instrument at the time the amendment is adopted to make a capital improvement to the owner's property that is not required before the amendment.

(b) For the purposes of this section, "capital improvement" means items such as additional tree plantings, additional sodding, fence construction, hardscape installation, new construction, or any similar capital improvement. The term does not include repair or maintenance of existing improvements or the removal of conditions that are in violation of a dedicatory instrument.

SECTION 10. Subsections (a), (b), and (c), Section 207.003, Property Code, are amended to read as follows:

(a) Not later than the 10th day after the date a written request for subdivision information is received from an owner, owner's agent, or title insurance company or its agent acting on behalf of the owner, the property owners' association shall deliver to the owner, owner's agent, or title insurance company or its agent:

(1) a current copy of the restrictions applying to the subdivision;

(2) a current copy of the bylaws and rules of the property owners' association; and

(3) a resale certificate prepared not earlier than the 60th day before the date the certificate is delivered that complies with Subsection (b).

(b) A resale certificate under Subsection (a) must contain:

(1) a statement of any right of first refusal, other than a right of first refusal that is prohibited by statute, and any ~~or~~ other restraint contained in the restrictions or restrictive covenants that restricts the owner's right to transfer the owner's property;

(2) the frequency and amount of any regular assessments;

(3) the amount and purpose of any special assessment that has been approved before and is due after ~~[the date]~~ the resale certificate is delivered ~~[prepared]~~;

(4) the total of all amounts due and unpaid to the property owners' association that are attributable to the owner's property;

(5) capital expenditures, if any, approved by the property owners' association for the property owners' association's current fiscal year;

(6) the amount of reserves, if any, for capital expenditures;

(7) the property owners' association's current operating budget and balance sheet;

(8) the total of any unsatisfied judgments against the property owners' association;

(9) the style and cause number of any pending lawsuit in which the property owners' association is a party, other than a lawsuit relating to unpaid ad valorem taxes of an individual member of the association ~~[defendant]~~;

(10) a copy of a certificate of insurance showing the property owners' association's property and liability insurance relating to the common areas and common facilities;

(11) a description of any conditions on the owner's property that the property owners' association board has actual knowledge are in violation of the restrictions applying to the subdivision or the bylaws or rules of the property owners' association;

(12) a summary or copy of notices received by the property owners' association from any governmental authority regarding health or housing code violations existing on the preparation date of the certificate relating to the owner's property or any common areas or common facilities owned or leased by the property owners' association;

(13) the amount of any administrative transfer fee charged by the property owners' association for a change of ownership of property in the subdivision;

(14) the name, mailing address, and telephone number of the property owners' association's managing agent, if any; ~~and~~

(15) a statement indicating whether the restrictions allow foreclosure of a property owners' association's lien on the owner's property for failure to pay assessments; and

(16) a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee.

(c) A property owners' association may charge a reasonable fee to assemble, copy, and deliver the information required by this section and may charge a reasonable fee to prepare and deliver an update of a resale certificate under Subsection (f). A purchaser requesting a resale certificate under Section 5.012 or on whose behalf the resale certificate is requested shall pay the fees charged under this subsection unless otherwise agreed by the purchaser and seller of the property.

SECTION 11. Chapter 207, Property Code, is amended by adding Section 207.006 to read as follows:

Sec. 207.006. ONLINE SUBDIVISION INFORMATION REQUIRED. A property owners' association shall make dedicatory instruments relating to the association or subdivision and filed in the county deed records available on a website if the association has, or a management company on behalf of the association maintains, a publicly accessible website.

SECTION 12. Section 209.003, Property Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The following provisions of this chapter do not apply to a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines:

- (1) Section 209.005(c);
- (2) Section 209.0056;
- (3) Section 209.0057;
- (4) Section 209.0058;
- (5) Section 209.00592; and
- (6) Section 209.0062.

(f) The following provisions of this chapter do not apply to a property owners' association for owners of residential property in a development that includes a timeshare association subject to Chapter 221 and in which residential property owners share amenities with the timeshare interest owners:

- (1) Section 209.0041;
- (2) Section 209.0059;
- (3) Section 209.00591; and
- (4) Section 209.00593.

SECTION 13. Chapter 209, Property Code, is amended by adding Section 209.0041 to read as follows:

Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY INSTRUMENTS. (a) This section applies to a residential subdivision in which property owners are subject to mandatory membership in a property owners' association.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(c) This section does not apply to the amendment of a declaration during a development period, as defined by Section 202.011.

(d) This section applies to a dedicatory instrument regardless of the date on which the dedicatory instrument was created.

(e) This section supersedes any contrary requirement in a dedicatory instrument.

(f) To the extent of any conflict with another provision of this title, this section prevails.

(g) Except as provided by this subsection, a declaration may be amended only by a vote of 67 percent of the total votes allocated to property owners in the property owners' association, in addition to any governmental approval required by law. If the declaration contains a lower percentage, the percentage in the declaration controls.

(h) A bylaw may not be amended to conflict with the declaration.

SECTION 14. Section 209.005, Property Code, is amended to read as follows:

Sec. 209.005. ASSOCIATION RECORDS. (a) Except as provided by Subsection (b), this section applies to all property owners' associations and controls over other law not specifically applicable to a property owners' association.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(c) Notwithstanding a provision in a dedicatory instrument, a [A] property owners' association shall make the books and records of the association, including financial records, open to and reasonably available for examination by [t] an owner, or a person designated in a writing signed by the owner as the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the association copies of information contained in the books and records [Section B, Article 2.23, Texas Non-Profit Corporation Act (Article 1396.2.23, Vernon's Texas Civil Statutes)].

(d) Except as provided by this subsection, an [(a-1) A property owners' association described by Section 552.0036(2), Government Code, shall make the books and records of the association, including financial records, reasonably available to any person requesting access to the books or records in accordance with Chapter 552, Government Code. Subsection (a) does not apply to a property owners' association to which this subsection applies.

[(b) An] attorney's files and records relating to the property owners' association, excluding invoices requested by an owner under Section 209.008(d), are not[;

[(1) records of the association and are not[;

[(2) subject to inspection by the owner[;] or

[(3) subject to] production in a legal proceeding. If a document in an attorney's files and records relating to the association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced by using the copy from the attorney's files and records if the association has not maintained a separate copy of the document. This subsection does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.

(e) An owner or the owner's authorized representative described by Subsection (c) must submit a written request for access or information under Subsection (c) by certified mail, with sufficient detail describing the property owners' association's books and records requested, to the mailing address of the association or authorized representative as reflected on the most current

management certificate filed under Section 209.004. The request must contain an election either to inspect the books and records before obtaining copies or to have the property owners' association forward copies of the requested books and records and:

(1) if an inspection is requested, the association, on or before the 10th business day after the date the association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the association; or

(2) if copies of identified books and records are requested, the association shall, to the extent those books and records are in the possession, custody, or control of the association, produce the requested books and records for the requesting party on or before the 10th business day after the date the association receives the request, except as otherwise provided by this section.

(f) If the property owners' association is unable to produce the books or records requested under Subsection (e) on or before the 10th business day after the date the association receives the request, the association must provide to the requestor written notice that:

(1) informs the requestor that the association is unable to produce the information on or before the 10th business day after the date the association received the request; and

(2) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.

(g) If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the property owners' association to copy and forward to the requesting party.

(h) A property owners' association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the association.

(i) A property owners' association board must adopt a records production and copying policy that prescribes the costs the association will charge for the compilation, production, and reproduction of information requested under this section. The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3. The policy required by this subsection must be recorded as a dedicatory instrument in accordance with Section 202.006. An association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by this subsection. An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this subsection. The association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the

association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.

(j) A property owners' association must estimate costs under this section using amounts prescribed by the policy adopted under Subsection (i).

(k) Except as provided by Subsection (l) and to the extent the information is provided in the meeting minutes, the property owners' association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner of an association, an owner's personal financial information, including records of payment or nonpayment of amounts due the association, an owner's contact information, other than the owner's address, or information related to an employee of the association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.

(l) The books and records described by Subsection (k) shall be released or made available for inspection if:

(1) the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners' association; or

(2) a court orders the release of the books and records or orders that the books and records be made available for inspection.

(m) A property owners' association composed of more than 14 lots shall adopt and comply with a document retention policy that includes, at a minimum, the following requirements:

(1) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;

(2) financial books and records shall be retained for seven years;

(3) account records of current owners shall be retained for five years;

(4) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;

(5) minutes of meetings of the owners and the board shall be retained for seven years; and

(6) tax returns and audit records shall be retained for seven years.

(n) A member of a property owners' association who is denied access to or copies of association books or records to which the member is entitled under this section may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the association is located requesting relief in accordance with this subsection. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:

(1) a judgment ordering the property owners' association to release or allow access to the books or records;

(2) a judgment against the property owners' association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or

(3) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the property owners' association.

(o) If the property owners' association prevails in an action under Subsection (n), the association is entitled to a judgment for court costs and attorney's fees incurred by the association in connection with the action.

(p) On or before the 10th business day before the date a person brings an action against a property owners' association under this section, the person must send written notice to the association of the person's intent to bring the action.

The notice must:

(1) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section 209.004; and

(2) describe with sufficient detail the books and records being requested.

(q) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

SECTION 15. Chapter 209, Property Code, is amended by adding Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059, 209.00591, 209.00592, and 209.00593 to read as follows:

Sec. 209.0051. OPEN BOARD MEETINGS. (a) This section does not apply to a property owners' association that is subject to Chapter 551, Government Code, by application of Section 551.0015, Government Code.

(b) In this section, "board meeting" means a deliberation between a quorum of the voting board of the property owners' association, or between a quorum of the voting board and another person, during which property owners' association business is considered and the board takes formal action. The term does not include the gathering of a quorum of the board at a social function unrelated to the business of the association or the attendance by a quorum of the board at a regional, state, or national convention, ceremonial event, or press conference, if formal action is not taken and any discussion of association business is incidental to the social function, convention, ceremonial event, or press conference.

(c) Regular and special board meetings must be open to owners, subject to the right of the board to adjourn a board meeting and reconvene in closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the property owners' association's attorney, matters involving the invasion of privacy of individual owners, or matters that are to remain confidential by request of the affected parties and agreement of the board. Following an executive session, any decision made in the executive session must

be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

(c-1) Except for a meeting held by electronic or telephonic means under Subsection (h), a board meeting must be held in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county.

(d) The board shall keep a record of each regular or special board meeting in the form of written minutes of the meeting. The board shall make meeting records, including approved minutes, available to a member for inspection and copying on the member's written request to the property owners' association's managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the board.

(e) Members shall be given notice of the date, hour, place, and general subject of a regular or special board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be:

(1) mailed to each property owner not later than the 10th day or earlier than the 60th day before the date of the meeting; or

(2) provided at least 72 hours before the start of the meeting by:

(A) posting the notice in a conspicuous manner reasonably designed to provide notice to property owners' association members:

(i) in a place located on the association's common property or, with the property owner's consent, on other conspicuously located privately owned property within the subdivision; or

(ii) on any Internet website maintained by the association or other Internet media; and

(B) sending the notice by e-mail to each owner who has registered an e-mail address with the association.

(f) It is an owner's duty to keep an updated e-mail address registered with the property owners' association under Subsection (e)(2)(B).

(g) If the board recesses a regular or special board meeting to continue the following regular business day, the board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this section. If a regular or special board meeting is continued to the following regular business day, and on that following day the board continues the meeting to another day, the board shall give notice of the continuation in at least one manner prescribed by Subsection (e)(2)(A) within two hours after adjourning the meeting being continued.

(h) A board may meet by any method of communication, including electronic and telephonic, without prior notice to owners under Subsection (e), if each director may hear and be heard by every other director, or the board may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate board action. Any action taken without notice to owners under

Subsection (e) must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special board meeting. The board may not, without prior notice to owners under Subsection (e), consider or vote on:

- (1) fines;
- (2) damage assessments;
- (3) initiation of foreclosure actions;
- (4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
- (5) increases in assessments;
- (6) levying of special assessments;
- (7) appeals from a denial of architectural control approval; or
- (8) a suspension of a right of a particular owner before the owner has an opportunity to attend a board meeting to present the owner's position, including any defense, on the issue.

(i) This section applies to a meeting of a property owners' association board during the development period, as defined by Section 202.011, only if the meeting is conducted for the purpose of:

- (1) adopting or amending the governing documents, including declarations, bylaws, rules, and regulations of the association;
- (2) increasing the amount of regular assessments of the association or adopting or increasing a special assessment;
- (3) electing non-developer board members of the association or establishing a process by which those members are elected; or
- (4) changing the voting rights of members of the association.

Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE.

(a) Not later than the 10th day or earlier than the 60th day before the date of an election or vote, a property owners' association shall give written notice of the election or vote to:

- (1) each owner of property in the property owners' association, for purposes of an association-wide election or vote; or
- (2) each owner of property in the property owners' association entitled under the dedicatory instruments to vote in a particular representative election, for purposes of a vote that involves election of representatives of the association who are vested under the dedicatory instruments of the property owners' association with the authority to elect or appoint board members of the property owners' association.

(b) This section supersedes any contrary requirement in a dedicatory instrument.

(c) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.0057. RECOUNT OF VOTES. (a) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(b) Any owner may, not later than the 15th day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either:

(1) by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation service to the property owners' association's mailing address as reflected on the most current management certificate filed under Section 209.004; or

(2) in person to the property owners' association's managing agent as reflected on the most current management certificate filed under Section 209.004 or to the address to which absentee and proxy ballots are mailed.

(c) The property owners' association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this subsection. The association shall enter into a contract for the services of a person who:

(1) is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and

(2) is:

(A) a current or former:

(i) county judge;

(ii) county elections administrator;

(iii) justice of the peace; or

(iv) county voter registrar; or

(B) a person agreed on by the association and the persons requesting the recount.

(d) Any recount under Subsection (b) must be performed on or before the 30th day after the date of receipt of a request and payment for a recount in accordance with Subsections (b) and (c). If the recount changes the results of the election, the property owners' association shall reimburse the requesting owner for the cost of the recount. The property owners' association shall provide the results of the recount to each owner who requested the recount. Any action taken by the board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

Sec. 209.0058. BALLOTS. (a) Any vote cast in an election or vote by a member of a property owners' association must be in writing and signed by the member.

(b) Electronic votes cast under Section 209.00592 constitute written and signed ballots.

(c) In an association-wide election, written and signed ballots are not required for uncontested races.

Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a dedicatory instrument that would disqualify a property owner from voting in a property owners' association election of board members or on any matter concerning the rights or responsibilities of the owner is void.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.00591. BOARD MEMBERSHIP. (a) Except as provided by this section, a provision in a dedicatory instrument that restricts a property owner's right to run for a position on the board of the property owners' association is void.

(b) If a board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member has been convicted of a felony or crime involving moral turpitude, the board member is immediately ineligible to serve on the board of the property owners' association, automatically considered removed from the board, and prohibited from future service on the board.

(c) The declaration may provide for a period of declarant control of the association during which a declarant, or persons designated by the declarant, may appoint and remove board members and the officers of the association, other than board members or officers elected by members of the property owners' association. Regardless of the period of declarant control provided by the declaration, on or before the 120th day after the date 75 percent of the lots that may be created and made subject to the declaration are conveyed to owners other than a declarant, at least one-third of the board members must be elected by owners other than the declarant. If the declaration does not include the number of lots that may be created and made subject to the declaration, at least one-third of the board members must be elected by owners other than the declarant not later than the 10th anniversary of the date the declaration was recorded.

Sec. 209.00592. VOTING; QUORUM. (a) The voting rights of an owner may be cast or given:

(1) in person or by proxy at a meeting of the property owners' association;

(2) by absentee ballot in accordance with this section;

(3) by electronic ballot in accordance with this section; or

(4) by any method of representative or delegated voting provided by a dedicatory instrument.

(b) An absentee or electronic ballot:

(1) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;

(2) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and

(3) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.

(c) A solicitation for votes by absentee ballot must include:

(1) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;

(2) instructions for delivery of the completed absentee ballot, including the delivery location; and

(3) the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

(d) For the purposes of this section, "electronic ballot" means a ballot:

(1) given by:

(A) e-mail;

(B) facsimile; or

(C) posting on an Internet website;

(2) for which the identity of the property owner submitting the ballot can be confirmed; and

(3) for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.

(e) If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website.

(f) This section supersedes any contrary provision in a dedicatory instrument.

(g) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.00593. ELECTION OF BOARD MEMBERS.

(a) Notwithstanding any provision in a dedicatory instrument, any board member whose term has expired must be elected by owners who are members of the property owners' association. A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability. A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member.

(b) The board of a property owners' association may amend the bylaws of the property owners' association to provide for elections to be held as required by Subsection (a).

(c) The appointment of a board member in violation of this section is void.

(d) This section does not apply to the appointment of a board member during a development period, as defined by Section 202.011.

(e) This section does not apply to a representative board whose members or delegates are elected or appointed by representatives of a property owners' association who are elected by owner members of a property owners' association.

SECTION 16. Subsection (b), Section 209.006, Property Code, is amended to read as follows:

(b) The notice must:

(1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner; and

(2) inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; and

(B) may request a hearing under Section 209.007 on or before the 30th day after the date notice was delivered to the owner [~~receives the notice~~].

SECTION 17. Chapter 209, Property Code, is amended by adding Sections 209.0061, 209.0062, 209.0063, and 209.0064 to read as follows:

Sec. 209.0061. ASSESSMENT OF FINES. (a) A fine assessed by the property owners' association must be reasonable in the context of the nature and frequency of the violation and the effect of the violation on the subdivision as a whole. If the association allows fines for a continuing violation to accumulate against a lot or an owner, the association must establish a reasonable maximum fine amount for a continuing violation at which point the total fine amount is capped.

(b) If a lot occupant other than the owner violates a provision of the dedicatory instrument, the property owners' association, in addition to exercising any of the association's powers against the owner, may assess a fine directly against the nonowner occupant in the same manner as provided for an owner but may not require payment from both the owner and a nonowner occupant for the same violation.

(c) If the property owners' association assesses a fine against a nonowner occupant under this section, the notice provisions of Section 209.006 and the hearing provisions of Section 209.007 apply to the nonowner occupant in the same manner as those provisions apply to an owner.

Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN ASSESSMENTS. (a) A property owners' association composed of more than 14 lots shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties. For purposes of this section, monetary penalties do not include reasonable costs associated with administering the payment plan or interest.

(b) The minimum term for a payment plan offered by a property owners' association is three months.

(c) A property owners' association is not required to enter into a payment plan with an owner who failed to honor the terms of a previous payment plan during the two years following the owner's default under the previous payment plan.

(d) A property owners' association shall file the association's guidelines under this section in the real property records of each county in which the subdivision is located.

(e) A property owners' association's failure to file as required by this section the association's guidelines in the real property records of each county in which the subdivision is located does not prohibit a property owner from receiving an alternative payment schedule by which the owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties, as defined by Subsection (a).

Sec. 209.0063. PRIORITY OF PAYMENTS. (a) Except as provided by Subsection (b), a payment received by a property owners' association from the owner shall be applied to the owner's debt in the following order of priority:

(1) any delinquent assessment;

(2) any current assessment;

(3) any attorney's fees or third party collection costs incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;

(4) any attorney's fees incurred by the association that are not subject to Subdivision (3);

(5) any fines assessed by the association; and

(6) any other amount owed to the association.

(b) If, at the time the property owners' association receives a payment from a property owner, the owner is in default under a payment plan entered into with the association:

(1) the association is not required to apply the payment in the order of priority specified by Subsection (a); and

(2) in applying the payment, a fine assessed by the association may not be given priority over any other amount owed to the association.

Sec. 209.0064. THIRD PARTY COLLECTIONS. (a) In this section:

(1) "Collection agent" means a debt collector, as defined by Section 803 of the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692a).

(2) "Financial institution" means:

(A) a bank, savings bank, or savings and loan association or a wholly owned subsidiary or affiliate of a bank, savings bank, or savings and loan association;

(B) a state or federal credit union or a wholly owned subsidiary, affiliate, or credit union service organization of a state or federal credit union; or

(C) an insurance company licensed or authorized to engage in business in this state under the Insurance Code.

(b) An owner is not liable for fees of a collection agent retained by the property owners' association or the association's agent unless the association first provides written notice to the owner by certified mail, return receipt requested, or by the United States Postal Service with signature confirmation service or delivery confirmation, that:

(1) specifies each delinquent amount and the total amount of the payment required to make the account current;

(2) describes the options the owner has to avoid liability for collection agent fees or other costs related to collection of those amounts, including information regarding availability of a payment plan through the association; and

(3) provides a period of at least 30 days for the owner to cure the delinquency before further action is taken by the association.

(c) An owner is not liable for fees of a collection agent retained by the property owners' association or the association's agent if:

(1) the obligation for payment by the association or the association's agent to the collection agent for fees or costs associated with a collection action is in any way dependent or contingent on amounts recovered; or

(2) the payment agreement between the association or the association's agent and the collection agent does not require payment by the association or the association's agent of all fees to the collection agent for the action undertaken by the collection agent.

(d) The agreement between the property owners' association or the association's agent and a collection agent may not prohibit the owner from contacting the association board or the association's managing agent regarding the owner's delinquency.

(e) A property owners' association may not sell or otherwise transfer any interest in the association's accounts receivables for a purpose other than as collateral for a loan to the association by a financial institution.

SECTION 18. Section 209.009, Property Code, is amended to read as follows:

Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN CIRCUMSTANCES. A property owners' association may not foreclose a property owners' association's assessment lien if the debt securing the lien consists solely of:

(1) fines assessed by the association; ~~or~~

(2) attorney's fees incurred by the association solely associated with fines assessed by the association; or

(3) amounts added to the owner's account as an assessment under Section 209.005(i).

SECTION 19. Chapter 209, Property Code, is amended by adding Sections 209.0091, 209.0092, and 209.0093 to read as follows:

Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except as provided by Subsection (c) and subject to Section 209.009, a property owners' association may not foreclose a property owners' association assessment lien unless the association first obtains a court order in an application for expedited foreclosure under the rules adopted by the supreme court under Subsection (b). A property owners' association may use the procedure described by this subsection to foreclose any lien described by the association's dedicatory instruments.

(b) The supreme court, as an exercise of the court's authority under Section 74.024, Government Code, shall adopt rules establishing expedited foreclosure proceedings for use by a property owners' association in foreclosing an

assessment lien of the association. The rules adopted under this subsection must be substantially similar to the rules adopted by the supreme court under Section 50(r), Article XVI, Texas Constitution.

(c) Expedited foreclosure is not required under this section if the owner of the property that is subject to foreclosure agrees in writing at the time the foreclosure is sought to waive expedited foreclosure under this section. A waiver under this subsection may not be required as a condition of the transfer of title to real property.

Sec. 209.0092. REMOVAL OR ADOPTION OF FORECLOSURE AUTHORITY. A provision granting a right to foreclose a lien on real property for unpaid amounts due to a property owners' association may be removed from a dedicatory instrument or adopted in a dedicatory instrument by a vote of at least 67 percent of the total votes allocated to property owners in the property owners' association. Owners holding at least 10 percent of all voting interests in the property owners' association may petition the association and require a special meeting to be called for the purposes of taking a vote for the purposes of this section.

Sec. 209.0093. ASSESSMENT LIEN FILING. A lien, lien affidavit, or other instrument evidencing the nonpayment of assessments or other charges owed to a property owners' association and filed in the official public records of a county is a legal instrument affecting title to real property.

SECTION 20. Subsection (a), Section 209.010, Property Code, is amended to read as follows:

(a) A property owners' association that conducts a foreclosure sale of an owner's lot must send to the lot owner and to each lienholder of record, not later than the 30th day after the date of the foreclosure sale:

(1) [;] a written notice stating the date and time the sale occurred and informing the lot owner and each lienholder of record of the right of the lot owner and lienholder to redeem the property under Section 209.011; and

(2) a copy of Section 209.011.

SECTION 21. Chapter 209, Property Code, is amended by adding Section 209.014 to read as follows:

Sec. 209.014. MANDATORY ELECTION REQUIRED AFTER FAILURE TO CALL REGULAR MEETING. (a) Notwithstanding any provision in a dedicatory instrument, a board of a property owners' association shall call an annual meeting of the members of the association.

(b) If a board of a property owners' association does not call an annual meeting of the association members, an owner may demand that a meeting of the association members be called not later than the 30th day after the date of the owner's demand. The owner's demand must be made in writing and sent by certified mail, return receipt requested, to the registered agent of the property owners' association and to the association at the address for the association according to the most recently filed management certificate. A copy of the notice must be sent to each property owner who is a member of the association.

(c) If the board does not call a meeting of the members of the property owners' association on or before the 30th day after the date of a demand under Subsection (b), three or more owners may form an election committee. The election committee shall file written notice of the committee's formation with the county clerk of each county in which the subdivision is located.

(d) A notice filed by an election committee must contain:

(1) a statement that an election committee has been formed to call a meeting of owners who are members of the property owners' association for the sole purpose of electing board members;

(2) the name and residential address of each committee member; and

(3) the name of the subdivision over which the property owners' association has jurisdiction under a dedicatory instrument.

(e) Each committee member must sign and acknowledge the notice before a notary or other official authorized to take acknowledgments.

(f) The county clerk shall enter on the notice the date the notice is filed and record the notice in the county's real property records.

(g) Only one committee in a subdivision may operate under this section at one time. If more than one committee in a subdivision files a notice, the first committee that files a notice, after having complied with all other requirements of this section, is the committee with the power to act under this section. A committee that does not hold or conduct a successful election within four months after the date the notice is filed with the county clerk is dissolved by operation of law. An election held or conducted by a dissolved committee is ineffective for any purpose under this section.

(h) The election committee may call meetings of the owners who are members of the property owners' association for the sole purpose of electing board members. Notice, quorum, and voting provisions contained in the bylaws of the property owners' association apply to any meeting called by the election committee.

SECTION 22. Subsection (a), Section 211.002, Property Code, is amended to read as follows:

(a) This chapter applies only to a residential real estate subdivision or any unit or parcel of a subdivision to which another chapter in this title that provides a procedure under which a subdivision's restrictions may for general purposes be amended does not apply [~~located in whole or in part within an unincorporated area of a county if the county has a population of less than 65,000~~].

SECTION 23. Subchapter H, Chapter 221, Property Code, is amended by adding Section 221.078 to read as follows:

Sec. 221.078. APPLICABILITY OF CERTAIN LAWS TO TIMESHARE PROPERTY OR TIMESHARE ASSOCIATION. (a) The following provisions, as added by **SB 142**, Acts of the 82nd Legislature, Regular Session, 2011, do not apply to a timeshare property or timeshare association:

(1) Section 51.002(i);

(2) Section 202.011;

(3) Section 202.012;

(4) Section 202.013; and

(5) Section 207.006.

(b) To the extent the following provisions apply to a timeshare property or timeshare association, the provisions apply only as the provisions existed immediately before the effective date of **SB 142**, Acts of the 82nd Legislature, Regular Session, 2011, or any other Act of the 82nd Legislature, Regular Session, 2011:

(1) Section 5.012;

(2) Section 202.006;

(3) Sections 207.003(a), (b), and (c); and

(4) 211.002(a).

SECTION 24. (a) Subsection (a), Section 5.006, and Subsection (c), Section 202.004, Property Code, as amended by this Act, apply only to an action filed on or after the effective date of this Act. An action filed 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.

(b) Section 5.012, Property Code, as amended by this Act, applies only to a sale of property that occurs on or after the effective date of this Act. For the purposes of this subsection, a sale of property occurs before the effective date of this Act if the executory contract binding the purchaser to purchase the property is executed before that date. A sale of property that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(c) Section 51.015, Property Code, as amended by this Act, applies only to the levy of an assessment or assessments as described by Section 51.015, Property Code, as amended by this Act, the effective date of which is on or after the effective date of this Act. A levy of an assessment or assessments the effective date of which is 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.

(d) Section 202.006, Property Code, as amended by this Act, and Sections 202.011, 202.012, and 209.0059 and Subsection (a), Section 209.00591, Property Code, as added by this Act, apply to a provision in a dedicatory instrument or a restrictive covenant enacted before, on, or after the effective date of this Act, except that any action taken before the effective date of this Act based on an unfiled dedicatory instrument is not invalidated by Section 202.006, Property Code, as amended by this Act.

(e) Sections 207.003 and 209.005, Property Code, as amended by this Act, apply only to a request for information received by a property owners' association on or after the effective date of this Act. A request for information received by a property owners' association 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.

(f) Subsection (m), Section 209.005, Property Code, as added by this Act, applies only with respect to books and records generated on or after the effective date of this Act. Books and records generated before the effective date of this Act 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.

(g) Section 209.006, Property Code, as amended by this Act, applies only to an enforcement action initiated by a property owners' association on or after the effective date of this Act. An enforcement action initiated 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.

(h) Section 209.0062, Property Code, as added by this Act, applies only to an assessment or other debt that becomes due on or after the effective date of this Act. An assessment or other debt that becomes due 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.

(i) Section 209.0063, Property Code, as added by this Act, applies only to a payment received by a property owners' association on or after the effective date of this Act. A payment received by a property owners' association 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.

(j) Section 209.0091, Property Code, as added by this Act, and Subsection (a), Section 209.010, Property Code, as amended by this Act, apply only to a foreclosure sale conducted on or after the effective date of this Act. A foreclosure sale conducted 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.

(k) Section 209.0093, Property Code, as added by this Act, applies only to an instrument filed on or after January 1, 2012. An instrument filed before January 1, 2012, is governed by the law in effect on the date the instrument was filed, and that law is continued in effect for that purpose.

(l) Section 209.014, Property Code, as added by this Act, applies to a property owners' association created before, on, or after the effective date of this Act.

SECTION 25. Not later than January 1, 2012, each property owners' association shall present for recording with the county clerk as prescribed by Section 202.006, Property Code, as amended by this Act, each dedicatory instrument governing the association that has not been previously recorded in the real property records of the county.

SECTION 26. Not later than January 1, 2012, the Supreme Court of Texas shall adopt rules of civil procedure under Section 209.0091, Property Code, as added by this Act.

SECTION 27. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2012.

(b) Subsection (b), Section 209.0091, Property Code, and Section 221.078, Property Code, as added by this Act, take effect September 1, 2011.

Amendment No. 14

Representative White offered the following amendment to Amendment No. 13:

Amend Amendment No. 13 by P. King to **CSSB 142** as follows:

(1) Strike SECTION 22 of the amendment (page 35, line 31 through page 36, line 7) and substitute the following:

SECTION 22. Section 211.002, Property Code, is amended by amending Subsection (a) and adding Subsections (b-1) and (d) to read as follows:

(a) This chapter applies only to a residential real estate subdivision or any unit or parcel of a subdivision:

(1) all or part of which is located [in whole or in part] within an unincorporated area of a county if the county has a population of less than 65,000; or

(2) all of which is located within the extraterritorial jurisdiction of a municipality located in a county that has a population of at least 65,000 and less than 135,000.

(b-1) In addition to restrictions and units or parcels of a subdivision that are subject to this chapter under Subsection (b), this chapter applies to restrictions that affect real property within a residential real estate subdivision or any units or parcels of the subdivision and that, by the express terms of the instrument creating the restrictions, provide that amendments to the restrictions are not operative or effective until a specified date or the expiration of a specified period. An amendment under this chapter of a restriction described by this subsection is effective as provided by this chapter, regardless of whether the date specified in the restrictions has occurred or the period prescribed by the restrictions has expired. This subsection expires September 1, 2015.

(d) An amendment of a restriction under this chapter is effective on the filing of an instrument reflecting the amendment in the real property records of each county in which all or part of the subdivision is located after the approval of the owners in accordance with the amendment procedure adopted under Section 211.004.

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

SECTION ____ . Section 211.001(4), Property Code, is amended to read as follows:

(4) "Residential real estate subdivision" or "subdivision" means all land encompassed within one or more maps or plats of land that is divided into two or more parts if:

(A) the maps or plats cover land all or part of which [that] is not located within a municipality and:

(i) for a county with a population of less than 65,000, is not located [or] within the extraterritorial jurisdiction of a municipality; or

(ii) for a county with a population of at least 65,000 and less than 135,000, is located wholly within the extraterritorial jurisdiction of a municipality;

(B) the land encompassed within the maps or plats is or was burdened by restrictions limiting all or at least a majority of the land area covered by the map or plat, excluding streets and public areas, to residential use only; and

(C) all instruments creating the restrictions are recorded in the deed or real property records of a county.

Amendment No. 14 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting on **SB 8**:

Kolkhorst on motion of Geren.

CSSB 142 - (consideration continued)

Representative Solomons moved to table Amendment No. 13, as amended.

The vote of the house was taken on the motion to table Amendment No. 13, as amended, and the vote was announced yeas 68, nays 73.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 1363): 63 Yeas, 73 Nays, 4 Present, not voting.

Yeas — Allen; Alvarado; Anchia; Anderson, C.; Brown; Castro; Chisum; Cook; Darby; Davis, J.; Deshotel; Dutton; Elkins; Farias; Farrar; Geren; Giddings; Gonzales, V.; Gooden; Gutierrez; Hardcastle; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Hunter; Jackson; Keffer; King, S.; Kleinschmidt; Kuempel; Lewis; Lyne; Marquez; McClendon; Menendez; Miles; Naishtat; Orr; Otto; Peña; Pickett; Pitts; Quintanilla; Raymond; Ritter; Rodriguez; Simpson; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Aliseda; Alonzo; Anderson, R.; Aycocck; Beck; Berman; Bohac; Branch; Burkett; Button; Cain; Callegari; Carter; Christian; Coleman; Craddick; Creighton; Crownover; Davis, S.; Davis, Y.; Driver; Fletcher; Flynn; Frullo; Gallego; Garza; Gonzales, L.; Gonzalez; Guillen; Hamilton; Hancock; Harper-Brown; Hartnett; Huberty; Hughes; Isaac; Johnson; King, P.; King, T.; Landtroop; Larson; Laubenberg; Lavender; Legler; Lozano; Lucio; Madden; Mallory Caraway; Margo; Martinez Fischer; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Parker; Patrick; Paxton; Perry; Phillips; Price; Reynolds; Riddle; Scott; Sheets; Sheffield; Shelton; Taylor, L.; Torres; Weber; White; Zedler.

Present, not voting — Mr. Speaker; Burnam; Schwertner(C); Truitt.

Absent, Excused — Kolkhorst.

Absent — Bonnen; Dukes; Eiland; Eissler; Harless; Howard, C.; Martinez; Oliveira; Smith, T.

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

STATEMENTS OF VOTE

When Record No. 1363 was taken, I was temporarily out of the house chamber. I would have voted no.

Dukes

When Record No. 1363 was taken, I was at the governor's bill signing of **HB 15**. I would have voted no.

Harless

I was shown voting yes on Record No. 1363. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1363. I intended to vote no.

Lewis

I was shown voting yes on Record No. 1363. I intended to vote no.

Peña

When Record No. 1363 was taken, I was temporarily out of the house chamber. I would have voted no.

T. Smith

LEAVE OF ABSENCE GRANTED

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

Martinez on motion of Legler.

CSSB 142 - (consideration continued)

Representative Solomons moved to postpone consideration of **CSSB 142** until the end of today's calendar.

The motion prevailed.

LEAVES OF ABSENCE GRANTED

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

Dukes on motion of McClendon.

T. Smith on motion of Woolley.

(Bonnen in the chair)

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

Peña on motion of Deshotel.

(Dukes and Kolkhorst now present)

RECESS

At 12:55 p.m., the chair announced that the house would stand recessed until 1:45 p.m. today.

AFTERNOON SESSION

The house met at 1:45 p.m. and was called to order by the speaker.

SB 8 ON SECOND READING
(Kolkhorst - House Sponsor)

SB 8, A bill to be entitled An Act relating to improving the quality and efficiency of health care.

(T. Smith now present)

Amendment No. 1

Representative Kolkhorst offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) as follows:

(1) In SECTION 2.01 of the bill, in added Section 1002.001, Health and Safety Code (page 4, line 3, through page 5, line 27), strike Subdivisions (8), (9), (10), (11), (12), and (13) and substitute:

(8) "Potentially preventable admission" means an admission of a person to a hospital or long-term care facility that may have reasonably been prevented with adequate access to ambulatory care or health care coordination.

(9) "Potentially preventable ancillary service" means a health care service provided or ordered by a physician or other health care provider to supplement or support the evaluation or treatment of a patient, including a diagnostic test, laboratory test, therapy service, or radiology service, that may not be reasonably necessary for the provision of quality health care or treatment.

(10) "Potentially preventable complication" means a harmful event or negative outcome with respect to a person, including an infection or surgical complication, that:

(A) occurs after the person's admission to a hospital or long-term care facility; and

(B) may have resulted from the care, lack of care, or treatment provided during the hospital or long-term care facility stay rather than from a natural progression of an underlying disease.

(11) "Potentially preventable event" means a potentially preventable admission, a potentially preventable ancillary service, a potentially preventable complication, a potentially preventable emergency room visit, a potentially preventable readmission, or a combination of those events.

(12) "Potentially preventable emergency room visit" means treatment of a person in a hospital emergency room or freestanding emergency medical care facility for a condition that may not require emergency medical attention because the condition could be, or could have been, treated or prevented by a physician or other health care provider in a nonemergency setting.

(13) "Potentially preventable readmission" means a return hospitalization of a person within a period specified by the commission that may have resulted from deficiencies in the care or treatment provided to the person during a previous hospital stay or from deficiencies in post-hospital discharge follow-up. The term does not include a hospital readmission necessitated by the occurrence of unrelated events after the discharge. The term includes the readmission of a person to a hospital for:

(A) the same condition or procedure for which the person was previously admitted;

(B) an infection or other complication resulting from care previously provided; or

(C) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome.

(2) In SECTION 2.01 of the bill, in added Section 1002.052(b)(7), Health and Safety Code (page 7, line 1), strike "and".

(3) In SECTION 2.01 of the bill, in added Section 1002.052(b), Health and Safety Code (page 7, line 2), between "(8)" and "a representative", insert: the commissioner of the Department of Aging and Disability Services;

(9) the executive director of the Texas Workforce Commission;

(10) the commissioner of the Texas Higher Education Coordinating Board; and

(11)

(4) In SECTION 2.01 of the bill, strike added Section 1002.053(a), Health and Safety Code (page 7, lines 12-14), and substitute:

(a) Appointed members of the board serve staggered terms of four years, with the terms of as close to one-half of the members as possible expiring January 31 of each odd-numbered year.

(5) In SECTION 2.01 of the bill, in added Section 1002.061(c), Health and Safety Code (page 10, line 16), strike "Each" and substitute "Except as otherwise prohibited by law, each".

(6) In SECTION 2.01 of the bill, in added Section 1002.061, Health and Safety Code (page 10, between lines 20 and 21), insert:

(d) This section does not permit the sale of information that is confidential under Section 1002.060.

(7) In SECTION 2.01 of the bill, in added Section 1002.101(1)(C), Health and Safety Code (page 11, line 9), between "efficiency" and the underlined semicolon, insert:

∴
(i) using nationally accredited measures; or
(ii) if no nationally accredited measures exist, using measures based on expert consensus

(8) In SECTION 2.01 of the bill, in added Section 1002.102(a)(2), Health and Safety Code (page 12, line 1), after the underlined semicolon, strike "and".

(9) In SECTION 2.01 of the bill, in added Section 1002.102(a), Health and Safety Code (page 12, line 5), between "care" and the underlined period, insert:

; and

(4) meaningful use of electronic health records by providers and electronic exchange of health information among providers

(10) In SECTION 2.01 of the bill, immediately after added Section 1002.102(b), Health and Safety Code (page 12, between lines 14 and 15), insert the following new subsections and reletter the subsequent subsections of Section 1002.102 appropriately:

(c) In developing recommendations under Subsection (b), the institute shall use nationally accredited measures or, if no nationally accredited measures exist, measures based on expert consensus.

(d) The institute may study and develop recommendations for measuring the quality of care and efficiency in state or federally funded health care delivery systems other than those described by Subsection (b).

(11) In SECTION 2.01 of the bill, in added Section 1002.151(b)(5), Health and Safety Code (page 13, line 10), after the underlined semicolon, strike "and".

(12) In SECTION 2.01 of the bill, in added Section 1002.151(b)(6), Health and Safety Code (page 13, line 11), between "satisfaction" and the underlined period, insert:

; and

(7) the meaningful use of electronic health records by providers and electronic exchange of health information among providers

(13) In SECTION 2.01 of the bill, in added Section 1002.201(a), Health and Safety Code (page 13, line 17), strike "state and how the public and health care providers" and substitute "state, what information is available to the public, and how the public and health care providers currently benefit and could potentially".

(14) In SECTION 2.01 of the bill, in added Section 1002.201(b)(1), Health and Safety Code (page 13, line 23), between "providers" and the underlined semicolon, insert "and payors".

(15) In SECTION 2.01 of the bill, immediately after added Section 1002.202(a), Health and Safety Code (page 14, between lines 8 and 9), insert:

(b) The study described by Subsection (a) shall:

(1) use the assessment described by Section 1002.201 to develop recommendations relating to the adequacy of existing data sources for carrying out the state's purposes under this chapter and Chapter 848, Insurance Code;

(2) determine whether the establishment of an all payor claims database would reduce the need for some data submissions provided by payors;

(3) identify the best available sources of data necessary for the state's purposes under this chapter and Chapter 848, Insurance Code, that are not collected by the state under existing law;

(4) describe how an all payor claims database may facilitate carrying out the state's purposes under this chapter and Chapter 848, Insurance Code;

(5) identify national standards for claims data collection and use, including standardized data sets, standardized methodology, and standard outcome measures of health care quality and efficiency; and

(6) estimate the costs of implementing an all payor claims database, including:

(A) the costs to the state for collecting and processing data;

(B) the cost to the payors for supplying the data; and

(C) the available funding mechanisms that might support an all payor claims database.

(16) In SECTION 2.01 of the bill, in added Section 1002.202, Health and Safety Code (page 14, line 9), reletter Subsection (b) as Subsection (c).

(17) In SECTION 2.04 of the bill (page 14, line 25), between "SECTION 2.04." and "The governor", insert "(a)".

(18) After SECTION 2.04 of the bill (page 15, between lines 2 and 3), insert:

(b) In making the initial appointments under this section, the governor shall designate seven members to terms expiring January 31, 2013, and eight members to terms expiring January 31, 2015.

(19) In SECTION 2.05(a)(4) of the bill (page 15, line 17), between "micro businesses," and "and health care providers", insert "payors,".

(20) In SECTION 2.05(b)(2) of the bill (page 16, lines 1-2), strike "Subsection (b)" and substitute "Subsection (c)".

(21) In SECTION 2.05(b)(4) of the bill (page 16, line 7), between "micro businesses," and "and health care providers", insert "payors,".

(22) In SECTION 3.01 of the bill, strike added Section 848.001(2), Insurance Code (page 16, line 18, through page 17, line 3), and substitute:

(2) "Health care collaborative" means an entity:

(A) that undertakes to arrange for medical and health care services for insurers, health maintenance organizations, and other payors in exchange for payments in cash or in kind;

(B) that accepts and distributes payments for medical and health care services;

(C) that consists of:

(i) physicians;

(ii) physicians and other health care providers;

(iii) physicians and insurers or health maintenance organizations; or

(iv) physicians, other health care providers, and insurers or health maintenance organizations; and

(D) that is certified by the commissioner under this chapter to lawfully accept and distribute payments to physicians and other health care providers using the reimbursement methodologies authorized by this chapter.

(23) In SECTION 3.01 of the bill, in added Section 848.004, Insurance Code (page 19, line 25), between "LAWS." and "An", insert "(a)".

(24) In SECTION 3.01 of the bill, in added Section 848.004, Insurance Code (page 20, between lines 4 and 5), insert:

(b) The following provisions of this code apply to a health care collaborative in the same manner and to the same extent as they apply to an individual or entity otherwise subject to the provision:

- (1) Section 38.001;
- (2) Subchapter A, Chapter 542;
- (3) Chapter 541;
- (4) Chapter 543;
- (5) Chapter 602;
- (6) Chapter 701;
- (7) Chapter 803; and
- (8) Chapter 804.

(25) In SECTION 3.01 of the bill, strike added Section 848.005, Insurance Code (page 20, lines 5-10), and substitute:

Sec. 848.005. CERTAIN INFORMATION CONFIDENTIAL. (a) Except as provided by Subsection (b), an application, filing, or report required under this chapter is public information subject to disclosure under Chapter 552, Government Code.

(b) The following information is confidential and is not subject to disclosure under Chapter 552, Government Code:

(1) a contract, agreement, or document that establishes another arrangement:

(A) between a health care collaborative and a governmental or private entity for all or part of health care services provided or arranged for by the health care collaborative; or

(B) between a health care collaborative and participating physicians and health care providers;

(2) a written description of a contract, agreement, or other arrangement described by Subdivision (1);

(3) information relating to bidding, pricing, or other trade secrets submitted to:

(A) the department under Sections 848.057(5) and (6); or

(B) the attorney general under Section 848.059;

(4) information relating to the diagnosis, treatment, or health of a patient who receives health care services from a health care collaborative under a contract for services; and

(5) information relating to quality improvement or peer review activities of a health care collaborative.

(26) In SECTION 3.01 of the bill, in added Section 848.052(e), Insurance Code (page 21, lines 17-18), strike "may include nonvoting ex officio members" and substitute "must include at least three nonvoting ex officio members who represent the community in which the health care collaborative operates".

(27) In SECTION 3.01 of the bill, in the heading to added Section 848.053, Insurance Code (page 22, line 12), strike "COMMITTEE." and substitute "COMMITTEE; SHARING OF CERTAIN DATA. (a)".

(28) In SECTION 3.01 of the bill, after added Section 848.053, Insurance Code (page 22, after line 27), insert:

(b) A health care collaborative shall establish and enforce policies to prevent the sharing of charge, fee, and payment data among nonparticipating physicians and health care providers.

(29) In SECTION 3.01 of the bill, after added Section 848.055(b), Insurance Code (page 23, between lines 18 and 19), insert:

(c) A medical school, medical and dental unit, or health science center as described by Section 61.003, 61.501, or 74.601, Education Code, is not required to obtain a certificate of authority under this chapter to the extent that the medical school, medical and dental unit, or health science center contracts to deliver medical care services within a health care collaborative. This chapter is otherwise applicable to a medical school, medical and dental unit, or health science center.

(d) An entity licensed under the Health and Safety Code that employs a physician under a specific statutory authority is not required to obtain a certificate of authority under this chapter to the extent that the entity contracts to deliver medical care services and health care services within a health care collaborative. This chapter is otherwise applicable to the entity.

(30) In SECTION 3.01 of the bill, after added Section 848.056(c), Insurance Code (page 24, between lines 14 and 15), insert:

(d) The commissioner by rule may:

(1) extend the date by which an application is due under this section;
and

(2) require the disclosure of any additional information necessary to implement and administer this chapter, including information necessary to antitrust review and oversight.

(31) In SECTION 3.01 of the bill, in added Section 848.057, Insurance Code (page 24, line 15), after "APPLICATION.", insert "(a)".

(32) In SECTION 3.01 of the bill, in added Section 848.057(2)(A)(ii), Insurance Code (page 25, line 1), between "promotes" and "quality-based", insert "improvement in".

(33) In SECTION 3.01 of the bill, in added Section 848.057(2)(A)(ii), Insurance Code (page 25, line 2), between "outcomes," and "patient", insert "patient safety,".

(34) In SECTION 3.01 of the bill, in added Section 848.057(2)(C), Insurance Code (page 25, line 8), between "statistics" and "relating", insert "on performance measures".

(35) In SECTION 3.01 of the bill, after added Section 848.057, Insurance Code (page 26, between lines 1 and 2), insert:

(b) A certificate of authority is effective for a period of one year, subject to Section 848.060(d).

(36) In SECTION 3.01 of the bill, strike added Section 848.059, Insurance Code (page 26, line 10, through page 27, line 15), and substitute:

Sec. 848.059. CONCURRENCE OF ATTORNEY GENERAL. (a) If the commissioner determines that an application for a certificate of authority filed under Section 848.056 complies with the requirements of Section 848.057, the commissioner shall forward the application, and all data, documents, and analysis considered by the commissioner in making the determination, to the attorney general. The attorney general shall review the application and the data,

documents, and analysis and, if the attorney general concurs with the commissioner's determination under Sections 848.057(a)(5) and (6), the attorney general shall notify the commissioner.

(b) If the attorney general does not concur with the commissioner's determination under Sections 848.057(a)(5) and (6), the attorney general shall notify the commissioner.

(c) A determination under this section shall be made not later than the 60th day after the date the attorney general receives the application and the data, documents, and analysis from the commissioner.

(d) If the attorney general lacks sufficient information to make a determination under Sections 848.057(a)(5) and (6), within 60 days of the attorney general's receipt of the application and the data, documents, and analysis the attorney general shall inform the commissioner that the attorney general lacks sufficient information as well as what information the attorney general requires. The commissioner shall then either provide the additional information to the attorney general or request the additional information from the applicant. The commissioner shall promptly deliver any such additional information to the attorney general. The attorney general shall then have 30 days from receipt of the additional information to make a determination under Subsection (a) or (b).

(e) If the attorney general notifies the commissioner that the attorney general does not concur with the commissioner's determination under Sections 848.057(a)(5) and (6), then, notwithstanding any other provision of this subchapter, the commissioner shall deny the application.

(f) In reviewing the commissioner's determination, the attorney general shall consider the findings, conclusions, or analyses contained in any other governmental entity's evaluation of the health care collaborative.

(g) The attorney general at any time may request from the commissioner additional time to consider an application under this section. The commissioner shall grant the request and notify the applicant of the request. A request by the attorney general or an order by the commissioner granting a request under this section is not subject to administrative or judicial review.

(37) In SECTION 3.01 of the bill, in added Section 848.060(a), Insurance Code (page 27, line 19), between "issued" and the underlined comma, insert "or most recently renewed".

(38) In SECTION 3.01 of the bill, in added Section 848.060(b)(2)(E), Insurance Code (page 28, line 13), after the underlined semicolon, strike "and".

(39) In SECTION 3.01 of the bill, in added Section 848.060(b)(2)(F), Insurance Code (page 28, line 16), strike "848.107." and substitute "848.107; and".

(40) In SECTION 3.01 of the bill, after added Section 848.060(b)(2)(F), Insurance Code (page 28, between lines 16 and 17), insert:

(G) any other information required by the commissioner.

(41) In SECTION 3.01 of the bill, strike added Section 848.060(c)(1), Insurance Code (page 28, lines 19-22), and substitute:

(1) the commissioner shall conduct a review under Section 848.057 as if the application for renewal were a new application, and, on approval by the commissioner, the attorney general shall review the application under Section 848.059 as if the application for renewal were a new application; and

(42) In SECTION 3.01 of the bill, in added Section 848.060(d), Insurance Code (page 29, line 2), between "issued" and the comma, insert "or renewed".

(43) In SECTION 3.01 of the bill, after added Section 848.060(d), Insurance Code (page 29, between lines 6 and 7), insert:

(e) A health care collaborative shall report to the department a material change in the size or composition of the collaborative. On receipt of a report under this subsection, the department may require the collaborative to file an application for renewal before the date required by Subsection (a).

(44) In SECTION 3.01 of the bill, strike added Section 848.103(b), Insurance Code (page 31, lines 5-10), and substitute:

(b) Notwithstanding any other law, a health care collaborative that is in compliance with this code, including Chapters 841, 842, and 843, as applicable, may contract for, accept, and distribute payments from governmental or private payors based on fee-for-service or alternative payment mechanisms, including:

(1) episode-based or condition-based bundled payments;

(2) capitation or global payments; or

(3) pay-for-performance or quality-based payments.

(c) Except as provided by Subsection (d), a health care collaborative may not contract for and accept from a governmental or private entity payments on a prospective basis, including bundled or global payments, unless the health care collaborative is licensed under Chapter 843.

(d) A health care collaborative may contract for and accept from an insurance company or a health maintenance organization payments on a prospective basis, including bundled or global payments.

(45) In SECTION 3.01 of the bill, in added Section 848.106(a)(2), Insurance Code (page 32, line 5), strike "and monitoring" and substitute "monitoring, and evaluation".

(46) In SECTION 3.01 of the bill, in added Section 848.106(a)(3), Insurance Code (page 32, line 11), strike "and monitoring" and substitute "monitoring, and evaluation".

(47) In SECTION 3.01 of the bill, in added Section 848.106(a)(4), Insurance Code (page 32, lines 15-16), strike "participating physicians and health care providers" and substitute "participating physicians, health care providers, and patients".

(48) In SECTION 3.01 of the bill, in added Section 848.153(a), Insurance Code (page 36, line 9), strike "attorney general" and substitute "commissioner".

(49) In SECTION 3.01 of the bill, after added Section 848.153(d), Insurance Code (page 36, after line 27), insert:

(e) The commissioner or attorney general may disclose the results of an examination conducted under this section or documentation provided under this section to a governmental agency that contracts with a health care collaborative for the purpose of determining financial stability, readiness, or other contractual compliance needs.

(50) In SECTION 3.01 of the bill, in added Section 848.201(b)(7), Insurance Code (page 38, line 8), after the underlined semicolon, strike "or".

(51) In SECTION 3.01 of the bill, in added Section 848.201(b)(8), Insurance Code (page 38, line 15), strike "reasonable." and substitute "reasonable; or".

(52) In SECTION 3.01 of the bill, after added Section 848.201(b)(8), Insurance Code (page 38, between lines 15 and 16), insert:

(9) has or is utilizing market power in an anticompetitive manner, in accordance with established antitrust principles of market power analysis.

(53) In SECTION 3.01 of the bill, after added Section 848.203, Insurance Code (page 39, between lines 13 and 14), insert:

Sec. 848.204. NOTICE. The commissioner shall:

(1) report any action taken under this subchapter to:

(A) the relevant state licensing or certifying agency or board; and

(B) the United States Department of Health and Human Services

National Practitioner Data Bank; and

(2) post notice of the action on the department's Internet website.

Sec. 848.205. INDEPENDENT AUTHORITY OF ATTORNEY GENERAL. (a) The attorney general may:

(1) investigate a health care collaborative with respect to anticompetitive behavior that is contrary to the goals and requirements of this chapter; and

(2) request that the commissioner:

(A) impose a penalty or sanction;

(B) issue a cease and desist order; or

(C) suspend or revoke the health care collaborative's certificate of

authority.

(b) This section does not limit any other authority or power of the attorney general.

(54) In SECTION 3.03 of the bill, in the recital (page 40, line 4), strike "Sections 1301.0625 and 1301.0626" and substitute "Section 1301.0625".

(55) In SECTION 3.03 of the bill, strike added Sections 1301.0625 and 1301.0626, Insurance Code (page 40, lines 6-26), and substitute:

Sec. 1301.0625. HEALTH CARE COLLABORATIVES. (a) Subject to the requirements of this chapter, a health care collaborative may be designated as a preferred provider under a preferred provider benefit plan and may offer enhanced benefits for care provided by the health care collaborative.

(b) A preferred provider contract between an insurer and a health care collaborative may use a payment methodology other than a fee-for-service or discounted fee methodology. A reimbursement methodology used in a contract under this subsection is not subject to Chapter 843.

(c) A contract authorized by Subsection (b) must specify that the health care collaborative and the physicians or providers providing health care services on behalf of the collaborative will hold an insured harmless for payment of the cost of covered health care services if the insurer or the health care collaborative do not pay the physician or health care provider for the services.

(d) An insurer issuing an exclusive provider benefit plan authorized by another law of this state may limit access to only preferred providers participating in a health care collaborative if the limitation is consistent with all requirements applicable to exclusive provider benefit plans.

(56) Strike SECTION 3.04 of the bill (page 40, line 27, through page 41, line 11) and substitute:

SECTION 3.04. Subtitle F, Title 4, Health and Safety Code, is amended by adding Chapter 315 to read as follows:

CHAPTER 315. ESTABLISHMENT OF HEALTH CARE
COLLABORATIVES

Sec. 315.001. AUTHORITY TO ESTABLISH HEALTH CARE COLLABORATIVE. A public hospital created under Subtitle C or D or a hospital district created under general or special law may form and sponsor a nonprofit health care collaborative that is certified under Chapter 848, Insurance Code.

(57) Strike SECTION 3.07 of the bill (page 43, lines 4-8) and substitute:

SECTION 3.07. Not later than September 1, 2012, the commissioner of insurance and the attorney general shall adopt rules as necessary to implement this article.

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

SECTION 3. _____. As soon as practicable after the effective date of this Act, the commissioner of insurance shall designate or employ staff with antitrust expertise sufficient to carry out the duties required by this Act.

(59) In the recital to SECTION 5.01 of the bill (page 44, line 16), strike "Subdivision (10-a)" and substitute "Subdivisions (8-a) and (10-a)".

(60) In SECTION 5.01 of the bill, in amended Section 98.001, Health and Safety Code, as added by Chapter 359 (**SB 288**), Acts of the 80th Legislature, Regular Session, 2007 (page 44, between lines 17 and 18), immediately after the recital, insert the following:

(8-a) "Health care professional" means an individual licensed, certified, or otherwise authorized to administer health care, for profit or otherwise, in the ordinary course of business or professional practice. The term does not include a health care facility.

(61) In SECTION 5.05 of the bill, strike added Section 98.1046(a), Health and Safety Code (page 46, lines 20-24), and substitute the following:

(a) In consultation with the Texas Institute of Health Care Quality and Efficiency under Chapter 1002, the department, using data submitted under Chapter 108, shall publicly report for hospitals in this state risk-adjusted outcome

rates for those potentially preventable complications and potentially preventable readmissions that the department, in consultation with the institute, has determined to be the most effective measures of quality and efficiency.

(62) In SECTION 5.05 of the bill, in added Section 98.1046(c), Health and Safety Code (page 47, line 2), strike "health care provider" and substitute "health care professional".

(63) In SECTION 5.05 of the bill, in added Section 98.1047(a), Health and Safety Code (page 47, line 5), after "(a)", strike "The" and substitute "In consultation with the Texas Institute of Health Care Quality and Efficiency under Chapter 1002, the".

(64) In SECTION 5.08 of the bill, strike added Section 98.1065, Health and Safety Code (page 48, line 20, through page 49, line 4), and substitute the following:

Sec. 98.1065. STUDY OF INCENTIVES AND RECOGNITION FOR HEALTH CARE QUALITY. The department, in consultation with the Texas Institute of Health Care Quality and Efficiency under Chapter 1002, shall conduct a study on developing a recognition program to recognize exemplary health care facilities for superior quality of health care and make recommendations based on that study.

(65) In SECTION 5.10 of the bill, in amended Section 98.110, Health and Safety Code, as added by Chapter 359 (**SB 288**), Acts of the 80th Legislature, Regular Session, 2007 (page 50, lines 2-3), between "Centers for Disease Control and Prevention" and "for public health research", insert ", or any other agency of the United States Department of Health and Human Services,".

(66) Add the following appropriately numbered SECTIONS to ARTICLE 5 of the bill and renumber subsequent SECTIONS of the ARTICLE accordingly:

SECTION 5.____. Section 98.109(a), Health and Safety Code, as added by Chapter 359 (**SB 288**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(a) Except as provided by Sections 98.1046, 98.106, and 98.110, all information and materials obtained or compiled or reported by the department under this chapter or compiled or reported by a health care facility under this chapter, and all related information and materials, are confidential and:

(1) are not subject to disclosure under Chapter 552, Government Code, or discovery, subpoena, or other means of legal compulsion for release to any person; and

(2) may not be admitted as evidence or otherwise disclosed in any civil, criminal, or administrative proceeding.

SECTION 5.____. (a) Not later than December 1, 2012, the Department of State Health Services shall submit a report regarding recommendations for improved health care reporting to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate standing committees of the legislature outlining:

(1) the initial assessment in the study conducted under Section 98.1065, Health and Safety Code, as added by this Act;

(2) based on the study described by Subdivision (1) of this subsection, the feasibility and desirability of establishing a recognition program to recognize exemplary health care facilities for superior quality of health care;

(3) the recommendations developed under Section 98.1065, Health and Safety Code, as added by this Act; and

(4) the changes in existing law that would be necessary to implement the recommendations described by Subdivision (3) of this subsection.

Amendment No. 2

Representative Kolkhorst offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Kolkhorst (82R29960) to **SB 8** (house committee printing) as follows:

(1) In item 24 of the amendment, in added Section 848.004(b), Insurance Code (page 7, line 20), strike "The" and substitute "Except as provided by Subsection (c), the".

(2) In item 24 of the amendment, after added Section 848.004(b), Insurance Code (page 7, after line 31), add the following:

(c) The remedies available under this chapter in the manner provided by Chapter 541 do not include:

(1) a private cause of action under Subchapter D, Chapter 541; or

(2) a class action under Subchapter F, Chapter 541.

(3) Add the following appropriately numbered item to the amendment and renumber subsequent items of the amendment accordingly:

() In SECTION 3.01 of the bill, strike added Section 848.057(6), Insurance Code (page 25, line 27, through page 26, line 1), and substitute the following:

(6) the pro-competitive benefits of the applicant's proposed health care collaborative are likely to substantially outweigh the anti-competitive effects of any increase in market power.

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

(Martinez now present)

Amendment No. 3

Representative Kolkhorst offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) in SECTION 2.01 of the bill as follows:

(1) Strike added Section 1002.001(6)(E), Health and Safety Code (page 3, lines 22-23), and reletter subsequent paragraphs of Subdivision (6) accordingly.

(2) Strike added Sections 1002.001(13)(B)-(D), Health and Safety Code (page 5, lines 20-27), and substitute the following:

(B) an infection or other complication resulting from care previously provided; or

(C) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome.

(3) Strike added Section 1002.061(b), Health and Safety Code (page 10, lines 13-15), and reletter subsequent subsections of Section 1002.061 accordingly.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Kolkhorst offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) in SECTION 2.01 of the bill, in added Section 1002.054(a), Health and Safety Code (page 7, line 17), following "commission.", by adding the following:

The commission shall collaborate with other health-related institutes to provide administrative support to the institute.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Kolkhorst offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) in ARTICLE 2 of the bill by adding the following appropriately numbered SECTION to that ARTICLE and renumbering subsequent SECTIONS of that ARTICLE appropriately:

SECTION 2.____. (a) The Texas Institute of Health Care Quality and Efficiency under Chapter 1002, Health and Safety Code, as added by this Act, shall conduct a study:

(1) evaluating how the legislature may promote a consumer-driven health care system, including by increasing the adoption of high-deductible insurance products with health savings accounts by consumers and employers to lower health care costs and increase personal responsibility for health care; and

(2) examining the issue of differing amounts of payment in full accepted by a provider for the same or similar health care services or supplies, including bundled health care services and supplies, and addressing:

(A) the extent of the differences in the amounts accepted as payment in full for a service or supply;

(B) the reasons that amounts accepted as payment in full differ for the same or similar services or supplies;

(C) the availability of information to the consumer regarding the amount accepted as payment in full for a service or supply;

(D) the effects on consumers of differing amounts accepted as payment in full; and

(E) potential methods for improving consumers' access to information in relation to the amounts accepted as payment in full for health care services or supplies, including the feasibility and desirability of requiring providers to:

(i) publicly post the amount that is accepted as payment in full for a service or supply; and

(ii) adhere to the posted amount.

(b) The institute shall submit a report to the legislature outlining the results of the study conducted under this section and any recommendations for potential legislation not later than January 1, 2013.

(c) This section expires September 1, 2013.

Amendment No. 5 was adopted.

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).

SB 8 - (consideration continued)

Amendment No. 6

Representatives D. Howard, Hopson, S. King, Simpson, and Chisum offered the following amendment to **SB 8**:

Amend Amendment No. ____ by Zedler (82R31311) to **SB 8** (house committee printing) as follows:

(1) On page 3 of the amendment, line 6, strike "or".

(2) On page 3 of the amendment, line 7, after the semicolon, insert the following:

or

(D) a registered nurse or a licensed vocational nurse;

(3) On page 4 of the amendment, line 2, strike "or".

(4) On page 4 of the amendment, line 3, strike the period and substitute the following:

; or

(D) a registered nurse or a licensed vocational nurse.

Amendment No. 6 was withdrawn.

Amendment No. 7

Representative Laubenberg offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) as follows:

(1) On page 24, line 5, between "primary care physicians" and "in", insert "or primary care providers".

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Zerwas offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) in SECTION 3.01 of the bill, in added Section 848.101(c), Insurance Code (page 29, lines 22-23), by striking "after the termination of the physician's contract with the health care collaborative".

Amendment No. 8 was adopted.

Amendment No. 9

Representative Zedler offered the following amendment to **SB 8**:

Amend **SB 8** (house committee report) in SECTION 5.05 of the bill, immediately following proposed Section 98.1046(a), Health and Safety Code (page 46, between lines 24 and 25), by inserting the following:

(a-1) In consultation with the Texas Institute of Health Care Quality And Efficiency, the department shall publically report outcomes for potentially preventable complications and potentially preventable readmissions related to an illness, injury, or medical complication related to or resulting from the performance of an abortion.

Amendment No. 9 was withdrawn.

(Bonnen in the chair)

Amendment No. 10

Representative Hughes offered the following amendment to **SB 8**:

Amend **SB 8** (house committee report) as follows:

(1) In the recital to SECTION 6.04 of the bill, amending Section 108.013, Health and Safety Code (page 51, line 22), strike "(n)" and substitute "(o)".

(2) In SECTION 6.04 of the bill, immediately following proposed Section 108.013(n), Health and Safety Code (page 54, between lines 5 and 6), insert the following:

(o) The department as the department determines appropriate may, subject to Section 166.054(c), include data collected in Section 166.054 in the data collected or disclosed under this section.

(3) Add the following appropriately numbered SECTION to ARTICLE 6 of the bill and renumber subsequent SECTIONS of ARTICLE 6 accordingly:

SECTION ____ Subchapter B, Chapter 166, Health and Safety Code, is amended by adding Section 166.054 to read as follows:

Sec. 166.054. REPORTING REQUIREMENTS. (a) The executive commissioner of the Health and Human Services Commission by rule shall require appropriate health care facilities in this state to annually provide to the department the following information:

(1) for cases in which an attending physician refused to comply with an advance directive or health care or treatment decision and did not wish to follow the procedure established by Section 166.046:

(A) the total number of cases;

(B) for each case:

(i) whether the attending physician objected to providing or to withholding treatment;

(ii) the patient's diagnosis and a statement as to whether the diagnosis is of an irreversible condition or terminal condition;

(iii) the race, gender, age, national origin, disability, if any, and financial status, including insurance status, of the patient;

(iv) the type of health care facility, including a hospital, long-term care facility, or institution licensed under Chapter 242, including a skilled nursing facility, to which a transfer was sought; and

(v) whether the transfer occurred; and

(C) for each case in which a transfer was not made:

(i) whether the patient died;

(ii) the number of days between the date on which the opportunity to transfer the patient was first afforded and the date of the patient's death, if applicable; and

(iii) whether life-sustaining treatment had been withheld or withdrawn before the patient's death;

(2) for cases in which an attending physician's refusal to honor an advance directive or health care or treatment decision made by or on behalf of a patient was reviewed under Section 166.046:

(A) the total number of cases;

(B) for each case:

(i) whether the attending physician objected to providing or to withholding treatment;

(ii) the patient's diagnosis and a statement as to whether the diagnosis is of an irreversible condition or terminal condition;

(iii) the race, gender, age, national origin, disability, if any, and financial status, including insurance status, of the patient;

(iv) whether an ethics or medical committee meeting was held;

(v) whether the ethics or medical committee agreed with the physician or with the patient or the person responsible for the health care decisions of the patient;

(vi) the type of health care facility, including a hospital, long-term care facility, or institution licensed under Chapter 242, including a skilled nursing facility, to which a transfer was sought;

(vii) whether the transfer occurred; and

(viii) the number of days between the date the person received the written explanation to which the person is entitled under Section 166.046(b)(4)(B) and the date of the patient's transfer or death, if applicable; and

(C) for each case in which a transfer was not made:

(i) whether the patient died;

(ii) the number of days between the date on which the opportunity to transfer the patient was first afforded and the date of the patient's death, if applicable; and

(iii) whether life-sustaining treatment had been withheld or withdrawn before the patient's death; and

(3) for each case in which the health care facility or its agents attempted to assist in finding another facility willing and able to accept transfer of the patient:

(A) the number of other facilities contacted and asked to consider accepting transfer; and

(B) to the extent provided to the reporting facility, the reasons given by the other facilities for refusing to accept or for accepting transfer.

(b) Not later than February 1 of each year, the department shall issue a public report cumulating the data reported under Subsection (a) for the previous calendar year and provide a copy of the report to the governor, lieutenant governor, and speaker of the house of representatives. The report must include the aggregate data for the entire state and, subject to Subsection (c), data for each reporting health care facility. The department must allow researchers access to the database of reported data to conduct studies based on cross-tabulation, subject to Subsection (c).

(c) Except to the extent waived by a patient or the patient's legally authorized representative, the department shall ensure that information made public or available to researchers under Subsection (b) does not compromise patient confidentiality.

(d) The reporting required under this section shall be integrated, to the extent practicable, with the uniform reporting and collection system established under Section 311.032. The department shall encourage the use of electronic reporting to the extent practicable. The department shall consult with the Department of Information Resources on developing an appropriate format for use in implementing this subsection.

Amendment No. 10 - Point of Order

Representative Coleman raised a point of order against further consideration of Amendment No. 10 under Rule 11, Section 2 and Rule 11, Section 3 of the House Rules on the grounds that the amendment is not germane to the bill and the amendment would change the original purpose of the bill.

The chair overruled the point of order.

Amendment No. 11

Representative Truitt offered the following amendment to Amendment No. 10:

Amend Amendment No. 10 by Hughes to **SB 8** (house committee printing) by adding the following appropriately numbered item to the amendment:

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

ARTICLE ____ . INTERIM STUDY OF ADVANCE DIRECTIVES AND
HEALTH CARE AND TREATMENT DECISIONS

SECTION ____ .01. INTERIM STUDY OF ADVANCE DIRECTIVES AND HEALTH CARE AND TREATMENT DECISIONS. (a) The lieutenant governor shall issue an interim charge to the standing committee of the senate with jurisdiction over health care treatment to conduct a study as described by Subsection (b).

(b) The study must examine the provisions of Chapter 166, Health and Safety Code, including:

(1) the scope of medical and physical conditions covered by the chapter;

(2) forms for executing advance directives;
 (3) operational issues, including the conflict resolution process;
 (4) reporting requirements;
 (5) due process provisions;
 (6) forms for executing physicians' orders; and
 (7) court intervention that was sought, for damages or injunctive relief, during or arising from the health care provided and treatment decisions made pursuant to Chapter 166, Health and Safety Code.

(c) Not later than January 1, 2013, the committee shall report the committee's findings and recommendations to the lieutenant governor, the speaker of the house, and the governor. The committee shall include in its recommendations specific changes to statutes and agency rules that may be necessary, based on the results of the committee's study conducted under this section.

(d) Not later than November 1, 2011, the lieutenant governor shall issue the interim charge required by this section.

(e) This section expires January 1, 2013.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a TDI Sunset meeting:

L. Taylor on motion of Crownover.

SB 8 - (consideration continued)

Amendment No. 11 was adopted by (Record 1364): 96 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anchia; Aycock; Beck; Bohac; Bonnen(C); Branch; Brown; Burnam; Button; Callegari; Castro; Coleman; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gutierrez; Hamilton; Hardcastle; Harless; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Jackson; Johnson; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Lavender; Lewis; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Smith, W.; Solomons; Strama; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Berman; Burkett; Cain; Carter; Chisum; Christian; Cook; Elkins; Fletcher; Flynn; Frullo; Garza; Gooden; Guillen; Hancock; Harper-Brown; Hartnett; Howard, C.; Hughes; Hunter; Isaac; Keffer; King, P.; Landtroop; Larson; Laubenberg; Legler; Lozano; Madden; Martinez; Miller, S.; Murphy; Parker; Paxton; Perry; Phillips; Riddle; Sheets; Simpson; Smith, T.; Smithee; Taylor, V.; Weber; White; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Peña; Taylor, L.

Absent — Allen; Eissler; Miles; Turner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1364. I intended to vote no.

Bohac

When Record No. 1364 was taken, I was temporarily out of the house chamber. I would have voted no.

Eissler

Amendment No. 10, as amended, was adopted.

Amendment No. 12

Representative Zerwas offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . INSURER CONTRACTS REGARDING CERTAIN BENEFIT
PLANS

SECTION ____ .01. Section 1301.006, Insurance Code, is amended to read as follows:

Sec. 1301.006. AVAILABILITY OF AND ACCESSIBILITY TO HEALTH CARE SERVICES. (a) An insurer that markets a preferred provider benefit plan shall contract with physicians and health care providers to ensure that all medical and health care services and items contained in the package of benefits for which coverage is provided, including treatment of illnesses and injuries, will be provided under the health insurance policy in a manner ensuring availability of and accessibility to adequate personnel, specialty care, and facilities.

(b) A contract between an insurer that markets a plan regulated under this chapter and an institutional provider may not, as a condition of staff membership or privileges, require a physician or other practitioner to enter into a preferred provider contract.

Amendment No. 12 was withdrawn.

Amendment No. 13

Representative Brown offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . MONITORING AND ENHANCEMENT OF HEALTH AND
HUMAN SERVICES INFORMATION TECHNOLOGY SYSTEMS

SECTION ____ .01. Section 531.458, Government Code, is amended to read as follows:

Sec. 531.458. EXPIRATION. This subchapter expires September 1, 2015 [2014].

Amendment No. 13 was adopted.

Amendment No. 14

Representative Shelton offered the following amendment to **SB 8**:

Amend **SB 8** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 62, Health and Safety Code, is amended by adding Section 62.160 to read as follows:

Sec. 62.160. PILOT PROJECT TO INCREASE ENROLLEE ACCESS TO PRIMARY CARE SERVICES AND SIMPLIFY ENROLLMENT PROCEDURES. (a) In this section:

(1) "CPT code" means the number assigned to identify a specific health care procedure performed by a health care provider under the American Medical Association's "Current Procedural Terminology 2011 Professional Edition" or a subsequent edition of that publication adopted by the executive commissioner of the Health and Human Services Commission by rule.

(2) "Lower-cost medical setting" means a facility, clinic, center, office, or other setting primarily used to provide primary care services.

(3) "Primary care services" means health services generally provided through a general, family, internal medicine, or pediatrics practice. The term does not include services provided through a hospital emergency room or surgical services.

(4) "Service area" means the geographical area determined by the commission that is coterminous with one or more Medicaid service areas and in which the pilot project is established.

(b) The commission shall establish a two-year pilot project in one or more Medicaid service areas that is designed to:

(1) increase child health plan enrollee access to primary care services;
and

(2) simplify child health plan enrollment procedures.

(c) In establishing the pilot project under this section, the executive commissioner of the Health and Human Services Commission shall:

(1) for each service area, establish health care provider reimbursement rates for primary care services provided in lower-cost medical settings that are comparable to the federal Medicare program rates for the same or similar services;

(2) identify CPT codes that represent primary care services for purposes of Subdivision (1);

(3) prescribe and use an alternative application for child health plan coverage that is written on a sixth-grade reading comprehension level; and

(4) require any enrollment services provider in a service area to reduce application processing delays and procedural denials and increase renewal rates.

(d) An individual who resides in the service area and who is determined eligible for coverage under the child health plan remains eligible for benefits until the expiration of the period provided by Section 62.102(a), subject to Section 62.102(b).

(e) The commission shall provide at least one point of service contact in each county in the service area where trained personnel are available to personally assist interested individuals who reside in the service area with the application form and procedures for child health plan coverage.

(f) The commission may enroll an individual in the child health plan program under the pilot project established under this section during only the first year of the project.

(g) Not later than January 1, 2013, the commission shall submit an initial report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over the child health plan program. The report must evaluate the operation of the pilot project and make recommendations regarding the continuation or expansion of the pilot project. The report must:

(1) state whether:

(A) a higher percentage of eligible individuals in the service area enrolled in the child health plan as a result of the pilot project, as compared to percentages in other areas;

(B) a higher percentage of health plan providers in the service area participated in the child health plan as a result of the pilot project, as compared to percentages in other areas; and

(C) the enrollment changes implemented under the pilot project:

(i) reduced application processing delays and procedural denials; and

(ii) affected reenrollment rates; and

(2) include recommendations for the statewide implementation of successful pilot project strategies.

(h) The commission shall submit a final report regarding the results of the pilot project in the manner prescribed by Subsection (g) not later than the 60th day after the date the pilot project terminates. The report must contain the information required by Subsection (g).

(i) The executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement this section.

(j) This section expires January 1, 2015.

SECTION ____. (a) Subject to Subsection (b) of this section, not later than October 1, 2011, the Health and Human Services Commission shall establish the pilot project required under Section 62.160, Health and Safety Code, as added by this Act.

(b) If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

Amendment No. 14 was adopted.

Amendment No. 15

Representative Hardcastle offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) as follows:

(1) In SECTION 2.01 of the bill, in added Section 1002.101(2), Health and Safety Code (page 11, line 17), following the underlined semicolon, strike "and".

(2) In SECTION 2.01 of the bill, in added Section 1002.101(3), Health and Safety Code (page 11, line 20), following "Insurance Code", strike the underlined period and substitute "; and".

(3) In SECTION 2.01 of the bill, in added Section 1002.101, Health and Safety Code (page 11, between lines 20 and 21), insert the following:

(4) establishing a database of ambulatory surgical centers licensed under Chapter 243 to enable those centers to be reimbursed using a charge-based methodology to promote competition in accordance with Chapter 1301, Insurance Code.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Zerwas offered the following amendment to **SB 8**:

Amend **SB 8** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . ADOPTION OF VACCINE PREVENTABLE DISEASES
POLICY BY HEALTH CARE FACILITIES

SECTION ____ .01. The heading to Subtitle A, Title 4, Health and Safety Code, is amended to read as follows:

SUBTITLE A. FINANCING, CONSTRUCTING, REGULATING, AND
INSPECTING
HEALTH FACILITIES

SECTION ____ .02. Subtitle A, Title 4, Health and Safety Code, is amended by adding Chapter 224 to read as follows:

CHAPTER 224. POLICY ON VACCINE PREVENTABLE DISEASES

Sec. 224.001. DEFINITIONS. In this chapter:

(1) "Covered individual" means:

(A) an employee of the health care facility;

(B) an individual providing direct patient care under a contract with a health care facility; or

(C) an individual to whom a health care facility has granted privileges to provide direct patient care.

(2) "Health care facility" means:

(A) a facility licensed under Subtitle B, including a hospital as defined by Section 241.003; or

(B) a hospital maintained or operated by this state.

(3) "Regulatory authority" means a state agency that regulates a health care facility under this code.

(4) "Vaccine preventable diseases" means the diseases included in the most current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

Sec. 224.002. VACCINE PREVENTABLE DISEASES POLICY REQUIRED. (a) Each health care facility shall develop and implement a policy to protect its patients from vaccine preventable diseases.

(b) The policy must:

(1) require covered individuals to receive vaccines for the vaccine preventable diseases specified by the facility based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;

(2) specify the vaccines a covered individual is required to receive based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;

(3) include procedures for verifying whether a covered individual has complied with the policy;

(4) include procedures for a covered individual to be exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention;

(5) for a covered individual who is exempt from the required vaccines, include procedures the individual must follow to protect facility patients from exposure to disease, such as the use of protective medical equipment, such as gloves and masks, based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;

(6) prohibit discrimination or retaliatory action against a covered individual who is exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention, except that required use of protective medical equipment, such as gloves and masks, may not be considered retaliatory action for purposes of this subdivision;

(7) require the health care facility to maintain a written or electronic record of each covered individual's compliance with or exemption from the policy; and

(8) include disciplinary actions the health care facility is authorized to take against a covered individual who fails to comply with the policy.

(c) The policy may include procedures for a covered individual to be exempt from the required vaccines based on reasons of conscience, including a religious belief.

Sec. 224.003. DISASTER EXEMPTION. (a) In this section, "public health disaster" has the meaning assigned by Section 81.003.

(b) During a public health disaster, a health care facility may prohibit a covered individual who is exempt from the vaccines required in the policy developed by the facility under Section 224.002 from having contact with facility patients.

Sec. 224.004. DISCIPLINARY ACTION. A health care facility that violates this chapter is subject to an administrative or civil penalty in the same manner, and subject to the same procedures, as if the facility had violated a provision of this code that specifically governs the facility.

Sec. 224.005. RULES. The appropriate rulemaking authority for each regulatory authority shall adopt rules necessary to implement this chapter.

SECTION ____03. Not later than June 1, 2012, a state agency that regulates a health care facility subject to Chapter 224, Health and Safety Code, as added by this article, shall adopt the rules necessary to implement that chapter.

SECTION ____04. Notwithstanding Chapter 224, Health and Safety Code, as added by this article, a health care facility subject to that chapter is not required to have a policy on vaccine preventable diseases in effect until September 1, 2012.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Creighton offered the following amendment to **SB 8**:

Amend **SB 8** (senate engrossed version) in SECTION 3.01 of the bill, after added Section 848.005, Insurance Code (page 20, between lines 10 and 11), by inserting:

Sec. 848.006. COVERAGE BY HEALTH CARE COLLABORATIVE NOT REQUIRED. (a) Except as provided by Subsection (b), an individual may not be required to obtain or maintain coverage under:

(1) an individual health insurance policy written through a health care collaborative; or

(2) any plan or program for health care services provided on an individual basis through a health care collaborative.

(b) Subsection (a) does not apply to an individual:

(1) who is required to obtain or maintain health benefit plan coverage:

(A) written by an institution of higher education at which the individual is or will be enrolled as a student; or

(B) under an order requiring medical support for a child; or

(2) who voluntarily applies for benefits under a state administered program under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.), or Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.).

(c) Except as provided by Subsection (d), a fine or penalty may not be imposed on an individual if the individual chooses not to obtain or maintain coverage described by Subsection (a).

(d) Subsection (c) does not apply to a fine or penalty imposed on an individual described in Subsection (b) for the individual's failure to obtain or maintain health benefit plan coverage.

Amendment No. 18

Representative Creighton offered the following amendment to Amendment No. 17:

Amend Amendment No. 17 by Creighton to **SB 8** (house committee printing) as follows:

(1) in added Section 848.006(a), Insurance Code (page 1, line 5), between "(b)" and the underlined comma, insert "and subject to Chapter 843 and Section 1301.0625".

(2) After added Section 848.006(a), Insurance Code (page 1, between lines 11 and 12), insert:

(a-1) This chapter does not require an individual to obtain or maintain health insurance coverage.

Amendment No. 18 was adopted.

Amendment No. 17, as amended, was adopted.

Amendment No. 19

Representative S. Miller offered the following amendment to **SB 8**:

Amend **SB 8** (senate engrossed version) in SECTION 4 of the bill by inserting the following appropriately lettered subsection to the SECTION and relettering subsequent subsections of the SECTION accordingly:

SECTION _____. Chapter 1560, Insurance Code, is amended by adding Section 1560.005 to read as follows:

Sec. 1560.005. REVIEW OF PHARMACY CLAIMS. (a) The state auditor may conduct a biennial review of prescriptions intended for a 90-day supply to determine compliance with this chapter and to verify community retail and mail order pharmacies' parity in all factors of reimbursement, including average wholesale price and maximum allowable cost.

(b) The state auditor shall submit a review conducted under this section to the board of trustees for the Employees Retirement System of Texas and the trustee for the Teacher Retirement System of Texas.

(c) The Employees Retirement System of Texas and the Teacher Retirement System of Texas shall reimburse the state auditor for all costs of a review under this section.

(d) If in the course of a review the state auditor finds evidence of improper practices or illegal transactions, the state auditor shall report the evidence in accordance with Section 321.016, Government Code.

Amendment No. 19 was adopted.

Amendment No. 20

Representative Eiland offered the following amendment to **SB 8**:

Amend **SB 8** (house committee report) 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 who:

(A) enters into a direct contract with a provider for the delivery of health care services to covered individuals; and

(B) in the ordinary course of business establishes a provider network or networks 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 that is 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 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.

(f) The notice described by Subsection (a)(1) is not required to include information regarding payors who are not insurers or health maintenance organizations.

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 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.

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, who is not a covered individual, to whom the third party leases, sells, aggregates, assigns, or otherwise conveys a provider's contractual discount 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. 20 was adopted.

Amendment No. 21

Representative S. King offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) as follows:

(1) Add the following SECTION to Article 6 of the bill to read as follows:

SECTION 6.____. Chapter 108, Health and Safety Code, is amended by adding Section 108.0131 to read as follows:

Sec. 108.0131. NOTICE REQUIRED. (a) A provider who submits data under Section 108.009 shall provide notice to the provider's patients that:

(1) the provider may submit data as required by this chapter; and

(2) the data may be sold, collected, identified, or distributed to third parties.

(b) The department shall post on the department's Internet website a list of each entity that purchases or receives data collected under this chapter.

(2) Renumber subsequent SECTIONS of the Article accordingly.

Amendment No. 21 was adopted.

Amendment No. 22

Representative Zerwas offered the following amendment to **SB 8**:

Amend **SB 8** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. FISCAL AND ADMINISTRATIVE MATTERS
CONCERNING THE TEXAS EMERGENCY AND TRAUMA CARE
EDUCATION PARTNERSHIP PROGRAM

SECTION _____.01. Chapter 61, Education Code, is amended by adding Subchapter GG to read as follows:

SUBCHAPTER GG. TEXAS EMERGENCY AND TRAUMA CARE
EDUCATION PARTNERSHIP PROGRAM

Sec. 61.9801. DEFINITIONS. In this subchapter:

(1) "Emergency and trauma care education partnership" means a partnership that:

(A) consists of one or more hospitals in this state and one or more graduate professional nursing or graduate medical education programs in this state; and

(B) serves to increase training opportunities in emergency and trauma care for doctors and registered nurses at participating graduate medical education and graduate professional nursing programs.

(2) "Participating education program" means a graduate professional nursing program as that term is defined by Section 54.221 or a graduate medical education program leading to board certification by the American Board of Medical Specialties that participates in an emergency and trauma care education partnership.

Sec. 61.9802. PROGRAM: ESTABLISHMENT; ADMINISTRATION; PURPOSE. (a) The Texas emergency and trauma care education partnership program is established.

(b) The board shall administer the program in accordance with this subchapter and rules adopted under this subchapter.

(c) Under the program, to the extent funds are available under Section 61.9805, the board shall make grants to emergency and trauma care education partnerships to assist those partnerships to meet the state's needs for doctors and registered nurses with training in emergency and trauma care by offering one-year or two-year fellowships to students enrolled in graduate professional nursing or graduate medical education programs through collaboration between hospitals and graduate professional nursing or graduate medical education programs and the use of the existing expertise and facilities of those hospitals and programs.

Sec. 61.9803. GRANTS: CONDITIONS; LIMITATIONS. (a) The board may make a grant under this subchapter to an emergency and trauma care education partnership only if the board determines that:

(1) the partnership will meet applicable standards for instruction and student competency for each program offered by each participating education program;

(2) each participating education program will, as a result of the partnership, enroll in the education program a sufficient number of additional students as established by the board;

(3) each hospital participating in an emergency and trauma care education partnership will provide to students enrolled in a participating education program clinical placements that:

(A) allow the students to take part in providing or to observe, as appropriate, emergency and trauma care services offered by the hospital; and

(B) meet the clinical education needs of the students; and

(4) the partnership will satisfy any other requirement established by board rule.

(b) A grant under this subchapter may be spent only on costs related to the development or operation of any emergency and trauma care education partnership that prepares a student to complete a graduate professional nursing program with a specialty focus on emergency and trauma care or earn board certification by the American Board of Medical Specialties.

Sec. 61.9804. PRIORITY FOR FUNDING. In awarding a grant under this subchapter, the board shall give priority to an emergency and trauma care education partnership that submits a proposal that:

(1) provides for collaborative educational models between one or more participating hospitals and one or more participating education programs that have signed a memorandum of understanding or other written agreement under which the participants agree to comply with standards established by the board, including any standards the board may establish that:

(A) provide for program management that offers a centralized decision-making process allowing for inclusion of each entity participating in the partnership;

(B) provide for access to clinical training positions for students in graduate professional nursing and graduate medical education programs that are not participating in the partnership; and

(C) specify the details of any requirement relating to a student in a participating education program being employed after graduation in a hospital participating in the partnership, including any details relating to the employment of students who do not complete the program, are not offered a position at the hospital, or choose to pursue other employment;

(2) includes a demonstrable education model to:

(A) increase the number of students enrolled in, the number of students graduating from, and the number of faculty employed by each participating education program; and

(B) improve student or resident retention in each participating education program;

(3) indicates the availability of money to match a portion of the grant money, including matching money or in-kind services approved by the board from a hospital, private or nonprofit entity, or institution of higher education;

(4) can be replicated by other emergency and trauma care education partnerships or other graduate professional nursing or graduate medical education programs; and

(5) includes plans for sustainability of the partnership.

Sec. 61.9805. GRANTS, GIFTS, AND DONATIONS. In addition to money appropriated by the legislature, the board may solicit, accept, and spend grants, gifts, and donations from any public or private source for the purposes of this subchapter.

Sec. 61.9806. RULES. The board shall adopt rules for the administration of the Texas emergency and trauma care education partnership program. The rules must include:

(1) provisions relating to applying for a grant under this subchapter; and

(2) standards of accountability consistent with other graduate professional nursing and graduate medical education programs to be met by any emergency and trauma care education partnership awarded a grant under this subchapter.

Sec. 61.9807. ADMINISTRATIVE COSTS. A reasonable amount, not to exceed three percent, of any money appropriated for purposes of this subchapter may be used to pay the costs of administering this subchapter.

SECTION _____.02. As soon as practicable after the effective date of this article, the Texas Higher Education Coordinating Board shall adopt rules for the implementation and administration of the Texas emergency and trauma care education partnership program established under Subchapter GG, Chapter 61, Education Code, as added by this article. The board may adopt the initial rules in the manner provided by law for emergency rules.

Amendment No. 22 was adopted.

Amendment No. 23

Representative Zedler offered the following amendment to **SB 8**:

Amend **SB 8** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . REPORTING REQUIREMENTS ON ABORTIONS AND TREATMENT FOR COMPLICATIONS RESULTING FROM ABORTIONS
SECTION ____ .01. Chapter 170, Health and Safety Code, is amended by adding Section 170.003 to read as follows:

Sec. 170.003. COERCIVE ABORTION PROHIBITED; CRIMINAL PENALTY. (a) A physician commits an offense if the physician:

(1) intentionally performs an abortion on a woman; and
(2) knows or should reasonably believe that the woman is seeking the abortion as the result of coercion, as that term is defined by Section 1.07, Penal Code.

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

SECTION ____ .02. Chapter 171, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REPORTING REQUIREMENTS

Sec. 171.021. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that:

(1) an abortion, whether surgically or chemically induced, terminates the life of a whole, separate, unique, living human being;

(2) this state is currently prevented from providing adequate legal remedies to protect the life, health, and welfare of pregnant women and unborn human life because of the lack of accurate and relevant statistical data concerning the practice of abortion and the women seeking abortion services in this state; and

(3) there is a need for stricter requirements regarding the content, accuracy, and consistency of reporting by physicians who perform abortions in this state and stricter enforcement of the reporting requirements.

(b) The purpose of this subchapter is to further the important and compelling state interests in:

(1) protecting the life and health of a pregnant woman seeking an elective abortion and, to the extent constitutionally permissible, the life of the woman's unborn child;

(2) fostering the development of standards of professional conduct in the provision of an abortion; and

(3) maintaining accurate statistical data to aid in providing proper maternal health assistance, regulation, and education.

Sec. 171.022. REPORTING REQUIREMENTS. (a) Not later than the 15th day of each month, a physician by mail shall submit to the department the abortion reporting form required by Section 171.024 for each abortion performed by the physician in the preceding calendar month.

(b) As soon as practicable, but not later than 48 hours after the time of diagnosis or treatment, a physician by mail shall submit to the department the complication reporting form required by Section 171.025 for each illness or injury of a woman in the preceding calendar year that:

(1) the physician determines was caused by a medical complication resulting from an abortion for which the physician treated the woman; or

(2) the woman suspects was caused by a medical complication resulting from an abortion for which the physician treated the woman.

(c) The reports submitted to the department as required by this subchapter may not by any means identify the name of a woman on whom an abortion is performed.

Sec. 171.023. REPORTING FEE. A physician submitting a reporting form under Section 171.022(a) or (b) shall pay to the department for each form submitted a fee in an amount, set by the department, that is reasonably designed to cover the costs associated with administering the department's duties under this chapter.

Sec. 171.024. ABORTION REPORTING FORM; PARTIAL EXCEPTION. (a) A physician shall report to the department on the form prescribed by the department the information required by this section for each abortion performed by the physician.

(b) The form must include:

(1) the following information, which must be completed by the woman before anesthesia is administered or the abortion is performed:

(A) the woman's:

(i) age;

(ii) race or ethnicity;

(iii) marital status; and

(iv) municipality, county, state, and nation of residence;

(B) the woman's highest level of education, selected by checking one of the following:

(i) did not receive any high school education;

(ii) received some high school education but did not graduate;

(iii) is a high school graduate or recipient of a high school equivalency certificate;

(iv) received some college education but is not a college graduate;

(v) obtained an associate's degree;

(vi) obtained a bachelor's degree;

(vii) obtained a master's degree;

(viii) obtained a doctoral degree; or

(ix) received other education (specify): _____;

(C) the age of the father of the unborn child at the time of the abortion;

(D) the method or methods of contraception used at the time the unborn child was conceived, selected by checking all applicable methods from the following list:

- (i) condoms;
- (ii) spermicide;
- (iii) male sterilization;
- (iv) female sterilization;
- (v) an injectable contraceptive;
- (vi) an inter-uterine device;
- (vii) mini pills;
- (viii) combination pills;
- (ix) a diaphragm;
- (x) a cervical cap or vaginal contraceptive ring;
- (xi) a contraceptive patch;
- (xii) a sponge;
- (xiii) a calendar-based contraceptive method, including rhythm

method or natural family planning or fertility awareness;

- (xiv) withdrawal;
- (xv) no method of contraception; or
- (xvi) other method (specify): _____;

(E) a space for the woman to indicate the specific reason the abortion is to be performed, selected from the following list:

- (i) the woman was coerced or forced to have the abortion;
- (ii) the woman does not want any more children;
- (iii) economic reasons;
- (iv) the woman's unborn child has been diagnosed with one or
- more health problems that are documented in the woman's medical records;
- (v) the father of the unborn child opposes the pregnancy;
- (vi) the woman's parent opposes the pregnancy;
- (vii) the woman fears a loss of family support;
- (viii) the woman fears losing her job;
- (ix) a school counselor recommends abortion;
- (x) a physician recommends abortion;
- (xi) the pregnancy is the result of rape;
- (xii) the pregnancy is the result of incest;
- (xiii) the woman does not prefer the gender of the unborn

child; or

- (xiv) the woman does not want to complete this section;

(F) the number of the woman's previous live births;

(G) the number of induced abortions the woman has previously

undergone;

(H) the number of miscarriages the woman has previously

experienced;

(I) the source of the woman's referral to the physician for the abortion, selected from the following list:

- (i) a physician;
- (ii) the woman herself;
- (iii) a friend or family member of the woman;
- (iv) a member of the clergy;

- (v) a school counselor;
- (vi) a social services agency;
- (vii) the department;
- (viii) a family planning clinic; or
- (ix) other (specify): _____;

(J) the method of payment for the abortion, selected from the following list:

- (i) private insurance;
- (ii) a public health plan;
- (iii) personal payment by cash; or
- (iv) personal payment by check or credit card; and

(K) whether the woman availed herself of the opportunity to view the printed information required under Subchapter B and, if so, whether the woman viewed the information described by Section 171.014 in printed form or on the department's Internet website; and

(2) the following information, which must be completed by the physician:

(A) the name of the facility at which the abortion was performed, the municipality and county in which the facility is located, and the type of facility at which the abortion was performed, selected from the following list:

- (i) an abortion facility licensed under Chapter 245;
- (ii) a private office of a licensed physician;
- (iii) a licensed hospital;
- (iv) a licensed hospital satellite clinic; or
- (v) an ambulatory surgical center licensed under Chapter 243;

(B) the license number, area of specialty, and signature of the physician who performed the abortion;

(C) a statement that the physician screened the woman to determine whether:

(i) coercion, as defined by Section 1.07, Penal Code, is a reason that the woman is seeking the abortion; and

(ii) the woman is a victim of an offense described by Section 22.011(a)(2), Penal Code;

(D) the type of the abortion procedure performed, selected from the following list:

- (i) chemical abortion, specifying the chemical used;
- (ii) suction and curettage;
- (iii) dilation and curettage;
- (iv) dilation and evacuation;
- (v) dilation and extraction;
- (vi) labor and induction;
- (vii) hysterotomy or hysterectomy; or
- (viii) other (specify): _____;

(E) the date the abortion was performed;

(F) whether the woman survived the abortion and, if the woman did not survive, the cause of the woman's death;

(G) the number of fetuses aborted;

(H) the number of weeks of gestation at which the abortion was performed, based on the best medical judgment of the attending physician performing the procedure, and the weight of the fetus or fetuses, if determinable;

(I) the method of pregnancy verification, selected from the following list:

(i) urine test;

(ii) clinical laboratory test;

(iii) ultrasound;

(iv) not tested; or

(v) other (specify): _____;

(J) the total fee collected from the patient by the physician for performing the abortion, including any services related to the abortion;

(K) whether the abortion procedure was:

(i) covered by fee-for-service insurance;

(ii) covered by a managed care benefit plan;

(iii) covered by another type of health benefit plan (specify): _____; or

(iv) not covered by insurance or a health benefit plan;

(L) the type of anesthetic, if any, used on the woman during the abortion;

(M) the type of anesthetic, if any, used on the unborn child or children during the abortion;

(N) the method used to dispose of fetal tissue and remains;

(O) complications of the abortion, including:

(i) none;

(ii) shock;

(iii) uterine perforation;

(iv) cervical laceration;

(v) hemorrhage;

(vi) aspiration or allergic response;

(vii) infection or sepsis;

(viii) infant or infants born alive;

(ix) death of woman; or

(x) other (specify): _____;

(P) if an infant was born alive during the abortion:

(i) whether life-sustaining measures were provided to the infant; and

(ii) the period of time the infant survived; and

(Q) for each abortion performed on a woman who is younger than 18 years of age:

(i) whether:

(a) the minor's parent, managing conservator, or legal guardian provided the written consent required by Section 164.052(a)(19), Occupations Code;

(b) the minor obtained judicial authorization under Section 33.003 or 33.004, Family Code, for the minor to consent to the abortion;

(c) the woman is emancipated and permitted under law to have the abortion without the written consent required by Section 164.052(a)(19), Occupations Code, or judicial authorization; or

(d) the physician concluded and documented in writing in the patient's medical record that on the basis of the physician's good faith clinical judgment a condition existed that complicated the medical condition of the pregnant minor and necessitated the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function and that there was insufficient time to obtain the consent of the minor's parent, managing conservator, or legal guardian;

(ii) if the minor's parent, managing conservator, or legal guardian gave written consent, whether the consent was given:

(a) in person at the time of the abortion; or

(b) at a place other than the location where the abortion was performed; and

(iii) if the minor obtained judicial authorization:

(a) the process the physician or physician's agent used to inform the minor of the availability of judicial bypass as an alternative to the written consent required by Section 164.052(a)(19), Occupations Code;

(b) whether court forms were provided to the minor; and

(c) who made arrangements for the minor for the court appearance.

(c) The information required by Subsection (b)(1) must be at the top of the form. The information required by Subsection (b)(2) must be at the bottom of the form.

(d) A woman is required to complete the information required by Subsection (b)(1) unless the abortion is medically necessary, as certified by a physician, to prevent death or the serious risk of substantial impairment of a major bodily function resulting from a life-threatening physical condition that is aggravated by, is caused by, or arises from the woman's pregnancy.

(e) If the woman does not complete the required information, the physician who performs the abortion shall include in the woman's medical file a signed written statement certifying the nature of the medical emergency described by Subsection (d).

(f) A physician shall maintain a copy of each completed form in the woman's medical file until the later of:

(1) the seventh anniversary of the date on which the form was signed;

or

(2) the woman's 25th birthday.

(g) A physician or the physician's agent shall provide to each woman required to complete a form under this section a copy of the completed form before the woman leaves the facility where the abortion was performed.

(h) The department shall make the abortion reporting form available on the department's Internet website.

(i) The form prescribed by this section must comply with the requirements of Section 171.014(b)(1).

Sec. 171.025. COMPLICATION REPORTING FORM. (a) A physician shall report to the department on the form prescribed by the department the information required by this section on the physician's treatment of an illness or injury related to a medical complication resulting from the performance of an abortion.

(b) The form must include the following information to be completed by the physician providing the treatment:

(1) the date of the abortion that caused or may have caused the complication;

(2) the type of abortion that caused or may have caused the complication, selected from the following list:

(A) chemical abortion, specifying the chemical used;

(B) suction and curettage;

(C) dilation and curettage;

(D) dilation and evacuation;

(E) dilation and extraction;

(F) labor and induction;

(G) hysterotomy or hysterectomy; or

(H) other (specify): _____;

(3) the name and type of the facility where the abortion complication was diagnosed and treated, selected from the following list:

(A) an abortion facility licensed under Chapter 245;

(B) a private office of a licensed physician;

(C) a licensed hospital;

(D) a licensed hospital satellite clinic; or

(E) an ambulatory surgical center licensed under Chapter 243;

(4) the name and type of the facility where the abortion was provided, if known;

(5) the license number, area of specialty, and signature of the physician who treated the abortion complication;

(6) the date on which the abortion complication was treated;

(7) a description of the complication or complications, selected from the following list:

(A) none;

(B) shock;

(C) uterine perforation;

(D) cervical laceration;

(E) hemorrhage;

(F) aspiration or allergic response;

(G) infection or sepsis;

(H) infant or infants born alive;

(I) death of woman; or

(J) other (specify): _____;

(8) the number of weeks of gestation at which the abortion was performed, based on the best medical judgment of the attending physician at the time of the treatment for the complication;

(9) the number of the woman's previous live births;

(10) the number of previous induced abortions the woman has undergone;

(11) the number of miscarriages the woman has previously experienced;

(12) whether the treatment for the complication was paid for by:

(A) private insurance;

(B) a public health plan;

(C) personal payment by cash; or

(D) personal payment by check or credit card;

(13) the total fee collected by the physician for treatment of the complication;

(14) whether the treatment for the complication was:

(A) covered by fee-for-service insurance;

(B) covered by a managed care benefit plan;

(C) covered by another type of health benefit plan (specify):
_____ ; or

(D) not covered by insurance or a health benefit plan; and

(15) the type of follow-up care recommended by the physician after the physician provides treatment for the complication.

(c) A physician shall maintain a copy of each completed form in the woman's medical file until the later of:

(1) the seventh anniversary of the date on which the form was signed;

or

(2) the woman's 25th birthday.

(d) A physician or the physician's agent shall provide to each woman for whom a form is completed under this section a copy of the completed form before the woman leaves the facility where the treatment was received.

(e) The department shall make the complication form available on the department's Internet website.

(f) The form prescribed by this section must comply with the requirements of Section 171.014(b)(1).

Sec. 171.026. CONFIDENTIAL INFORMATION. (a) Except as provided by Section 171.029 and Subsection (b), all information received or maintained by the department under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code.

(b) A department employee may disclose information described by Subsection (a):

(1) for statistical purposes, but only if a person or facility is not identified;

(2) to a medical professional, a state agency, or a county or district court for purposes of enforcing this chapter or Chapter 245; or

(3) to a state licensing board for purposes of enforcing state licensing laws.

Sec. 171.027. PENALTIES. (a) The commissioner of state health services may assess an administrative penalty against a physician who fails to submit a report within the time required by Section 171.022 in the amount of \$500 for each 30-day period or portion of a 30-day period the report remains overdue.

(b) The commissioner may bring an action against a physician who fails to file a report required under Section 171.022 before the first anniversary of the date the report was due to compel the physician to submit a complete report within a time stated by the court order or be subject to sanctions for civil contempt.

Sec. 171.028. OFFENSE; CRIMINAL PENALTY. (a) A physician commits an offense if:

(1) the physician fails to submit a report required by this subchapter;
(2) the physician intentionally, knowingly, or recklessly submits false information in a report required by this subchapter;

(3) the physician includes in a report required by this subchapter the name or identifying information of a woman on whom the physician performed an abortion; or

(4) the physician or the physician's agent discloses identifying information that is confidential under Section 171.026.

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

Sec. 171.029. PUBLIC DATA POSTING BY DEPARTMENT. (a) Not later than April 1 of each year, the department shall post on the department's Internet website statistical data that details the information reported under Section 171.022 during the preceding calendar year.

(b) Each posting under Subsection (a) must include data from the postings made under this section in previous years, including updated or corrected information for those postings. Each Internet web page containing a posting from a previous year must indicate at the bottom of the web page the date on which the data contained on the web page was most recently updated or corrected.

(c) The department shall ensure that a posting made under this section does not contain any information that could reasonably lead to the identification of:

(1) a woman on whom an abortion was performed or who received treatment for a complication resulting from an abortion; or

(2) a physician who performed an abortion or treated a complication resulting from an abortion.

SECTION ____ .03. Section 245.001, Health and Safety Code, is amended to read as follows:

Sec. 245.001. SHORT TITLE. This chapter may be cited as the Texas Abortion Facility [Reporting and] Licensing Act.

SECTION ____ .04. Section 245.005(e), Health and Safety Code, is amended to read as follows:

(e) As a condition for renewal of a license, the licensee must submit to the department the annual license renewal fee and an annual report[~~, including the report required under Section 245.011~~].

SECTION _____.05. Section 248.003, Health and Safety Code, is amended to read as follows:

Sec. 248.003. EXEMPTIONS. This chapter does not apply to:

- (1) a home and community support services agency required to be licensed under Chapter 142;
- (2) a person required to be licensed under Chapter 241 (Texas Hospital Licensing Law);
- (3) an institution required to be licensed under Chapter 242;
- (4) an ambulatory surgical center required to be licensed under Chapter 243 (Texas Ambulatory Surgical Center Licensing Act);
- (5) a birthing center required to be licensed under Chapter 244 (Texas Birthing Center Licensing Act);
- (6) a facility required to be licensed under Chapter 245 (Texas Abortion Facility [~~Reporting and~~] Licensing Act);
- (7) a child care institution, foster group home, foster family home, and child-placing agency, for children in foster care or other residential care who are under the conservatorship of the Department of Family and Protective [~~and Regulatory~~] Services; or
- (8) a person providing medical or nursing care or services under a license or permit issued under other state law.

SECTION _____.06. Effective January 1, 2012, Section 245.011, Health and Safety Code, is repealed.

SECTION _____.07. (a) Not later than December 1, 2011, the Department of State Health Services shall:

- (1) make available the forms required by Sections 171.024 and 171.025, Health and Safety Code, as added by this article; and
- (2) set the fee described by Section 171.023, Health and Safety Code, as added by this article.

(b) Notwithstanding Section 171.022, Health and Safety Code, as added by this article, a physician is not required to submit a report required by Section 171.022, Health and Safety Code, as added by this article, before January 1, 2012.

SECTION _____.08. Not later than April 1, 2013, the Department of State Health Services shall make the data posting required by Section 171.029, Health and Safety Code, as added by this article.

SECTION _____.09. Sections 170.003 and 171.028, Health and Safety Code, as added by this article, and Sections 245.001, 245.005, and 248.003, Health and Safety Code, as amended by this article, take effect January 1, 2012.

Amendment No. 23 was withdrawn.

SB 8, as amended, was passed to third reading by (Record 1365): 137 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycocck; 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.; Deshotel; Driver;

Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Flynn; Simpson; Strama; Weber.

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

Absent, Excused — Peña; Taylor, L.

Absent — Eissler; Hartnett; Menendez; Pickett.

STATEMENTS OF VOTE

When Record No. 1365 was taken, I was temporarily out of the house chamber. I would have voted yes.

Eissler

I was shown voting no on Record No. 1365. I intended to vote yes.

Flynn

I was shown voting yes on Record No. 1365. I intended to vote no.

Guillen

I was shown voting no on Record No. 1365. I intended to vote yes.

Simpson

CSSB 1588 ON SECOND READING

(Pitts - House Sponsor)

CSSB 1588, A bill to be entitled An Act relating to the creation and re-creation of funds and accounts, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

Amendment No. 1

On behalf of Representative Pitts, Representative Chisum offered the following amendment to **CSSB 1588**:

Amend **CSSB 1588** (house committee printing) in Section 10 of the bill as follows:

(1) At the end of Subdivision (4) (page 4, line 25), strike "and".

(2) At the end of Subdivision (5), strike the period and substitute:

;

(6) the low-level radioactive waste disposal compact commission account created as an account in the general revenue fund by **HB 2694** or similar legislation; and

(7) the Alamo complex account created as a separate account in the general revenue fund by **HB 3726**, **SB 1841**, or similar legislation.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Guillen offered the following amendment to **CSSB 1588**:

Amend **CSSB 1588** (house committee report) as follows:

(1) In SECTION 10 of the bill, add the following appropriately numbered subdivision to that SECTION and renumber the subsequent subdivisions of that SECTION accordingly:

() the emergency radio infrastructure account created by **HB 442** or similar legislation;

(2) In SECTION 11 of the bill, add the following appropriately numbered subdivision to that SECTION and renumber the subsequent subdivisions of that SECTION accordingly:

() the dedication of the revenue generated under **HB 442**, or similar legislation, for the purpose of creating an interoperable statewide emergency radio infrastructure;

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

SECTION ____ . TRANSFER OF CERTAIN FUNDS. (a) The comptroller shall hold the revenue that under Section 133.102(e)(11), Local Government Code, would be deposited to the credit of the fugitive apprehension account until the effective date of **HB 442**, Acts of the 82nd Legislature, Regular Session, 2011, or similar legislation creating the emergency radio infrastructure account, and deposit that revenue into the emergency radio infrastructure account on that date.

(b) If **HB 442**, Acts of the 82nd Legislature, Regular Session, 2011, or similar legislation creating the emergency radio infrastructure account is not enacted, this section has no effect.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Margo offered the following amendment to **CSSB 1588**:

Amend **CSSB 1588** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . FISCAL MATTERS CONCERNING PERMANENT FUNDS FOR HEALTH-RELATED INSTITUTIONS OF HIGHER EDUCATION

SECTION ____ .01. Subchapter B, Chapter 63, Education Code, is amended by adding Section 63.104 to read as follows:

Sec. 63.104. INVESTMENT AND DISTRIBUTION POLICY GOVERNING ENDOWMENT OF THE UNIVERSITY OF TEXAS AT EL PASO. The governing board of The University of Texas at El Paso shall adopt an investment and distribution policy for the institution's endowment fund provided by this subchapter. Section 63.102 does not apply to the investment, distribution, or expenditure of money from the endowment fund.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Brown offered the following amendment to **CSSB 1588**:

Amend **CSSB 1588** (house committee printing) by adding the following SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. (a) Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.064 to read as follows:

Sec. 2054.064. ADVERTISING ON STATE ELECTRONIC INTERNET PORTALS. (a) In this section:

(1) "Department" means the Department of Information Resources or a successor agency.

(2) "State agency" means any department, board, commission, or other agency in the executive branch of state government, including the office of the governor. The term does not include an institution of higher education, as defined by Section 61.003, Education Code.

(b) In accordance with rules adopted by the department and to the extent allowed under federal law:

(1) a state agency shall contract with a private entity to lease advertising space on the agency's official electronic Internet portal; and

(2) the department shall contract with a private entity by awarding a 10-year license to the entity to lease advertising space on the official electronic Internet portal for the State of Texas.

(c) The department shall develop a standard contract for the lease of advertising space on an electronic Internet portal under this section. The standard contract developed by the department must include terms that:

(1) provide for the payment of a fee by the person leasing the advertising space in an amount set by department rule; and

(2) require the advertisements to comply with the rules adopted by the department relating to content and composition.

(d) The department shall adopt rules to implement this section. The rules must establish:

(1) guidelines relating to the content and composition of advertisements that may be placed on an electronic Internet portal;

(2) procedures for procuring advertisements that relate, to the greatest extent practicable, to the stated purpose of the state agency;

(3) policies that require:

(A) each advertisement to be clearly labeled on the electronic Internet portal as an advertisement; and

(B) a disclaimer on each electronic Internet portal that clearly states that the State of Texas does not endorse the products or services advertised on the state agency electronic Internet portal;

(4) a schedule of fees to be charged for the lease of advertising space under this section; and

(5) the amount of the lease payment that a private entity may retain for administering the lease contract.

(e) A private entity administering a lease under this section shall collect the fees due from the leasing entity. After deduction of the private entity's fees, the remainder of the fees collected under this section shall be forwarded to the comptroller to be allocated as follows:

(1) 50 percent to the credit of the foundation school fund; and

(2) the remainder deposited to the credit of the general revenue fund.

(f) Before entering into a contract under this section, a state agency or the department must evaluate:

(1) the effect of the contract on the bandwidth that the agency or the department requires to perform its official duties; and

(2) whether the contract increases vulnerability to malware or other potential threats to the security of the electronic Internet portal or computer network.

(g) Except as provided by Subsection (h), using the results of the evaluation required under Subsection (f), a state agency or the department shall develop and implement a plan to ensure that state electronic Internet portals and computer networks are secure and that sufficient bandwidth is available to host the advertising required under the contract and to allow for performance of official duties. The plan must include provisions to:

(1) prevent inappropriate content on electronic Internet portals and computer networks associated with this state;

(2) efficiently route data used by the agency or the department to perform its official duties;

(3) manage and reduce the quantity of bandwidth used by the agency or the department; and

(4) ensure the continued security and integrity of electronic Internet portals, computer networks, and confidential and sensitive data associated with this state.

(h) A state agency or the department may accept free or discounted services to assist in performing the evaluation and planning requirements under Subsections (f) and (g) from a provider designated as qualified by the department. The department shall maintain a list of qualified providers on the department's electronic Internet portal.

(i) A state agency or the department is not required to implement a plan developed under Subsection (g) if:

(1) money appropriated to the agency or the department may not be lawfully spent for the purposes of this section; or

(2) the agency or the department determines that the cost of implementing the plan will exceed the income received from a contract under this section.

(b) The dedication of revenue made by this section is exempt from Section 2 of this Act.

Amendment No. 4 was adopted.

CSSB 1588, as amended, was passed to third reading. (C. Anderson, Carter, and V. Taylor recorded voting no.)

SB 875 ON SECOND READING
(Hancock, W. Smith, and Chisum - House Sponsors)

SB 875, A bill to be entitled An Act relating to compliance with state and federal environmental permits as a defense to certain actions for nuisance or trespass.

(Geren in the chair)

Amendment No. 1

Representative Burnam offered the following amendment to **SB 875**:

Amend **SB 875** (house committee printing) on page 2, line 5, between "after" and "the" by adding "the later of the date of resolution of any litigation relating to greenhouse gases in which the State of Texas or any agency of the State of Texas is a party or".

Representative Hancock moved to table Amendment No. 1.

The motion to table prevailed by (Record 1366): 104 Yeas, 41 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Muñoz; 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, V.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Anchia; Burnam; Carter; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Walle.

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

Absent, Excused — Peña; Taylor, L.

Absent — Vo.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1366. I intended to vote no.

Alvarado

Amendment No. 2

Representative Bonnen offered the following amendment to **SB 875**:

Amend **SB 875** (house committee printing) as follows:

(1) In SECTION 2 of the bill (page 2, line 3), between "SECTION 2." and "Section 7.257," insert the following:

(a) Section 93.003, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues 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 immediately before that date, and that law is continued in effect for that purpose.

(b)

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

SECTION ____ Chapter 93, Civil Practice and Remedies Code, is amended by adding Section 93.003 to read as follows:

Sec. 93.003. AFFIRMATIVE DEFENSE TO NUISANCE OR TRESPASS.

(a) In a nuisance or trespass action brought against a person, as defined by Section 382.003, Health and Safety Code, there is a rebuttable presumption that the person is not liable for any injury allegedly caused by the actions of the person if the person establishes that:

(1) the alleged conduct on which the nuisance or trespass claim is based was authorized by the federal or state government, or an agency of the federal or state government, through the issuance of a rule, order, or permit, as defined by Section 7.001, Water Code; and

(2) the person was in substantial compliance with that rule, order, or permit while the alleged nuisance or trespass was occurring.

(b) The claimant may rebut the presumption established under Subsection (a) by a showing of clear and convincing evidence that:

(1) the person knowingly withheld or misrepresented material information relevant to determining compliance with the rule or order or to obtaining the permit from the federal or state government or agency of the federal or state government; and

(2) such withholding or misrepresentation of information was the primary reason the person allegedly complied with the rule or order or was successful in obtaining the permit.

Amendment No. 2 was adopted.

(Bonnen in the chair)

SB 875, as amended, was passed to third reading by (Record 1367): 103 Yeas, 40 Nays, 2 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; Eiland; 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; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Naishtat; Oliveira; Quintanilla; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Peña; Taylor, L.

Absent — Cook; Miller, S.; Torres.

STATEMENT OF VOTE

When Record No. 1367 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

LEAVE OF ABSENCE GRANTED

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

Villarreal on motion of Eiland.

**CSSB 661 ON SECOND READING
(Solomons - House Sponsor)**

CSSB 661, A bill to be entitled An Act relating to the continuation and functions, as applicable, of the Electric Reliability Council of Texas, the Office of Public Utility Counsel, and the Public Utility Commission of Texas and to the transfer of certain functions from the Texas Commission on Environmental Quality to the Public Utility Commission of Texas; imposing administrative penalties.

CSSB 661 - POINT OF ORDER

Representative Y. Davis raised a point of order against further consideration of **CSSB 661** under Rule 4, Section 32(c)(3) of the House Rules on the grounds that the committee report is incorrect.

(Speaker in the chair)

The point of order was withdrawn.

Representative Solomons moved to postpone consideration of **CSSB 661** until 5 p.m. today.

The motion prevailed.

**CONSTITUTIONAL AMENDMENTS CALENDAR
SENATE JOINT RESOLUTIONS
SECOND READING**

The following resolutions were laid before the house and read second time:

**SJR 50 ON SECOND READING
(Branch and Alonzo - House Sponsors)**

SJR 50, A joint resolution proposing a constitutional amendment providing for the issuance of general obligation bonds of the state to finance educational loans to students.

SJR 50 was adopted by (Record 1368): 142 Yeas, 3 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; 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; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Kolkhorst; Legler; Miller, S.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Peña; Taylor, L.; Villarreal.

Absent — Harper-Brown.

STATEMENTS OF VOTE

When Record No. 1368 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

I was shown voting yes on Record No. 1368. I intended to vote no.

Paxton

I was shown voting yes on Record No. 1368. I intended to vote no.

V. Taylor

SJR 37 ON SECOND READING
(V. Taylor - House Sponsor)

SJR 37, A joint resolution proposing a constitutional amendment to change the length of the unexpired term that causes the automatic resignation of certain elected county or district officeholders if they become candidates for another office.

SJR 37 was adopted by (Record 1369): 131 Yeas, 14 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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.; Gooden; Guillen; 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; 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; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Burnam; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Johnson; Lucio; Marquez; Martinez; Quintanilla; Reynolds; Strama; Thompson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Peña; Taylor, L.; Villarreal.

Absent — Lyne.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1369. I intended to vote yes.

Gutierrez

I was shown voting no on Record No. 1369. I intended to vote yes.

Strama

SJR 14 ON SECOND READING

(C. Anderson, Pickett, McClendon, Farias, and Lozano - House Sponsors)

SJR 14, A joint resolution proposing a constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran.

SJR 14 was adopted by (Record 1370): 143 Yeas, 0 Nays, 2 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; 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; 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; Lozano; Lucio; 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; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Peña; Taylor, L.; Villarreal.

Absent — Lewis; Weber.

STATEMENT OF VOTE

When Record No. 1370 was taken, I was in the house but away from my desk. I would have voted yes.

Weber

SJR 26 ON SECOND READING

(Turner - House Sponsor)

SJR 26, A joint resolution proposing a constitutional amendment authorizing the legislature to allow cities or counties to enter into interlocal contracts with other cities or counties without the imposition of a tax or the provision of a sinking fund.

SJR 26 was adopted by (Record 1371): 144 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; 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; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Peña; Taylor, L.; Villarreal.

Absent — Madden; Martinez Fischer.

STATEMENT OF VOTE

When Record No. 1371 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

GENERAL STATE CALENDAR SENATE BILLS SECOND READING

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

SB 327 ON SECOND READING (Garza - House Sponsor)

SB 327, A bill to be entitled An Act relating to including certain veterans service organizations as small businesses for the purpose of state contracting.

SB 327 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BERMAN: There are certain people who are concerned about HUB. This will in no way interfere with HUB, will it?

REPRESENTATIVE GARZA: Not at all. This is your veteran service organizations, and they are just looking for that status as a small business to compete on government contracts that are not a part of the HUB.

REMARKS ORDERED PRINTED

Representative Berman moved to print remarks between Representative Garza and Representative Berman.

The motion prevailed.

SB 327 was passed to third reading.

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).

SB 1393 ON SECOND READING

(Keffer - House Sponsor)

SB 1393, A bill to be entitled An Act relating to the use of contracts by local governments to purchase electricity.

Representative Keffer moved to postpone consideration of **SB 1393** until 4:45 p.m. today.

The motion prevailed.

SB 1434 ON SECOND READING

(Geren - House Sponsor)

SB 1434, A bill to be entitled An Act relating to certain low-income weatherization programs.

SB 1434 was passed to third reading. (C. Anderson, Laubenberg, and V. Taylor recorded voting no.)

CSSB 1286 ON SECOND READING

(Rodriguez - House Sponsor)

CSSB 1286, A bill to be entitled An Act relating to the funding of retirement systems for firefighters in certain municipalities.

CSSB 1286 was passed to third reading by (Record 1372): 114 Yeas, 28 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Bohac; Brown; Burkett; Burnam; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hughes; Hunter; Isaac; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kuempel; Larson; Lavender; Lewis; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, S.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Otto; Parker; Patrick; Perry; Phillips; Pickett;

Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Turner; Veasey; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anderson, R.; Bonnen; Branch; Button; Cain; Carter; Christian; Creighton; Geren; Gooden; Howard, C.; Jackson; King, S.; Kolkhorst; Landtroop; Laubenberg; Legler; Lyne; Madden; Murphy; Orr; Paxton; Sheets; Shelton; Simpson; Smith, T.; Taylor, V.; Weber.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Peña; Taylor, L.; Villarreal.

Absent — Darby; Dukes; Miller, D.; Truitt.

STATEMENTS OF VOTE

When Record No. 1372 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 1372 was taken, my vote failed to register. I would have voted yes.

Truitt

CSSB 981 ON SECOND READING (Anchia and Gallego - House Sponsors)

CSSB 981, A bill to be entitled An Act relating to the regulation of distributed renewable generation of electricity.

Amendment No. 1

Representatives Solomons and Gallego offered the following amendment to **CSSB 981**:

Amend **CSSB 981** (house committee printing) by striking SECTION 2 of the bill (page 1, line 15, through page 2, line 3) and substituting the following:

SECTION 2. Section 39.916, Utilities Code, is amended by adding Subsection (k) to read as follows:

(k) Neither a retail electric customer that uses distributed renewable generation nor the owner of the distributed renewable generation that the retail electric customer uses is an electric utility, power generation company, or retail electric provider for the purposes of this title and neither is required to register with or be certified by the commission if at the time distributed renewable generation is installed, the estimated annual amount of electricity to be produced by the distributed renewable generation is less than or equal to the retail electric customer's estimated annual electricity consumption.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Solomons and Gallego offered the following amendment to **CSSB 981**:

Amend **CSSB 981** (house committee printing) in SECTION 1 of the bill, in amended Section 39.916(a), Utilities Code, by striking Subdivision (2) (page 1, lines 7-14) and substituting the following:

(2) "Distributed renewable generation owner" means:

(A) an [the] owner of distributed renewable generation;

(B) a retail electric customer on whose side of the meter distributed renewable generation is installed and operated, regardless of whether the customer takes ownership of the distributed renewable generation; or

(C) a person who by contract is assigned ownership rights to energy produced from distributed renewable generation located at the premises of the customer on the customer's side of the meter.

Amendment No. 2 was adopted.

(L. Taylor now present)

Amendment No. 3

Representative L. Taylor offered the following amendment to **CSSB 981**:

Amend **CSSB 981** (house committee report) by adding the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 39.352, Utilities Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1) Notwithstanding Subsections (b)(2) and (c), the commission may not refuse to issue a certificate to an applicant whose majority owner owns more than 80 percent of the applicant based solely on the fact that the majority owner was previously a minority owner of a retail electric provider that was involved in a mass transition of customers from that provider to a provider of last resort.

(c-2) Notwithstanding Subsections (b)(2) and (c), the commission may not amend or revoke the certificate of a retail electric provider of which the majority owner owns more than 80 percent based solely on the fact that the majority owner was previously a minority owner of a retail electric provider that was involved in a mass transition of customers from that provider to a provider of last resort.

SECTION _____. (a) The change in law made by Section 39.952(c-1), Utilities Code, as added by this Act, applies only to a retail electric provider certificate application that is filed on or after the effective date of this Act. A retail electric provider certificate application filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and that law is continued in effect for that purpose.

(b) The change in law made by Section 39.952(c-2), Utilities Code, as added by this Act, applies to a retail electric provider certificate revocation or amendment proceeding for which the Public Utility Commission of Texas has not issued a final order before the effective date of this Act.

Amendment No. 3 - Point of Order

Representative Anchia raised a point of order against further consideration of Amendment No. 3 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The speaker sustained the point of order.

The ruling precluded further consideration of Amendment No. 3.

CSSB 981, as amended, was passed to third reading. (Weber recorded voting no.)

SB 158 ON SECOND READING
(Fletcher and Gallego - House Sponsors)

SB 158, A bill to be entitled An Act relating to the fraudulent obtaining of a controlled substance from a practitioner; providing a penalty.

Amendment No. 1

Representative Deshotel offered the following amendment to **SB 158**:

Amend **SB 158** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1285 to read as follows:

Sec. 481.1285. OFFENSE: DIVERSION OF CONTROLLED SUBSTANCE BY REGISTRANTS, DISPENSERS, AND CERTAIN OTHER PERSONS. (a) This section applies only to a registrant, a dispenser, or a person who, pursuant to Section 481.062(a)(1) or (2), is not required to register under this subchapter.

(b) A person commits an offense if the person knowingly:

(1) converts to the person's own use or benefit a controlled substance to which the person has access by virtue of the person's profession or employment;
or

(2) diverts to the unlawful use or benefit of another person a controlled substance to which the person has access by virtue of the person's profession or employment.

(c) An offense under Subsection (b)(1) is a state jail felony. An offense under Subsection (b)(2) is a felony of the third degree.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Woolley offered the following amendment to **SB 158**:

Amend **SB 158** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 71.02(a), Penal Code, as amended by Chapters 153 (**SB 2225**), 1130 (**HB 2086**), and 1357 (**SB 554**), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(5-a) causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;

(6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

(8) any felony offense under Chapter 32;

(9) any offense under Chapter 36;

(10) any offense under Chapter 34 or 35;

(11) any offense under Section 37.11(a);

(12) any offense under Chapter 20A;

(13) any offense under Section 37.10; ~~[or]~~

(14) any offense under Section 38.06, 38.07, 38.09, or 38.11;

(15) ~~[(14)]~~ any offense under Section 42.10; or

(16) ~~[(14)]~~ any offense under Section 46.06(a)(1) or 46.14.

SECTION _____. Sections 71.02(b) and (c), Penal Code, as amended by Chapters 761 (**HB 354**) and 900 (**SB 1067**), Acts of the 73rd Legislature, Regular Session, 1993, are reenacted to read as follows:

(b) Except as provided in Subsections (c) and (d), an offense under this section is one category higher than the most serious offense listed in Subsection (a) that was committed, and if the most serious offense is a Class A misdemeanor, the offense is a state jail felony, except that if the most serious offense is a felony of the first degree, the offense is a felony of the first degree.

(c) Conspiring to commit an offense under this section is of the same degree as the most serious offense listed in Subsection (a) that the person conspired to commit.

SECTION _____. Section 71.05(a), Penal Code, as amended by Chapters 761 (**HB 3544**) and 900 (**SB 1067**), Acts of the 73rd Legislature, Regular Session, 1993, is reenacted and amended to read as follows:

(a) It is an affirmative defense to prosecution under Section 71.02 that under circumstances manifesting a voluntary and complete renunciation of the actor's ~~his~~ criminal objective, the actor withdrew from the combination before commission of an offense listed in ~~[Subsection (a) of]~~ Section 71.02(a) ~~[71.02]~~ and took further affirmative action that prevented the commission of the offense.

SECTION _____. Section 71.05(c), Penal Code, is amended to read as follows:

(c) Evidence that the defendant withdrew from the combination before commission of an offense listed in ~~[Subdivisions (1) through (7) or Subdivision (10) of Subsection (a) of]~~ Section 71.02(a) ~~[71.02 of this code]~~ and made substantial effort to prevent the commission of an offense listed in ~~[Subdivisions (1) through (7) or Subdivision (10) of Subsection (a) of]~~ Section 71.02(a) ~~[71.02 of this code]~~ shall be admissible as mitigation at the hearing on punishment if the actor ~~he~~ has been found guilty under Section 71.02 ~~[of this code]~~, and in the event of a finding of renunciation under this subsection, the punishment shall be one grade lower than that provided under Section 71.02 ~~[of this code]~~.

SECTION _____. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

Amendment No. 2 was adopted.

SB 158, as amended, was passed to third reading.

SB 1120 ON SECOND READING
(Lewis - House Sponsor)

SB 1120, A bill to be entitled An Act relating to the exemption from taxation of property of a local government corporation.

SB 1120 was passed to third reading.

CSSB 1048 ON SECOND READING
(J. Davis - House Sponsor)

CSSB 1048, A bill to be entitled An Act relating to the creation of public and private facilities and infrastructure.

Amendment No. 1

Representative J. Davis offered the following amendment to **CSSB 1048**:

Amend **CSSB 1048** (house committee report) as follows:

(1) In SECTION 1 of the bill, in proposed Section 2267.002(e), Government Code (page 5, line 17), between "other" and "authority", insert "statutory".

(2) In SECTION 1 of the bill, immediately following proposed Section 2267.065(b)(2), Government Code (page 26, between lines 19 and 20), insert the following:

(3) Section 51.780, Education Code;

(3) In SECTION 1 of the bill, in proposed Section 2267.065(b), Government Code (page 26, lines 20 and 21), renumber the subdivisions of that subsection appropriately.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives D. Howard, Branch, and Craddick offered the following amendment to **CSSB 1048**:

Amend **CSSB 1048** by adding an appropriately numbered SECTION to read as follows:

SECTION _____.01. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.1782 to read as follows:

Sec. 55.1782. THE UNIVERSITY OF TEXAS SYSTEM; ADDITIONAL BONDS. (a) Consistent with the described need in Section 2267.002 for the "timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, and installation of education facilities," the project described by this section is a qualifying project for purposes of Chapter 2267, Government Code. As provided by that chapter, the board of regents of The University of Texas System may elect to design, construct, and equip the project described by this section in accordance with that chapter.

(b) In addition to the other authority granted by this subchapter, the board of regents of The University of Texas System may acquire, purchase, construct, improve, renovate, enlarge, or equip facilities, including related infrastructure, for an engineering education and research center for The University of Texas at Austin, to be financed through the issuance of bonds in accordance with this subchapter and in accordance with a systemwide revenue financing program adopted by the board, not to exceed the aggregate principal amount of \$100 million.

(c) The board may pledge irrevocably to the payment of bonds authorized by this section all or any part of the revenue funds of an institution, branch, or entity of The University of Texas System, including student tuition charges. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(d) If sufficient funds are not available to the board to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of The University of Texas System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

(e) General revenue may not be appropriated for the purpose of reimbursing The University of Texas System for debt service on the bonds authorized by this section for any state fiscal year earlier than the state fiscal year beginning September 1, 2015.

(f) The board may issue the bonds authorized by this section only if the board by resolution finds that:

(1) the total amount of bonds to be issued for the project does not exceed one-third of the project's completed cost;

(2) the project has funding support equal to at least two-thirds of the project's completed cost from private philanthropic sources or from other funds available to the institution;

(3) the project is designated with the highest priority ranking by the board; and

(4) the project has been highly recommended by the Texas Higher Education Coordinating Board in the coordinating board's most recent review of proposed bonding projects.

(b) Section 61.0572(e), Education Code, is amended to read as follows:

(e) Approval of the board is not required to acquire real property that is financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.1735(a)(1), 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, 55.1768, 55.1771, ~~or~~ 55.17721, or 55.1782, except that the board shall review all real property to be financed by bonds issued under those sections to determine whether the property meets the standards adopted by the board for cost, efficiency, and space use. If the property does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

(c) Section 61.058(b), Education Code, is amended to read as follows:

(b) This section does not apply to construction, repair, or rehabilitation financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, 55.1768, 55.1771, ~~or~~ 55.17721, or 55.1782, except that the board shall review all construction, repair, or rehabilitation to be financed by bonds issued under those sections to determine whether the construction, rehabilitation, or repair meets the standards adopted by board rule for cost, efficiency, and space use. If the construction, rehabilitation, or repair does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

Amendment No. 2 was adopted. (The vote was reconsidered later today, and Amendment No. 2 was withdrawn.)

Amendment No. 3

Representative Margo offered the following amendment to **CSSB 1048**:

Amend **CSSB 1048** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.1789 to read as follows:

Sec. 55.1789. TEXAS TECH UNIVERSITY SYSTEM; ADDITIONAL BONDS. (a) In addition to the other authority granted under this subchapter, the board of regents of the Texas Tech University System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for an academic building in the city of El

Paso for the Texas Tech University Health Sciences Center, to be financed by the issuance of bonds in accordance with this subchapter, including bonds issued in accordance with a systemwide revenue financing program and secured as provided by that program, in an aggregate principal amount not to exceed \$58,500,000.

(b) The board may pledge irrevocably to the payment of the bonds authorized by this section all or any part of the revenue funds of an institution, branch, or entity of the Texas Tech University System, including student tuition charges. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of the Texas Tech University System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

(d) General revenue may not be appropriated for the purpose of reimbursing the Texas Tech University System for debt service on the bonds authorized by this section for any state fiscal year earlier than the state fiscal year beginning September 1, 2015.

(e) The board may issue the bonds authorized by this section only if the board by resolution finds that the project has funding from sources other than the bonds to be issued equal to at least two-thirds of the initial cost of the project.

SECTION ____ .02. Section 61.0572(e), Education Code, is amended to read as follows:

(e) Approval of the board is not required to acquire real property that is financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.1735(a)(1), 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, 55.1768, 55.1771, ~~or~~ 55.17721, or 55.1789, except that the board shall review all real property to be financed by bonds issued under those sections to determine whether the property meets the standards adopted by the board for cost, efficiency, and space use. If the property does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

SECTION ____ .03. Section 61.058(b), Education Code, is amended to read as follows:

(b) This section does not apply to construction, repair, or rehabilitation financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, 55.1768, 55.1771, ~~or~~ 55.17721, or 55.1789, except that the board shall review all construction, repair, or rehabilitation to be financed by bonds issued under those sections to determine whether the construction, rehabilitation, or repair meets the standards adopted by board rule for cost, efficiency, and space use. If the construction, rehabilitation, or repair does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

Amendment No. 3 was adopted. (The vote was reconsidered later today, and Amendment No. 3 was withdrawn.)

Amendment No. 4

Representative Lewis offered the following amendment to **CSSB 1048**:

Amend **CSSB 1048** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION ____.01. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.1789 to read as follows:

Sec. 55.1789. TEXAS TECH UNIVERSITY SYSTEM; ADDITIONAL REVENUE BONDS. (a) In addition to the other authority granted under this subchapter, the board of regents of the Texas Tech University System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for a medical education building to support the Texas Tech University Health Sciences Center's educational programs in the city of Odessa, to be financed by the issuance of bonds in accordance with this subchapter, including bonds issued in accordance with a systemwide revenue financing program and secured as provided by that program, not to exceed \$17.01 million.

(b) The board may pledge irrevocably to the payment of the bonds authorized by this section all or any part of the revenue funds of an institution, branch, or entity of the Texas Tech University System, including student tuition charges. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of the Texas Tech University System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

(d) General revenue may not be appropriated for the purpose of reimbursing the Texas Tech University System for debt service on the bonds authorized by this section for any state fiscal year earlier than the state fiscal year beginning September 1, 2015.

(e) The board may issue the bonds authorized by this section only if the board by resolution finds that the project has funding from sources other than the bonds to be issued equal to at least two-thirds of the initial cost of the project.

SECTION ____.02. Section 61.0572(e), Education Code, is amended to read as follows:

(e) Approval of the board is not required to acquire real property that is financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.1735(a)(1), 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, 55.1768, 55.1771, [ø] 55.17721, or 55.1789, except that the board shall review all real property to be financed by bonds issued under those sections to determine whether the property meets the standards adopted by the

board for cost, efficiency, and space use. If the property does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

SECTION ____ .03. Section 61.058(b), Education Code, is amended to read as follows:

(b) This section does not apply to construction, repair, or rehabilitation financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, 55.1768, 55.1771, ~~or~~ 55.17721, or 55.1789, except that the board shall review all construction, repair, or rehabilitation to be financed by bonds issued under those sections to determine whether the construction, rehabilitation, or repair meets the standards adopted by board rule for cost, efficiency, and space use. If the construction, rehabilitation, or repair does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

Amendment No. 4 was adopted. (The vote was reconsidered later today, and Amendment No. 4 was withdrawn.)

Amendment No. 5

Representative Murphy offered the following amendment to **CSSB 1048**:

Amend **CSSB 1048** (house committee printing) in SECTION 1 of the bill, immediately following added Section 2267.060, Government Code (page 22, between lines 23 and 24), by inserting the following:

Sec. 2267.0605. PERFORMANCE AND PAYMENT BONDS REQUIRED. (a) The construction, remodel, or repair of a qualifying project may be performed only after performance and payment bonds for the construction, remodel, or repair have been executed in compliance with Chapter 2253 regardless of whether the qualifying project is on public or private property or is publicly or privately owned.

(b) For purposes of this section, a qualifying project is considered a public work under Chapter 2253 and the responsible governmental entity shall assume the obligations and duties of a governmental entity under that chapter. The obligee under a performance bond under this section may be a public entity, a private person, or an entity consisting of both a public entity and a private person.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Veasey offered the following amendment to **CSSB 1048**:

Amend **CSSB 1048** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and amending subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 2254.003, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Unless inconsistent with the criteria in Subsection (a), a governmental entity selecting a provider of or awarding a contract for professional services may consider:

(1) the impact on the entity's ability to comply with laws, rules, or policies regarding, as applicable:

(A) historically underutilized or minority-owned businesses;

(B) small business development programs; and

(C) any other contracting program approved by the entity that relates to Paragraph (A) or (B); and

(2) the locations of the provider's or group or association of providers' places of business where the work will be performed if, in the entity's governing body's judgment, the location of the places of business where the work will be performed will impact the most efficient and economical provision of the services.

SECTION _____. Section 2254.004, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Unless inconsistent with the criteria in Subsection (a), a governmental entity selecting a provider of or awarding a contract for architectural, engineering, or land surveying services may consider:

(1) the impact on the entity's ability to comply with laws, rules, or policies regarding, as applicable:

(A) historically underutilized or minority-owned businesses;

(B) small business development programs; and

(C) any other contracting program approved by the entity that relates to Paragraph (A) or (B); and

(2) the locations of the provider's places of business where the work will be performed if, in the entity's governing body's judgment, the location of the places of business where the work will be performed will impact the most efficient and economical provision of the services.

SECTION _____. The changes in law made by this Act to Sections 2254.003 and 2254.004, Government Code, apply only to a contract for which an invitation for offers, request for proposals, request for qualifications, or other similar solicitation is first published or distributed on or after the effective date of this Act. A contract for which an invitation for offers, request for proposals, request for qualifications, or other similar solicitation is first published or distributed before the effective date of this Act is governed by the law in effect at the time the invitation, request, or other solicitation is published or distributed, and the former law is continued in effect for that purpose.

Amendment No. 6 was withdrawn.

Amendment No. 7

Representative Aycock offered the following amendment to **CSSB 1048**:

Amend **CSSB 1048** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.1782 to read as follows:

Sec. 55.1782. THE UNIVERSITY OF TEXAS SYSTEM; ADDITIONAL BONDS. (a) In addition to the other authority granted by this subchapter, the board of regents of The University of Texas System may acquire, purchase, construct, improve, renovate, enlarge, or equip facilities, including roads and related infrastructure, for an engineering education and research center for The University of Texas at Austin, to be financed through the issuance of bonds in accordance with this subchapter and in accordance with a systemwide revenue financing program adopted by the board, not to exceed the aggregate principal amount of \$100 million.

(b) The board may pledge irrevocably to the payment of bonds authorized by this section all or any part of the revenue funds of an institution, branch, or entity of The University of Texas System, including student tuition charges. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding.

(c) If sufficient funds are not available to the board to meet its obligations under this section, the board may transfer funds among institutions, branches, and entities of The University of Texas System to ensure the most equitable and efficient allocation of available resources for each institution, branch, or entity to carry out its duties and purposes.

(d) General revenue may not be appropriated for the purpose of reimbursing The University of Texas System for debt service on the bonds authorized by this section for any state fiscal year earlier than the state fiscal year beginning September 1, 2015.

SECTION _____. Section 61.0572(e), Education Code, is amended to read as follows:

(e) Approval of the board is not required to acquire real property that is financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.1735(a)(1), 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, 55.1768, 55.1771, ~~or~~ 55.17721, or 55.1782, except that the board shall review all real property to be financed by bonds issued under those sections to determine whether the property meets the standards adopted by the board for cost, efficiency, and space use. If the property does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

SECTION _____. Section 61.058(b), Education Code, is amended to read as follows:

(b) This section does not apply to construction, repair, or rehabilitation financed by bonds issued under Section 55.17(e)(3) or (4), 55.1713-55.1718, 55.1721-55.1728, 55.174, 55.1742, 55.1743, 55.1744, 55.1751-55.17592, 55.1768, 55.1771, ~~or~~ 55.17721, or 55.1782, except that the board shall review all construction, repair, or rehabilitation to be financed by bonds issued under those sections to determine whether the construction, rehabilitation, or repair meets the standards adopted by board rule for cost, efficiency, and space use. If

the construction, rehabilitation, or repair does not meet those standards, the board shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board.

Amendment No. 7 was withdrawn.

Representative J. Davis moved to postpone consideration of **CSSB 1048** until 5:40 p.m. today.

The motion prevailed.

POSTPONED BUSINESS

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

SB 1393 ON SECOND READING (Keffer - House Sponsor)

SB 1393, A bill to be entitled An Act relating to the use of contracts by local governments to purchase electricity.

SB 1393 was read second time earlier today and was postponed until this time.

SB 1393 was passed to third reading.

GENERAL STATE CALENDAR (consideration continued)

CSSB 776 ON SECOND READING (Guillen, Quintanilla, and Raymond - House Sponsors)

CSSB 776, A bill to be entitled An Act relating to customs brokers.

Amendment No. 1

Representative Quintanilla offered the following amendment to **CSSB 776**:

Amend **CSSB 776** (house committee printing) as follows:

(1) In SECTION 2 of the bill, in amended Section 151.1575(a)(3)(G)(ii), Tax Code (page 4, line 9), strike "and" and substitute "[~~and~~]".

(2) In SECTION 2 of the bill, in amended Section 151.1575(a)(3)(H)(ii), Tax Code (page 4, line 18), strike the period and substitute the following:
; and

(I) requiring the purchaser and the broker or an authorized employee, when using a power of attorney form, to attest, as a part of the form and in the presence of each other:

(i) that the purchaser has provided the information and documentation required by this subdivision; and

(ii) that the purchaser is on notice that tangible personal property not exported is subject to taxation under this chapter and the purchaser is liable, in addition to other possible civil liabilities and criminal penalties, for payment of an amount equal to the value of the merchandise if the purchaser improperly obtained a refund of taxes relating to the property.

Amendment No. 1 was adopted.

CSSB 776, as amended, was passed to third reading by (Record 1373): 124 Yeas, 19 Nays, 1 Present, not voting.

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

Nays — Anderson, C.; Anderson, R.; Cain; Carter; Davis, S.; Flynn; Gooden; Hughes; King, S.; Landtroop; Laubenberg; Miller, S.; Paxton; Riddle; Schwertner; Sheets; Taylor, V.; Weber; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Peña; Villarreal.

Absent — Dukes; Eiland; Fletcher; Zedler.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1373. I intended to vote yes.

R. Anderson

When Record No. 1373 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

I was shown voting no on Record No. 1373. I intended to vote yes.

Sheets

When Record No. 1373 was taken, I was in the house but away from my desk. I would have voted no.

Zedler

CSSB 293 ON SECOND READING (J. Davis - House Sponsor)

CSSB 293, A bill to be entitled An Act relating to telemedicine medical services, telehealth services, and home telemonitoring services provided to certain Medicaid recipients.

Amendment No. 1

Representative J. Davis offered the following amendment to **CSSB 293**:

Amend **CSSB 293** (house committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 531.001(4-a), Government Code (page 1, line 11), strike "as" and substitute "or a hospital, as those terms are".

(2) In SECTION 2 of the bill, strike amended Section 531.0216(b), Government Code (page 2, line 23, through page 3, line 26), and substitute the following:

(b) In developing the system, the executive commissioner by rule shall:

(1) review programs and pilot projects in other states to determine the most effective method for reimbursement;

(2) establish billing codes and a fee schedule for services;

(3) provide for an approval process before a provider can receive reimbursement for services;

(4) consult with the Department of State Health Services and the telemedicine and telehealth advisory committee to establish procedures to:

(A) identify clinical evidence supporting delivery of health care services using a telecommunications system; and

(B) ~~[establish pilot studies for telemedicine medical service delivery; and~~

~~[(C)]~~ annually review health care services, considering new clinical findings, to determine whether reimbursement for particular services should be denied or authorized;

~~(5) [establish pilot programs in designated areas of this state under which the commission, in administering government funded health programs, may reimburse a health professional participating in the pilot program for telehealth services authorized under the licensing law applicable to the health professional;~~

~~[(6)]~~ establish a separate provider identifier for telemedicine medical services providers, telehealth services providers, and home telemonitoring services providers; and

~~(6) [(7)]~~ establish a separate modifier for telemedicine medical services, telehealth services, and home telemonitoring services eligible for reimbursement.

(3) In SECTION 5 of the bill, strike added Section 531.02164(a), Government Code (page 6, lines 6 through 9), and substitute the following:

(a) In this section:

(1) "Home health agency" means a facility licensed under Chapter 142, Health and Safety Code, to provide home health services as defined by Section 142.001, Health and Safety Code.

(2) "Hospital" means a hospital licensed under Chapter 241, Health and Safety Code.

(4) In SECTION 5 of the bill, strike added Section 531.02164(c), Government Code (page 6, line 15, through page 7, line 11), and substitute the following:

(c) The program required under this section must:

(1) provide that home telemonitoring services are available only to persons who:

(A) are diagnosed with one or more of the following conditions:

- (i) pregnancy;
- (ii) diabetes;
- (iii) heart disease;
- (iv) cancer;
- (v) chronic obstructive pulmonary disease;
- (vi) hypertension;
- (vii) congestive heart failure;
- (viii) mental illness or serious emotional disturbance;
- (ix) asthma;
- (x) myocardial infarction; or
- (xi) stroke; and

(B) exhibit two or more of the following risk factors:

- (i) two or more hospitalizations in the prior 12-month period;
- (ii) frequent or recurrent emergency room admissions;
- (iii) a documented history of poor adherence to ordered medication regimens;
- (iv) a documented history of falls in the prior six-month period;
- (v) limited or absent informal support systems;
- (vi) living alone or being home alone for extended periods of time; and
- (vii) a documented history of care access challenges;

(2) ensure that clinical information gathered by a home health agency or hospital while providing home telemonitoring services is shared with the patient's physician; and

(3) ensure that the program does not duplicate disease management program services provided under Section 32.057, Human Resources Code.

(5) In SECTION 5 of the bill, in added Section 531.02164(e), Government Code (page 7, lines 21 through 26), strike "If the commission determines that the provision of home telemonitoring services achieves cost savings for the Medicare program, the commission shall pursue the creation of accountable care organizations to participate in the Medicare shared savings program in accordance with 42 U.S.C. Section 1395jii."

(6) Strike SECTION 6 of the bill (page 7, line 27, through page 8, line 4).

(7) Strike SECTION 7 of the bill (page 8, line 5, through page 9, line 14).

(8) In the recital to SECTION 9 of the bill (page 9, line 19), strike "Section 531.02172(b), Government Code, is" and substitute "Sections 531.02172(a) and (b), Government Code, are".

(9) In SECTION 9 of the bill, immediately following the recital (page 9, between lines 20 and 21), insert the following:

(a) The executive commissioner shall establish an advisory committee to assist the commission in:

(1) evaluating policies for telemedical consultations under Sections 531.02163 and 531.0217;

(2) ~~[evaluating policies for telemedicine medical services or telehealth services pilot programs established under Section 531.02171];~~

~~[(3)]~~ ensuring the efficient and consistent development and use of telecommunication technology for telemedical consultations and telemedicine medical services or telehealth services reimbursed under government-funded health programs;

(3) ~~[(4)]~~ monitoring the type of consultations and other services ~~[programs]~~ receiving reimbursement under Section ~~[Sections]~~ 531.0217 ~~[and 531.02171]~~; and

(4) ~~[(5)]~~ coordinating the activities of state agencies concerned with the use of telemedical consultations and telemedicine medical services or telehealth services.

(10) In SECTION 11(3) of the bill (page 10, line 27), strike "Sections 531.02171(a)(3) and (4)" and substitute "Section 531.02171".

(11) Renumber SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Schwertner offered the following amendment to **CSSB 293**:

Amend **CSSB 293** (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 531, Government Code, is amended by adding Section 531.02176 to read as follows:

Sec. 531.02176. EXPIRATION OF MEDICAID REIMBURSEMENT FOR PROVISION OF TELEMEDICINE MEDICAL, TELEHEALTH, AND HOME TELEMONITORING SERVICES. Notwithstanding any other law, the commission may not reimburse providers under the Medicaid program for the provision of telemedicine medical, telehealth, or home telemonitoring services on or after September 1, 2015.

Amendment No. 2 was adopted.

CSSB 293, as amended, was passed to third reading.

SB 1073 ON SECOND READING (T. King - House Sponsor)

SB 1073, A bill to be entitled An Act relating to rainwater harvesting systems that are connected to public water supply systems.

SB 1073 was passed to third reading.

SB 1551 ON SECOND READING (Raymond and Gallego - House Sponsors)

SB 1551, A bill to be entitled An Act relating to missing children; providing a criminal penalty.

Amendment No. 1

Representatives S. King and Chisum offered the following amendment to **SB 1551**:

Amend **SB 1551** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.075 to read as follows:

Art. 13.075. CHILD INJURED IN ONE COUNTY AND RESIDING IN ANOTHER. An offense under Title 5, Penal Code, involving a victim younger than 18 years of age, or an offense under Section 25.03, Penal Code, that results in bodily injury to a child younger than 18 years of age, may be prosecuted in the county:

- (1) in which an element of the offense was committed;
- (2) in which the defendant is apprehended;
- (3) in which the victim resides; or
- (4) in which the defendant resides.

SECTION _____. Article 13.075, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 1 was adopted.

SB 1551, as amended, was passed to third reading.

CSSB 573 ON SECOND READING
(Creighton, Eissler, and Cook - House Sponsors)

CSSB 573, A bill to be entitled An Act relating to certificates of public convenience and necessity for water or sewer services.

CSSB 573 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BECK: My only question to you is, are the population brackets based on the 2010 census data?

REPRESENTATIVE CREIGHTON: Yes, that's correct. The population brackets are based on the 2010 census bracket which is consistent with the Code Construction Act, and we want to be very consistent there, and I appreciate that question.

REMARKS ORDERED PRINTED

Representative Beck moved to print remarks between Representative Creighton and Representative Beck.

The motion prevailed.

(Geren in the chair)

Amendment No. 1

Representative Brown offered the following amendment to **CSSB 573**:

Amend **CSSB 573** (house committee report) in SECTION 2.45 of the bill, in added Section 13.254(a-5), Water Code (page 77, line 11), between "220,000" and the period by inserting "that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Callegari offered the following amendment to **CSSB 573**:

Amend **CSSB 573** (house committee report) as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 5-7) and substitute "Section 13.254, Water Code, is amended by amending Subsections (a), (a-1), (a-2), and (a-3) and adding Subsections (a-5), (a-6), and (h) to read as follows:".

(2) In SECTION 1 of the bill, in amended Section 13.254, Water Code (page 2, between lines 11 and 12), insert the following:

(a-1) As an alternative to decertification under Subsection (a), the owner of a tract of land that is at least 50 acres and that is not in a platted subdivision actually receiving water or sewer service may petition the commission under this subsection for expedited release of the area from a certificate of public convenience and necessity so that the area may receive service from another retail public utility. The fact that a certificate holder is a borrower under a federal loan program is not a bar to a request under this subsection for the release of the petitioner's land and the receipt of services from an alternative provider. On the day the petitioner submits the petition to the commission, the [The] petitioner shall send [deliver], via certified mail, a copy of the petition to the certificate holder, who may submit information to the commission to controvert information submitted by the petitioner. The petitioner must demonstrate that:

(1) a written request for service, other than a request for standard residential or commercial service, has been submitted to the certificate holder, identifying:

(A) the area for which service is sought;

(B) the timeframe within which service is needed for current and projected service demands in the area;

(C) the level and manner of service needed for current and projected service demands in the area;

(D) the approximate cost for the alternative provider to provide the service at the same level and manner that is requested from the certificate holder;

(E) the flow and pressure requirements and specific infrastructure needs, including line size and system capacity for the required level of fire protection requested; and

(F) [(F)] any additional information requested by the certificate holder that is reasonably related to determination of the capacity or cost for providing the service;

(2) the certificate holder has been allowed at least 90 calendar days to review and respond to the written request and the information it contains;

(3) the certificate holder:

(A) has refused to provide the service;

(B) is not capable of providing the service on a continuous and adequate basis within the timeframe, at the level, at the approximate cost that the alternative provider is capable of providing for a comparable level of service, or in the manner reasonably needed or requested by current and projected service demands in the area; or

(C) conditions the provision of service on the payment of costs not properly allocable directly to the petitioner's service request, as determined by the commission; and

(4) the alternate retail public utility from which the petitioner will be requesting service possesses the financial, managerial, and technical capability to provide ~~[is capable of providing]~~ continuous and adequate service within the timeframe, at the level, at the cost, and in the manner reasonably needed or requested by current and projected service demands in the area.

(3) In SECTION 1 of the bill, in amended Section 13.254, Water Code (page 2, between lines 22 and 23), insert the following:

(a-3) Within 60 ~~[90]~~ calendar days from the date the commission determines the petition filed pursuant to Subsection (a-1) to be administratively complete, the commission shall grant the petition unless the commission makes an express finding that the petitioner failed to satisfy the elements required in Subsection (a-1) and supports its finding with separate findings and conclusions for each element based solely on the information provided by the petitioner and the certificate holder. The commission may grant or deny a petition subject to terms and conditions specifically related to the service request of the petitioner and all relevant information submitted by the petitioner and the certificate holder. In addition, the commission may require an award of compensation as otherwise provided by this section. If the certificate holder has never made service available through planning, design, construction of facilities, or contractual obligations to serve the area the petitioner seeks to have released, the commission is not required to find that the proposed alternative provider is capable of providing better service than the certificate holder, but only that the proposed alternative provider is capable of providing the requested service.

(4) In SECTION 1 of the bill, in amended Section 13.254, Water Code (page 3, between lines 13 and 14), insert the following:

(h) A certificate holder that has land removed from its certificated service area in accordance with this section may not be required, after the land is removed, to provide service to the removed land for any reason, including the violation of law or commission rules by a water or sewer system of another person.

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

SECTION _____. Section 13.245, Water Code, is amended by amending Subsection (b) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(b) Except as provided by Subsections [Subsection] (c), (c-1), and (c-2), the commission may not grant to a retail public utility a certificate of public convenience and necessity for a service area within the boundaries or extraterritorial jurisdiction of a municipality without the consent of the municipality. The municipality may not unreasonably withhold the consent. As a condition of the consent, a municipality may require that all water and sewer facilities be designed and constructed in accordance with the municipality's standards for facilities.

(c-1) If a municipality has not consented under Subsection (b) before the 180th day after the date a landowner or a retail public utility submits to the municipality a formal request for service according to the municipality's application requirements and standards for facilities on the same or substantially similar terms as provided by the retail public utility's application to the commission, including a capital improvements plan required by Section 13.244(d)(3) or a subdivision plat, the commission may grant the certificate of public convenience and necessity without the consent of the municipality if:

(1) the commission makes the findings required by Subsection (c);

(2) the municipality has not entered into a binding commitment to serve the area that is the subject of the retail public utility's application to the commission before the 180th day after the date the formal request was made; and

(3) the landowner or retail public utility that submitted the formal request has not unreasonably refused to:

(A) comply with the municipality's service extension and development process; or

(B) enter into a contract for water or sewer services with the municipality.

(c-2) If a municipality refuses to provide service in the proposed service area, as evidenced by a formal vote of the municipality's governing body or an official notification from the municipality, the commission is not required to make the findings otherwise required by this section and may grant the certificate of public convenience and necessity to the retail public utility at any time after the date of the formal vote or receipt of the official notification.

(c-3) The commission must include as a condition of a certificate of public convenience and necessity granted under Subsection (c-1) or (c-2) that all water and sewer facilities be designed and constructed in accordance with the municipality's standards for water and sewer facilities.

SECTION _____. Sections 13.2451(a) and (b), Water Code, are amended to read as follows:

(a) Except as provided by Subsection (b), if [H] a municipality extends its extraterritorial jurisdiction to include an area certificated to a retail public utility, the retail public utility may continue and extend service in its area of public convenience and necessity under the rights granted by its certificate and this chapter.

(b) The commission may not extend a municipality's certificate of public convenience and necessity beyond its extraterritorial jurisdiction if an owner of land that is located wholly or partly outside the extraterritorial jurisdiction elects

to exclude some or all of the landowner's property within a proposed service area in accordance with Section 13.246(h). This subsection does not apply to a transfer of a certificate as approved by the commission. [A municipality that seeks to extend a certificate of public convenience and necessity beyond the municipality's extraterritorial jurisdiction must ensure that the municipality complies with Section 13.241 in relation to the area covered by the portion of the certificate that extends beyond the municipality's extraterritorial jurisdiction.]

SECTION ____ . Section 13.246(h), Water Code, is amended to read as follows:

(h) Except as provided by Subsection (i), a landowner who owns a tract of land that is at least 25 acres and that is wholly or partially located within the proposed service area may elect to exclude some or all of the landowner's property from the proposed service area by providing written notice to the commission before the 30th day after the date the landowner receives notice of a new application for a certificate of public convenience and necessity or for an amendment to an existing certificate of public convenience and necessity. The landowner's election is effective without a further hearing or other process by the commission. If a landowner makes an election under this subsection, the application shall be modified so that the electing landowner's property is not included in the proposed service area. An applicant for a certificate of public convenience and necessity that has land removed from its proposed certificated service area because of a landowner's election under this subsection may not be required to provide service to the removed land for any reason, including the violation of law or commission rules by the water or sewer system of another person.

SECTION ____ . The changes made by this Act to Sections 13.245, 13.2451, 13.246, and 13.254, Water Code, apply only to:

- (1) a retail public utility's application for a certificate of public convenience and necessity for a service area in the extraterritorial jurisdiction of a municipality that is made on or after the effective date of this Act;
- (2) an extension of a municipality's certificate of public convenience and necessity for a service area in the extraterritorial jurisdiction of the municipality on or after the effective date of this Act; and
- (3) a petition to release an area from a certificate of public convenience and necessity that is made on or after the effective date of this Act.

Amendment No. 3

Representatives Lucio and Oliveira offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 by Callegari to **CSSB 573** (house committee report) as follows:

(1) On page 3, line 15 of the amendment, strike "If" and substitute "Except in a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to that county, if".

(2) On page 4, lines 2-3 of the amendment, strike "and (c-3)" and substitute "(c-3), and (c-4)".

(3) On page 5, between lines 16 and 17 of the amendment, insert the following:

(c-4) Subsections (c-1), (c-2), and (c-3) do not apply to a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county.

(4) On page 5, line 30 of the amendment, through page 6, line 1 of the amendment, strike "This subsection does not apply to a transfer of a certificate as approved by the utility commission." and substitute "This subsection does not apply to:

(1) a transfer of a certificate as approved by the commission; or

(2) an extension of extraterritorial jurisdiction in a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county."

Amendment No. 3 was adopted.

Amendment No. 2, as amended, was adopted.

Amendment No. 4

Representative Walle offered the following amendment to **CSSB 573**:

Amend **CSSB 573** (house committee printing) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, lines 6-7), strike "Subsections (a-5) and (a-6)" and substitute "Subsections (a-5), (a-6), and (a-7)"

(2) In SECTION 1 of the bill in amended Section 13.254, Water Code (page 3, between lines 13-14), add the following:

(a-7) The utility shall include with the statement of intent provided to each landowner or ratepayer a notice of:

(1) a proceeding under this section related to certification or decertification;

(2) the reason or reasons for the proposed rate change; and

(3) any bill payment assistance program available to low-income ratepayers.

Amendment No. 4 was adopted.

HR 1315 - ADOPTED

(by S. King, et al.)

Representative S. King moved to suspend all necessary rules to take up and consider at this time **HR 1315**.

The motion prevailed.

The following resolution was laid before the house:

HR 1315, Honoring the achievements of chef and restaurateur Tom Perini of Buffalo Gap.

HR 1315 was read and was adopted.

On motion of Representative Sheffield, the names of all the members of the house were added to **HR 1315** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representatives S. King and Keffer who introduced Tom Perini and members of his family.

CSSB 573 - (consideration continued)**CSSB 573 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE D. MILLER: I appreciate you bringing this measure before the house and letting us have some debate on it for consideration. Let me just ask you, do you believe that this bill will have a detrimental effect, or a detrimental impact should I say, on water or water and sewer systems' ability to obtain financing for new infrastructure?

REPRESENTATIVE CREIGHTON: I don't. I don't believe there will be a negative impact. You know, I understand, Representative Miller—you and I have had some conversations about federal loans that are in place to be able to assist water supply corporations and water providers within CCNs to be able to finance these projects—and no, I don't believe this bill will have any negative effect. In fact, current law, which this bill does not change, allows for CCN holders that have a federal loan to be compensated if they show that they've got pipes in the ground and they've got infrastructure in place. In fact, under the decertification process and guidelines under the Water Code, Section 13.254, the very first provision that's considered on a decertification application is the amount of the retail public utility's debt. So, if the property owner wants out of the CCN—their 25 acres or more—there's a federal loan that's assisting the CCN holder, but the pipes are over here and the property owner is well in another location that's not going to receive service. They're unable to get them service. That debt, as well as the impact on the future consumer base, would be considered.

D. MILLER: Well, Chairman Creighton—and I certainly don't disagree with you and your knowledge of the law as far as people being able to go through the process and decertify—but are you aware, and I think you may be, of a letter from the U.S. Department of Agriculture-Rural Development to Chairman Ritter?

CREIGHTON: Yes, I am.

D. MILLER: And, in that letter, the state director says that in the last three years there has been an investment of \$94 million in low-interest loans and grants to finance these programs that helped over 200,000 Texans. Are you aware of that?

CREIGHTON: Yes, I am. It's a very valuable resource for water providers and their customers.

D. MILLER: Now, are you also aware that they take a lien on the entire service area for which the debtor has a certificate?

CREIGHTON: Yes, I'm aware of that.

D. MILLER: And are you also aware that when they take into consideration, before they make that loan for that CCN, that that whole area is part of the asset that they're taking a lien on?

CREIGHTON: Yes, I'm aware of that, as well. The federal loan, of course, takes into consideration, within the CCN, and they consider that collateral—the entire area—but they also consider, on the front end, the current ability to pay and the financial wherewithal of the CCN applicant or the federal loan applicant that has the CCN. And so they've got to prove up their financial ability on the front end, and it's up to good planning and good rates and providing a good marketplace for whether or not those customers stay in that area.

D. MILLER: And are you aware that under Title 7, Section 1926(b), that the federal law protects the federal government's interest in that property?

CREIGHTON: I am, Representative Miller—and it's a good point. The federal statute is there for a reason and it protects the CCN holder that has a federal loan in place. I agree, again, that that's collateral for that loan, but keep in mind, under the holding in Creedmoor, which is a very recent holding, there was a three-part test that had to do with whether or not that statute trumped a decertification process. And the reason why it did not is, under that three-part test, the third part of the test, or the third step, was whether or not there were pipes in the ground.

D. MILLER: I agree, and that's the point I wanted to come to, the fact that they are making a decision about loaning the money or not loaning the money, which is not a federal mandate. But would you agree that that is a factor—that will be a factor going forward if we pass this statute?

CREIGHTON: It very much is a factor going forward, and this bill protects CCNs in the sense that it does not change the current compensation process. And so any infrastructure that's in place, to serve a plat in a CCN that is backed by a federal loan where a tract is to be decertified, or the CCNs to be certified, or part of that land—or opted out—that CCN holder carrying that federal loan will be compensated under current statute, and this bill does nothing to change that.

REMARKS ORDERED PRINTED

Representative D. Miller moved to print remarks between Representative Creighton and Representative D. Miller.

The motion prevailed.

CSSB 573, as amended, was passed to third reading. (Gooden, Kuempel, and Price recorded voting no.)

POSTPONED BUSINESS

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

CSSB 661 ON SECOND READING

(Solomons - House Sponsor)

CSSB 661, A bill to be entitled An Act relating to the continuation and functions, as applicable, of the Electric Reliability Council of Texas, the Office of Public Utility Counsel, and the Public Utility Commission of Texas and to the transfer of certain functions from the Texas Commission on Environmental Quality to the Public Utility Commission of Texas; imposing administrative penalties.

CSSB 661 was read second time earlier today and was postponed until this time.

CSSB 661 - POINT OF ORDER

Representative Y. Davis raised a point of order against further consideration of **CSSB 661** under Rule 4, Section 32(c)(3) of the House Rules on the grounds that the committee report is incorrect.

The chair sustained the point of order.

CSSB 661 was returned to the Committee on State Affairs.

HB 871 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Y. Davis called up with senate amendments for consideration at this time,

HB 871, A bill to be entitled An Act relating to indigent health care services that may be provided by a county.

Representative Y. Davis moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 871**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 871**: Y. Davis, chair; Coleman, Naishtat, Reynolds, and Gooden.

HB 2170 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Raymond called up with senate amendments for consideration at this time,

HB 2170, A bill to be entitled An Act relating to assisting a foster child in obtaining the child's credit report.

Representative Raymond moved to concur in the senate amendments to **HB 2170**.

The motion to concur in the senate amendments to **HB 2170** prevailed by (Record 1374): 143 Yeas, 0 Nays, 2 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; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; 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; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Peña; Villarreal.

Absent — Christian; Eissler; Lucio.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1374. I intended to vote no.

Landtroop

I was shown voting yes on Record No. 1374. I intended to vote no.

Laubenberg

I was shown voting yes on Record No. 1374. I intended to vote no.

Legler

I was shown voting yes on Record No. 1374. I intended to vote no.

Perry

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2170** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONs accordingly:

SECTION ____ . Subchapter A, Chapter 263, Family Code, is amended by adding Section 263.007 to read as follows:

Sec. 263.007. FOSTER CHILDREN'S BILL OF RIGHTS. (a) In this section:

(1) "Agency foster group home," "agency foster home," "facility," "foster group home," and "foster home" have the meanings assigned by Section 42.002, Human Resources Code.

(2) "Foster care" means the placement of a child who is in the conservatorship of the department or an authorized agency and in care outside the child's home in an agency foster group home, agency foster home, foster group home, foster home, or another facility licensed or certified under Chapter 42, Human Resources Code, in which care is provided for 24 hours a day.

(3) "Foster children's bill of rights" means the rights described by Subsection (b).

(b) It is the policy of this state that each child in foster care be informed of the child's rights provided by state or federal law or policy that relate to:

- (1) abuse, neglect, exploitation, discrimination, and harassment;
- (2) food, clothing, shelter, and education;
- (3) medical, dental, vision, and mental health services, including the right of the child to consent to treatment;
- (4) emergency behavioral intervention, including what methods are permitted, the conditions under which it may be used, and the precautions that must be taken when administering it;
- (5) placement with the child's siblings and contact with members of the child's family;
- (6) privacy and searches, including the use of storage space, mail, and the telephone;
- (7) participation in school-related extracurricular or community activities;
- (8) interaction with persons outside the foster care system, including teachers, church members, mentors, and friends;
- (9) contact and communication with caseworkers, attorneys ad litem, guardians ad litem, and court-appointed special advocates;
- (10) religious services and activities;
- (11) confidentiality of the child's records;
- (12) job skills, personal finances, and preparation for adulthood;
- (13) participation in a court hearing that involves the child;
- (14) participation in the development of service and treatment plans;
- (15) if the child has a disability, the advocacy and protection of the rights of a person with that disability; and
- (16) any other matter affecting the child's ability to receive care and treatment in the least restrictive environment that is most like a family setting, consistent with the best interests and needs of the child.

(c) The department shall provide a written copy of the foster children's bill of rights to each child placed in foster care in the child's primary language, if possible, and shall inform the child of the rights described by the foster children's bill of rights:

- (1) orally in the child's primary language, if possible, and in simple, nontechnical terms; or
- (2) for a child who has a disability, including an impairment of vision or hearing, through any means that can reasonably be expected to result in successful communication with the child.

(d) A child placed in foster care may, at the child's option, sign a document acknowledging the child's understanding of the foster children's bill of rights after the department provides a written copy of the foster children's bill of rights to the child and informs the child of the rights described by the foster children's bill of rights in accordance with Subsection (c). If a child signs a document acknowledging the child's understanding of the foster children's bill of rights, the document must be placed in the child's case file.

(e) An agency foster group home, agency foster home, foster group home, foster home, or other facility in which a child is placed in foster care shall provide a copy of the foster children's bill of rights to a child on the child's request. The foster children's bill of rights must be printed in English and in a second language.

(f) The department shall promote the participation of foster children and former foster children in educating other foster children about the foster children's bill of rights.

(g) The department shall develop and implement a policy for receiving and handling reports that the rights of a child in foster care are not being observed. The department shall inform a child in foster care and, if appropriate, the child's parent, managing conservator, or guardian of the method for filing a report with the department under this subsection.

(h) This section does not create a cause of action.

**HB 414 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Aycock called up with senate amendments for consideration at this time,

HB 414, A bill to be entitled An Act relating to the conducting of licensing examinations by the State Board of Veterinary Medical Examiners.

Representative Aycock moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 414**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 414**: Aycock, chair; Geren, S. Miller, D. Howard, and Landtroop.

**HB 534 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Phillips called up with senate amendments for consideration at this time,

HB 534, A bill to be entitled An Act relating to the powers and duties of the Gunter Municipal Utility Districts Nos. 1 and 2.

Representative Phillips moved to concur in the senate amendments to **HB 534**.

The motion to concur in the senate amendments to **HB 534** prevailed by (Record 1375): 142 Yeas, 0 Nays, 2 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.;

Deshotel; Driver; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; 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; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; 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; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Peña; Villarreal.

Absent — Dukes; Lucio; McClendon; Torres.

STATEMENTS OF VOTE

When Record No. 1375 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 1375 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 534** (senate committee printing) as follows:

(1) Before SECTION 1 of the bill, between the enacting clause and "SECTION 1." (page 1, between lines 11 and 12), insert the following:

ARTICLE ____ . GUNTER MUNICIPAL UTILITY DISTRICTS NOS. 1
AND 2

(2) Renumber the SECTIONS of ARTICLE 1 (page 1, line 12 through page 3, line 15) appropriately.

(3) In SECTION 5 of the bill (page 2, line 67), strike "Act" and substitute "article".

(4) In SECTION 5 of the bill (page 2, line 68), strike "Act" and substitute "article".

(5) In SECTION 5 of the bill (page 2, line 69), strike "Act" and substitute "article".

(6) In SECTION 5 of the bill (page 3, line 5), strike "Act" and substitute "article".

(7) In SECTION 5 of the bill (page 3, line 8), strike "Act" and substitute "article".

(8) In SECTION 5 of the bill (page 3, line 13), strike "Act" and substitute "article".

(9) In SECTION 6 of the bill (page 3, line 15), strike "Act" and substitute "article".

(10) After SECTION 6 of the bill (page 3, line 15), add the following appropriately numbered ARTICLES and SECTIONS:

ARTICLE ____ . MUSTANG RANCH MUNICIPAL MANAGEMENT
DISTRICT NO. 1

SECTION ____ .01. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3885 to read as follows:

CHAPTER 3885. MUSTANG RANCH MUNICIPAL MANAGEMENT
DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3885.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the City of Celina, Texas.

(3) "County" means Collin County, Texas.

(4) "Development agreement" means the development agreement between the city and Celina 682 Partners, L.P., initially effective June 11, 2007.

(5) "Director" means a board member.

(6) "District" means the Mustang Ranch Municipal Management District No. 1.

Sec. 3885.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3885.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the city or county from providing the level of services provided to the area in the district as of the effective date of the article of the Act enacting this chapter. The district is created to supplement and not to supplant the city and county services provided in the district.

Sec. 3885.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The district is created to accomplish the purposes of a municipal management district as provided by general law and Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

(d) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3885.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section ____ .02 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section ____ .02 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to contract;

(3) authority to borrow money or issue bonds or other obligations described by Section 3885.253 or to pay the principal and interest of the bonds or other obligations;

(4) right to impose or collect an assessment, or collect other revenue; or

(5) legality or operation.

Sec. 3885.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

(a) All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;
Code;
(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;
Code;
(3) an enterprise zone created under Chapter 2303, Government Code;
or
(4) an industrial district created under Chapter 42, Local Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for:

(1) the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code; and

(2) any other district purpose, including the right to pledge the money as security for any bonds or other obligations issued by the district under Section 3885.253.

(c) A tax increment reinvestment zone created by the city in the district is not subject to the limitations provided by Section 311.006, Tax Code.

Sec. 3885.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICT LAW. Except as provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3885.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3885.009-3885.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3885.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors composed of:

(1) two directors appointed by the governing body of the city;

(2) one director appointed by the governing body of the city who is an employee of the Prosper Independent School District;

(3) the city manager; and

(4) the city's chief financial officer.

(b) An appointed director serves a term of four years.

Sec. 3885.052. QUALIFICATIONS OF DIRECTOR. (a) Section 375.063, Local Government Code, does not apply to a director employed by the city or the Prosper Independent School District.

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3885.053. VACANCY. The governing body of the city shall appoint a director to fill a vacancy on the board for the remainder of the unexpired term.

Sec. 3885.054. DIRECTOR'S OATH OR AFFIRMATION. A director shall file the director's oath or affirmation of office with the district, and the district shall retain the oath or affirmation in the district records.

Sec. 3885.055. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary.

Sec. 3885.056. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$150 for each board meeting.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of a director.

Sec. 3885.057. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures the directors against personal liability and from all claims for actions taken as directors or actions and activities taken by the district or by others acting on its behalf.

Sec. 3885.058. BOARD MEETINGS. The board shall hold meetings at a place accessible to the public.

Sec. 3885.059. INITIAL DIRECTORS. (a) The initial board consists of the following directors:

- (1) Rod Hogan, city manager;
- (2) Jay Toutounchian, city chief financial officer;
- (3) Jim Melino;
- (4) Drew Watkins, Prosper Independent School District employee; and
- (5) a director appointed by the governing body of the city.

(b) Of the initial directors, the term of the director appointed under Subsection (a)(3) expires May 31, 2014, and the terms of the directors appointed under Subsections (a)(4) and (5) expire May 31, 2012.

(c) This section expires September 1, 2014.

[Sections 3885.060-3885.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3885.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3885.102. IMPROVEMENT PROJECTS. The district may provide, or it may enter into contracts with a governmental or private entity to provide, the improvement projects described by Subchapter C-1 or activities in support of or incidental to those projects.

Sec. 3885.103. WATER DISTRICT POWERS. The district has the powers provided by the general laws relating to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code.

Sec. 3885.104. ROAD DISTRICT POWERS. The district has the powers provided by the general laws relating to road districts and road utility districts created under Section 52(b), Article III, Texas Constitution, including Chapter 441, Transportation Code.

Sec. 3885.105. PUBLIC IMPROVEMENT DISTRICT POWERS. The district has the powers provided by Chapter 372, Local Government Code, to a municipality or county.

Sec. 3885.106. CONTRACT POWERS. The district may contract with a governmental or private entity, on terms determined by the board, to carry out a power or duty authorized by this chapter or to accomplish a purpose for which the district is created.

Sec. 3885.107. EMERGENCY SERVICES. (a) This section applies only to territory in the district:

- (1) that is in the extraterritorial jurisdiction of the city;
- (2) for which a plat has been filed; and
- (3) that includes 100 or more residents.

(b) To protect the public interest, the district shall provide or contract with a qualified party to provide emergency services, including law enforcement, fire, and ambulance services, in the territory described by Subsection (a).

Sec. 3885.108. AMENDMENT OF DEVELOPMENT AGREEMENT. The parties to the development agreement may amend the agreement as necessary to accomplish the purposes of the district.

Sec. 3885.109. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

- (1) Chapter 380, Local Government Code, provides to a municipality;
and
- (2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3885.110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 3885.111. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

[Sections 3885.112-3885.150 reserved for expansion]

SUBCHAPTER C-1. IMPROVEMENT PROJECTS AND SERVICES

Sec. 3885.151. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3885.152. BOARD DETERMINATION REQUIRED. The district may not undertake an improvement project unless the board determines the project:

- (1) is necessary to accomplish a public purpose of the district; and

(2) complies with the development agreement or the parties to the development agreement agree to the project, in writing.

Sec. 3885.153. LOCATION OF IMPROVEMENT PROJECT. An improvement project may be inside or outside the district.

Sec. 3885.154. CITY REQUIREMENTS. (a) An improvement project in the city must comply with any applicable requirements of the city, including codes and ordinances, that are consistent with the development agreement.

(b) The district may not provide, conduct, or authorize any improvement project on the city's streets, highways, rights-of-way, or easements without the consent of the governing body of the city.

Sec. 3885.155. IMPROVEMENT PROJECT AND SERVICE IN DEFINABLE AREA. The district may undertake an improvement project or service that confers a special benefit on a definable area in the district and levy and collect a special assessment on benefited property in the district in accordance with:

(1) Chapter 372, Local Government Code; or

(2) Chapter 375, Local Government Code.

Sec. 3885.156. CONTRACTS. A contract to design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project is considered a contract for a good or service under Subchapter I, Chapter 271, Local Government Code.

[Sections 3885.157-3885.200 reserved for expansion]

SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 3885.201. DIVISION OF DISTRICT; PREREQUISITE. The district may be divided into two or more new districts only if the district has no outstanding bonded debt.

Sec. 3885.202. LAW APPLICABLE TO NEW DISTRICT. This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.

Sec. 3885.203. DIVISION PROCEDURES. (a) The board, on its own motion or on receipt of a petition signed by an owner of real property in the district, may adopt an order proposing to divide the district.

(b) The board may not divide the district unless the division is approved by the governing body of the city by resolution. The resolution may set terms for the division under Subsection (c).

(c) If the board decides to divide the district, the board shall, subject to the city's resolution:

(1) set the terms of the division, including names for the new districts and a plan for the payment or performance of any outstanding district obligations;

(2) prepare a metes and bounds description for each proposed district;
and

(3) appoint initial directors for each new district.

Sec. 3885.204. NOTICE AND RECORDING OF ORDER. Not later than the 30th day after the date of an order dividing the district, the district shall:

(1) file the order with the Texas Commission on Environmental Quality; and

(2) record the order in the real property records of the county in which the district is located.

Sec. 3885.205. CONTRACT AUTHORITY OF NEW DISTRICTS. (a) Except as provided by Subsection (b), the new districts may contract with each other for any matter the boards of the new districts consider appropriate.

(b) The new districts may not contract with each other for water and wastewater services.

[Sections 3885.206-3885.250 reserved for expansion]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3885.251. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3885.252. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may undertake and provide an improvement project or service authorized by this chapter using any money available to the district.

Sec. 3885.253. BORROWING MONEY; OBLIGATIONS. (a) The district may borrow money for a district purpose without holding an election by issuing bonds, notes, time warrants, or other obligations, or by entering into a contract or other agreement payable wholly or partly from an assessment, a contract payment, a grant, revenue from a zone created under Chapter 311 or 312, Tax Code, other district revenue, or a combination of these sources.

(b) An obligation described by Subsection (a):

(1) may bear interest at a rate determined by the board; and

(2) may include a term or condition as determined by the board.

Sec. 3885.254. DEVELOPMENT AGREEMENT. Before the district borrows money or issues an obligation under Section 3885.253, the city must provide written certification to the district that no party to the development agreement is in default as of the date the district is authorized to borrow the money or enter the obligation.

Sec. 3885.255. ASSESSMENTS. (a) Except as provided by Subsection (b), the district may impose an assessment on property in the district to pay for an obligation described by Section 3885.253 in the manner provided for:

(1) a district under Subchapters A, E, and F, Chapter 375, Local Government Code; or

(2) a municipality or county under Subchapter A, Chapter 372, Local Government Code.

(b) The district may not impose an assessment on a municipality, county, or other political subdivision.

Sec. 3885.256. NOTICE OF ASSESSMENTS. (a) The board shall annually file written notice with the secretary of the city that specifies the assessments the district will impose in the district's next fiscal year in sufficient clarity to describe the assessments for the operation and maintenance of the district and the assessments for the payment of debt service of obligations issued or incurred by the district.

(b) The board shall annually record in the deed records of the county a current assessment roll approved by the governing body of the city.

(c) The assessment roll must clearly state that the assessments in the assessment roll are in addition to the ad valorem taxes imposed by other taxing units that tax real property in the district.

(d) The district shall generate and implement a program to provide notification to a prospective purchaser of property in the district of the assessments that have been approved and are imposed by the district.

Sec. 3885.257. RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

Sec. 3885.258. NO IMPACT FEES. The district may not impose an impact fee.

Sec. 3885.259. NO AD VALOREM TAX. The district may not impose an ad valorem tax.

[Sections 3885.260-3885.300 reserved for expansion]

SUBCHAPTER F. DISSOLUTION

Sec. 3885.301. DISSOLUTION BY CITY. (a) The city may dissolve the district by ordinance.

(b) The city may not dissolve the district until:

(1) the district's outstanding debt or contractual obligations have been repaid or discharged; or

(2) the city agrees to succeed to the rights and obligations of the district.

Sec. 3885.302. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, the city succeeds to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations of the district.

Sec. 3885.303. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes the obligations of the district, including any bonds or other debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION ____ .02. The Mustang Ranch Municipal Management District No. 1 initially includes all the territory contained in the following area:

BEING a tract of land located in the COLEMAN WATSON SURVEY, ABSTRACT NO. 945, Collin County, Texas and being a part of a called 632.051 acre tract of land described in Deed to Twin Eagles, Ltd. recorded in County Clerk's Document Number 96-0013989, Deed Records, Collin County, Texas and being a part of a called 12.686 acre tract of land described in Deed to Robert S. Folsom, Trustee of the Twin Eagles Qualified Personal Residence Trust recorded

in County Clerk's Document Number 95-0093145, Deed Records, Collin County, Texas and being a part of a called 50.00 acre tract of land described in Deed to Twin Eagles Ltd. recorded in Volume 4826, Page 2205, Deed Records, Collin County, Texas and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found in the North line of Farm-To-Market Road 1461, a variable width right-of-way, at the Southwest corner of a called 19.93 acre tract of land described in Deed to Debra Folsom Jarma and Don M. Jarma recorded in Volume 3790, Page 267, Deed Records, Collin County, Texas, said point being the Southeast corner of said 50.00 acre tract;

THENCE South 89 degrees 41 minutes 18 seconds West, along the North line of said Farm-To-Market Road 1461, a distance of 750.84 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, from which a 1/2 inch iron rod found bears South 76 degrees 31 minutes 14 seconds West, a distance of 2.08 feet;

THENCE South 89 degrees 16 minutes 18 seconds West, continuing long the North line of said Farm-To-Market Road 1461, a distance of 231.01 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the Southwest corner of Lot 30, Block C of TWELVE OAKS PHASE II, an Addition to Collin County, Texas according to the Plat thereof recorded in Cabinet P, Slide 486, Map Records, Collin County, Texas, from which a 1/2 inch iron rod with a yellow plastic cap stamped "EC&D RPLS 5439" bears South 06 degrees 27 minutes 24 seconds West, a distance of 0.32 feet;

THENCE North 00 degrees 54 minutes 55 seconds East, along the West line of said TWELVE OAKS PHASE II, a distance of 2,206.67 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set in the South line of said 632.051 acre tract at the Northeast corner of Lot 18, Block C of said TWELVE OAKS PHASE II, from which a 1/2 inch iron rod with a yellow plastic cap stamped "ROOME" bears South 50 degrees 24 minutes 07 seconds West, a distance of 0.44 feet;

THENCE South 89 degrees 37 minutes 23 seconds West, along the North line of said TWELVE OAKS PHASE II, a distance of 2,146.50 feet to a 3/8 inch iron rod found at the Southwest corner of said 632.051 acre tract;

THENCE North 00 degrees 07 minutes 29 seconds East, along the West line of said 632.051 acre tract, a distance of 1,637.32 feet to a point for corner in the approximate centerline of Wilson Creek and in the East line of Lot 5, Block A of WILSON CREEK ESTATES, an Addition to Collin County, Texas according to the Plat thereof recorded in Cabinet J, Slide 605, Map Records, Collin County, Texas;

THENCE Northerly, along the East line of said WILSON CREEK ESTATES and the approximate centerline of said Wilson Creek, the following five (5) courses and distances; North 39 degrees 31 minutes 50 seconds East, a distance of 1.00 feet to a point for corner; North 14 degrees 09 minutes 54 seconds East, a distance of 67.24 feet to a point for corner; North 01 degrees 45 minutes 24 seconds West, a distance of 113.30 feet to a point for corner; North 08 degrees 43 minutes 39 seconds West, a distance of 137.99 feet to point for corner;

North 02 degrees 14 minutes 13 seconds West, a distance of 113.37 feet to point at the Southeast corner of WILSON CREEK ESTATES 2, an Addition to Collin County, Texas according to the Plat thereof recorded in Cabinet K, Slide 192, Map Records, Collin County, Texas;

THENCE Northerly, along the East line of said WILSON CREEK ESTATES 2 and the approximate centerline of said Wilson Creek, the following eight (8) courses and distances; North 15 degrees 56 minutes 43 seconds East, a distance of 284.21 feet to point for corner; North 27 degrees 49 minutes 29 seconds East, a distance of 53.72 feet to a point for corner; North 13 degrees 03 minutes 17 seconds East, a distance of 109.39 feet to point for corner; North 10 degrees 02 minutes 27 seconds West, a distance of 235.76 feet to point for corner; North 04 degrees 58 minutes 53 seconds East, a distance of 56.26 feet to a point for corner; North 05 degrees 12 minutes 56 seconds West, a distance of 121.33 feet to point for corner; North 09 degrees 39 minutes 44 seconds West, a distance of 165.65 feet to point for corner; North 01 degrees 30 minutes 36 seconds East, a distance of 45.98 feet to a point for corner in the South line of a called 185.094 acre tract of land described as Tract One in Deed to J. Baxter Brinkman recorded in County Clerk's Document Number 92-0052450, Deed Records, Collin County, Texas, from which a 3/4 inch iron rod found bears South 89 degrees 38 minutes 46 seconds West; a distance of 39.22 feet;

THENCE North 89 degrees 38 minutes 46 seconds East, along the common line of said 185.094 acre tract and said 632.051 acre tract, a distance of 1,947.39 feet to a 1/2 inch iron rod found for corner;

THENCE North 00 degrees 14 minutes 27 seconds West, along the common line of said 185.094 acre tract and said 632.051 acre tract, a distance of 1,721.69 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the Southwest corner of a called 5.384 acre tract of land described as Tract Two in Deed to J. Baxter Brinkman recorded in County Clerk's Document Number 92-0052450, Deed Records, Collin County, Texas, from which a 1/2 inch iron rod found bears South 85 degrees 18 minutes 16 seconds West, a distance of 1.01 feet;

THENCE Easterly, along the common line of said 5.384 acre tract and said 632.051 acre tract, the following six (6) courses and distances: North 89 degrees 48 minutes 09 seconds East, a distance of 2,167.88 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "COLLIS RPLS 1764" found for corner; North 89 degrees 49 minutes 55 seconds East, a distance of 465.82 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, from which a 1/2 inch iron rod found bears South 35 degrees 46 minutes 01 seconds West, a distance of 0.39 feet; North 89 degrees 47 minutes 20 seconds East, a distance of 305.39 feet to a 1/2 inch iron rod found for corner; North 89 degrees 51 minutes 51 seconds East, a distance of 816.05 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 89 degrees 56 minutes 24 seconds East, a distance of 311.73 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; North 89 degrees 42 minutes 42 seconds East, a distance of 330.59 feet to a 1/2 inch iron rod with a yellow plastic cap stamped

"DAA" set at the Northwest corner of a called 1.0000 acre tract of land described in Deed to Danville Water Supply Corporation recorded in Volume 1992, Page 738, Deed Records, Collin County, Texas;

THENCE South 00 degrees 15 minutes 01 seconds East, along the common line of said 1.0000 acre tract and said 632.051 acre tract, a distance of 146.88 feet to a 1/2 inch iron rod found for corner;

THENCE North 89 degrees 44 minutes 59 seconds East, continuing along the common line of said 1.0000 acre tract and said 632.051 acre tract a distance of 299.37 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner in the West line of Farm-To-Market Road 2478, a variable width right-of-way, from which a 1/2 inch iron rod found bears South 89 degrees 44 minutes 59 seconds East, a distance of 0.33 feet;

THENCE Southerly, along the West line of said Farm-To-Market Road 2478, the following eight (8) courses and distances: South 04 degrees 07 minutes 13 seconds East, a distance of 113.40 feet to a wood right-of-way marker found for corner; South 03 degrees 46 minutes 13 seconds East, a distance of 525.05 feet to a 1/2 inch iron rod found for corner; South 01 degrees 56 minutes 26 seconds West, a distance of 100.50 feet to a nail found in wood right-of-way marker for corner; South 03 degrees 46 minutes 13 seconds East, a distance of 200.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, from which a wood right-of-way marker found bears North 78 degrees 39 minutes 45 seconds West, a distance of 0.95 feet; South 09 degrees 28 minutes 51 seconds East, a distance of 100.50 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 03 degrees 46 minutes 13 seconds East, a distance of 415.90 feet to a wood right-of-way marker found for corner at the beginning of a curve to the right having a central angle of 03 degrees 41 minutes 00 seconds, a radius of 5,679.58 feet and a chord bearing and distance of South 01 degrees 55 minutes 43 seconds East, 365.06 feet; Southerly, along said curve to the right, an arc distance of 365.12 feet to a wood right-of-way marker found for corner; South 00 degrees 05 minutes 13 seconds East, a distance of 2,278.15 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the Northeast corner of a called 1.000 acre tract of land described in Deed to Rhea's Mill Baptist Church recorded in Volume 1745, Page 773, Deed Records, Collin County, Texas, from which a 1/2 inch square pipe found bears South 89 degrees 48 minutes 02 seconds West, a distance of 1.07 feet;

THENCE South 89 degrees 48 minutes 02 seconds West, a distance of 291.81 feet to a 1/2 inch iron rod found at the Northwest corner of said Rhea's Mill Baptist Church tract;

THENCE South 00 degrees 20 minutes 34 seconds East, a distance of 150.52 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner in the North line of Lot 4 of ROLLING MEADOWS ESTATES, an Addition to Collin County, Texas according to the Plat thereof recorded in Cabinet P, Slide 486, Map Records, Collin County, Texas;

THENCE South 89 degrees 40 minutes 07 seconds West, along the common line of said ROLLING MEADOWS ESTATES and said 632.051 acre tract, passing at a distance of 1,509.89 feet a 1 inch iron rod found at the Northwest

corner of said ROLLING MEADOWS ESTATES and the Northeast corner of a called 81.104 acre tract described in Deed to Debra F. Jarma and Don M. Jarma recorded in County Clerk's Document Number 95-0092267, Deed Records, Collin County, Texas and continuing along the common line of said 81.104 acre tract and said 632.051 acre tract, in all for a total distance of 2,209.89 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

THENCE South 00 degrees 52 minutes 41 seconds West, along the common line of said 81.104 acre tract and said 632.051 acre tract, a distance of 421.13 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

THENCE South 89 degrees 27 minutes 07 seconds West, continuing along the common line of said 81.104 acre tract and said 632,051 acre tract, a distance of 1,159.85 feet to a 1/2 inch iron square pipe found at the Northwest corner of said 81.104 acre tract and the Northeast corner of a called 11.252 acre tract of land described in Deed to Debra F. Jarma and Don M. Jarma recorded in Volume 4973, Page 3420, Deed Records, Collin County, Texas;

THENCE South 89 degrees 24 minutes 47 seconds West, along the common line of said 11.252 acre tract and said 632.051 acre tract, a distance of 281.99 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the Northwest corner of said 11.252 acre tract;

THENCE Southerly, along the West line of said 11.252 acre tract, the following six (6) courses and distances: South 00 degrees 55 minutes 08 seconds West, a distance of 420.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 14 degrees 29 minutes 02 seconds East, a distance of 241.26 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 00 degrees 55 minutes 08 seconds West, a distance of 320.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 12 degrees 45 minutes 08 seconds West, a distance of 449.55 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 19 degrees 10 minutes 32 seconds East, a distance of 436.57 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 33 degrees 22 minutes 42 seconds East, a distance of 288.40 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner in the West line of said 19.93 acre tract;

THENCE South 01 degrees 56 minutes 48 seconds West, along the West line of said 19.93 acre tract, a distance of 139.88 feet to the POINT OF BEGINNING and containing 681.999 acres of land, more or less.

SECTION _____.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article have been fulfilled and accomplished.

SECTION _____.04. This article takes effect September 1, 2011.

ARTICLE _____. CASE CREEK MUNICIPAL UTILITY DISTRICT NO. 1 OF
GRAYSON COUNTY

SECTION _____.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8249 to read as follows:

CHAPTER 8249. CASE CREEK MUNICIPAL UTILITY DISTRICT NO. 1 OF
GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8249.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Commission" means the Texas Commission on Environmental

Quality.

- (3) "Director" means a board member.

(4) "District" means the Case Creek Municipal Utility District No. 1 of
Grayson County.

Sec. 8249.002. NATURE OF DISTRICT. The district is a municipal utility
district created under Section 59, Article XVI, Texas Constitution.

Sec. 8249.003. CONFIRMATION AND DIRECTORS' ELECTION
REQUIRED. The temporary directors shall hold an election to confirm the
creation of the district and to elect five permanent directors as provided by
Section 49.102, Water Code.

Sec. 8249.004. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section
59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the
construction, acquisition, improvement, operation, or maintenance of
macadamized, graveled, or paved roads, or improvements, including storm
drainage, in aid of those roads.

Sec. 8249.005. INITIAL DISTRICT TERRITORY. (a) The district is
initially composed of the territory described by Section _____.02 of the Act
enacting this chapter.

(b) The boundaries and field notes contained in Section _____.02 of the Act
enacting this chapter form a closure. A mistake made in the field notes or in
copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the
district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8249.006-8249.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8249.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8249.052, directors serve staggered four-year terms.

Sec. 8249.052. TEMPORARY DIRECTORS. (a) On or after September 1, 2011, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8249.003; or

(2) September 1, 2015.

(c) If permanent directors have not been elected under Section 8249.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8249.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8249.053-8249.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8249.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8249.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8249.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8249.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8249.105. COSTS OF ROAD PROJECT. The district shall bear the cost of maintaining, improving, operating, and repairing a road located in the district and authorized by Section 8249.103 in accordance with all applicable ordinances and rules of the political subdivision authorized to exercise jurisdiction over the road, regardless of whether the district conveys the road to this state, a county, or a municipality.

Sec. 8249.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 8249.103; or

(2) a recreational facility as defined by Section 49.462, Water Code.

Sec. 8249.107. LIMITATION ON WATER SUPPLY AND WASTEWATER SERVICES; USE OF DISTRICT FACILITIES BY TWO WAY SPECIAL UTILITY DISTRICT. (a) The district may not act as a retail provider of water or wastewater services in the district except as provided by this section.

(b) Except as provided by Subsection (c), the district shall convey or otherwise assign the district's water supply facilities and wastewater facilities to Two Way Special Utility District.

(c) If Two Way Special Utility District refuses or is unable to provide water supply or wastewater service to customers located in the district, the district may retain the necessary facilities and provide water supply or wastewater service, as applicable, to those customers.

[Sections 8249.108-8249.150 reserved for expansion]

SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 8249.151. DIVISION OF DISTRICT; PREREQUISITES. The district may be divided into two or more new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

Sec. 8249.152. LAW APPLICABLE TO NEW DISTRICT. This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.

Sec. 8249.153. LIMITATION ON AREA OF NEW DISTRICT. A new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section _____.02 of the Act enacting this chapter.

Sec. 8249.154. DIVISION PROCEDURES. (a) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(b) The board may adopt an order dividing the district before or after the date the board holds an election under Section 8249.003 to confirm the district's creation.

(c) An order dividing the district must:

(1) name each new district;
(2) include the metes and bounds description of the territory of each new district;

(3) appoint temporary directors for each new district; and

(4) provide for the division of assets and liabilities between the new districts.

(d) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

Sec. 8249.155. CONFIRMATION ELECTION FOR NEW DISTRICT. (a) A new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8249.003.

(b) If the creation of the new district is confirmed, the new district shall provide the election date and results to the commission.

Sec. 8249.156. TAX OR BOND ELECTION. Before a new district created by the division of the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes, the new district must hold an election as required by this chapter to obtain voter approval.

[Sections 8249.157-8249.200 reserved for expansion]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 8249.201. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8249.203.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8249.202. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8249.201, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8249.203. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8249.204-8249.250 reserved for expansion]

SUBCHAPTER F. BONDS AND OTHER OBLIGATIONS

Sec. 8249.251. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8249.252. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8249.253. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION ____ .02. The Case Creek Municipal Utility District No. 1 of Grayson County initially includes all the territory contained in the following area:
TRACT 1

BEING A 734.245 ACRE TRACT OF LAND SITUATED IN THE PATSY KITCHENS SURVEY, ABSTRACT NO. 666, THE RACHEL HANNING SURVEY, ABSTRACT NO. 547, THE JAMES THOMAS SURVEY, ABSTRACT NO. 1235, THE B.B.B. & C.R.R. SURVEY, ABSTRACT NO. 167 AND THE H.L. NOLAND SURVEY, ABSTRACT NO. 1550, GRAYSON COUNTY, TEXAS AND BEING ALL OF THE FOLLOWING TRACTS OF LAND, THAT TRACT OF LAND DESCRIBED IN DEED TO BLUE ISLAND PARTNERS, LTD., RECORDED IN VOLUME 4076, PAGE 824, THAT TRACT OF LAND DESCRIBED IN DEED TO THE NICID LIMITED PARTNERSHIP, RECORDED IN VOLUME 3734, PAGE 246 AND THAT TRACT OF LAND DESCRIBED IN DEED TO 202 BOREN ROAD PARTNERS, LLC, RECORDED IN VOLUME 4223, PAGE 252 OF THE OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS. SAID 734.245 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986),
BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 60D NAIL FOUND FOR THE NORTHEAST CORNER OF SAID BLUE ISLAND TRACT, SAID NAIL BEING THE SOUTHEAST CORNER OF A TRACT AS DESCRIBED IN DEED TO JERRY TODD, FILED

JUNE 27, 1977, AND RECORDED IN VOLUME 1392 PAGE 797 OF SAID DEED RECORDS, SAID NAIL ALSO BEING IN THE WEST LINE OF A TRACT AS DESCRIBED IN DEED TO JEFF JOHNSON AND WIFE CARYANN JOHNSON, FILED DECEMBER 05, 2002, AND RECORDED IN VOLUME 3363, PAGE 624 OF DEED RECORDS, GRAYSON COUNTY, TEXAS, SAID NAIL ALSO BEING AT THE INTERSECTION OF DAVIS ROAD AND MACOMB CEMETERY ROAD;

THENCE, SOUTH 00 DEGREES 41 MINUTES 37 SECONDS EAST, WITH THE EAST LINE OF SAID BLUE ISLAND TRACT, AND WITH THE WEST LINE OF SAID JOHNSON TRACT, AND ALONG SAID DAVIS ROAD, A DISTANCE OF 1738.20 FEET TO A 1/2 INCH STEEL SQUARE TUBING FOUND FOR AN ELL CORNER OF SAID BLUE ISLAND TRACT, AND THE SOUTHWEST CORNER OF SAID JOHNSON TRACT, AND AT A TURN IN SAID ROAD;

THENCE, NORTH 88 DEGREES 46 MINUTES 03 SECONDS EAST, WITH A NORTH LINE OF SAID BLUE ISLAND TRACT, AND WITH THE SOUTH LINE OF SAID JOHNSON TRACT, AND ALONG SAID DAVIS ROAD, A DISTANCE OF 620.31 FEET TO A 1/2 INCH STEEL REBAR FOUND FOR THE MOST EASTERLY NORTHEAST CORNER OF SAID BLUE ISLAND TRACT, SAID REBAR BEING ON THE SOUTH LINE OF SAID JOHNSON TRACT, SAID REBAR BEING THE NORTHWEST CORNER OF A TRACT AS DESCRIBED IN DEED TO THE NICID LIMITED PARTNERSHIP, FILED SEPTEMBER 22, 2004, AND RECORDED IN VOLUME 3734, PAGE 246, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID REBAR ALSO BEING IN SAID ROAD;

THENCE, NORTH 89 DEGREES 31 MINUTES 32 SECONDS EAST, WITH THE NORTH LINE OF SAID NICID TRACT, AND IN DAVIS ROAD, A DISTANCE OF 2414.87 FEET TO A 1/2 INCH STEEL SQUARE TUBING FOUND, SAID TUBING BEING THE NORTHEAST CORNER OF SAID NICID TRACT, AND THE NORTHWEST CORNER OF A TRACT AS DESCRIBED IN DEED TO DIAMOND H RANCH, LP, AND RECORDED IN VOLUME 4052, PAGE 184, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID TUBING ALSO BEING IN DAVIS ROAD;

THENCE, SOUTH 00 DEGREES 26 MINUTES 08 SECONDS EAST, WITH THE EAST LINE OF SAID NICID TRACT, AND THE WEST LINE OF SAID DIAMOND H TRACT, AND PASSING AT 20.34 FEET A PIPE FENCE CORNER POST ON THE SOUTH SIDE OF SAID DAVIS ROAD, AND CONTINUING ON SAID COURSE FOR A TOTAL DISTANCE OF 2645.90 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN ELL CORNER OF SAID NICID AND DIAMOND H TRACTS;

THENCE, SOUTH 89 DEGREES 24 MINUTES 16 SECONDS WEST, WITH THE SOUTH LINE OF SAID NICID TRACT, A DISTANCE OF 989.63 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN ELL CORNER OF SAID NICID AND DIAMOND H TRACT;

THENCE, SOUTH 00 DEGREES 31 MINUTES 07 SECONDS EAST, A DISTANCE OF 614.83 FEET TO A 1/2 INCH STEEL REBAR FOUND FOR A SOUTHEAST CORNER OF SAID NICID AND AN ELL CORNER OF SAID DIAMOND H TRACT;

THENCE, SOUTH 89 DEGREES 38 MINUTES 58 SECONDS WEST, WITH THE APPARENT SOUTH LINE OF SAID NICID TRACT, A DISTANCE OF 2189.66 FEET TO A POINT CORNER;

THENCE, SOUTH 00 DEGRESS 58 MINUTES 28 SECONDS WEST, PASSING AT A DISTANCE OF 14.49 FEET A 1/2" IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID 202 BOREN ROAD PARTNERS TRACT AND THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED TO DEWEY MCGILL, JR., RECORDED IN VOLUME 2426, PAGE 836, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, AND CONTINUING WITH THE EAST LINE OF SAID 202 BOREN ROAD PARTNERS TRACT, THE WEST LINE OF SAID MCGILL TRACT, CROSSING THE SOUTH LINE OF SAID NOLAND SURVEY AND THE NORTH LINE OF SAID B.B.B. & C.R.R. SURVEY, AND CONTINUING FOR A TOTAL DISTANCE OF 2317.78 FEET TO A 1/2 INCH IRON ROD FOUND ON THE NORTH LINE OF THAT TRACT OF LAND DESCRIBED IN DEED TO DIANE S. MORGAN, RECORDED IN VOLUME 3368, PAGE 355, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 88 DEGRESS 25 MINUTES 06 SECONDS WEST, WITH THE NORTH LINES OF SAID DIANE MORGAN TRACT, THE NORTH LINE OF A 20.000 ACRE TRACT OF LAND CONVEYED TO GLEN D. MORGAN BY DEED DATED APRIL 11, 2000, RECORDED IN VOLUME 2914, PAGE 61, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS AND THE SOUTH LINE OF SAID 202 BOREN ROAD PARTNERS TRACT, FOR A DISTANCE OF 1627.84 FEET TO A 60D NAIL FOUND AT THE SOUTHWEST CORNER OF BOTH SAID B.B.B. & C.R.R. SURVEY AND THE SOUTHEAST CORNER OF SAID THOMAS SURVEY, FOR THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID 202 BOREN ROAD PARTNERS TRACT AND THE SOUTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED TO TOM W. PINGLETON, DATED AUGUST 15, 2006, RECORDED IN VOLUME 4105, PAGE 811, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS,

THENCE, NORTH 01 DEGREES 40 MINUTES 41 SECONDS EAST, WITH THE WEST LINES OF BOTH SAID B.B.B. & C.R.R. SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT AND THE EAST LINES OF THE FOLLOWING, SAID THOMAS SURVEY, TRACT 1 DESCRIBED IN DEED TO JAMES DOUGLAS SCHULTZ, RECORDED IN VOLUME 1646, PAGE 617 DEED RECORDS, GRAYSON COUNTY, TEXAS, SAID PINGLETON TRACT, THAT TRACT OF LAND DESCRIBED IN DEED TO GINGER BLALOCK, DATED AUGUST 28, 1998, RECORDED IN VOLUME 2695, PAGE 380, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, THAT TRACT OF LAND DESCRIBED IN DEED TO JAMES C. BLAKE, ET

UX, DATED OCTOBER 9, 1998, RECORDED IN VOIUME 2709, PAGE 366, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, THAT TRACT OF LAND DESCRIBED IN DEED TO MICHAEL W. WALKER, AND MONIQUE R. WALKER, DATED DECEMBER 22, 2004, RECORDED IN VOLUME 3790, PAGE 348, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS AND THAT TRACT OF LAND DESCRIBED IN DEED TO NANCY SUSAN PARKER, DATED DECEMBER 1, 1993, RECORDED IN VOLUME 2306, PAGE 433, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS FOR A DISTANCE OF 2132.79 FEET TO A 1/2 INCH IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID PARKER TRACT AT AN ELL CORNER OF SAID 202 BOREN ROAD PARTNERS TRACT;

THENCE, NORTH 86 DEGRESS 41 MINUTES 55 SECONDS WEST, WITH THE NORTH LINE OF SAID PARKER TRACT, AND A SOUTH LINE OF SAID 202 BOREN ROAD PARTNERS TRACT, A DISTANCE OF 1332.93 FEET TO A PK NAIL FOUND FOR THE NORTHWEST CORNER OF SAID PARKER TRACT IN THE EAST LINE OF THAT TRACT OF LAND DESCRIBED IN DEED TO MYRNA RHEUDASIL, INDIVIDUALLY BY DEED DATED APRIL 21, 1992, RECORDED IN VOLUME 2208, PAGE 492, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS IN THE CENTER OF A PUBLIC ROAD KNOWN AS BOREN ROAD;

THENCE NORTH 01 DEGREES, 59 MINUTES 16 SECONDS EAST, WITH THE CENTER OF SAID BOREN ROAD, THE WEST LINE OF SAID 202 BOREN ROAD PARTNERS TRACT, THE EAST LINE OF SAID RHEUDASIL TRACT FOR A DISTANCE OF 411.44 FEET TO A 1/2 INCH IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID RHEUDASIL TRACT, ON THE NORTH LINE OF SAID THOMAS SURVEY, THE SOUTH LINE OF BOTH SAID RACHEL HANNING SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT;

THENCE, NORTH 88 DEGRESS 28 MINUTES 34 SECONDS WEST, WITH THE NORTH LINE OF BOTH SAID THOMAS SURVEY, AND SAID RHEUDASIL TRACT, THE SOUTH LINE OF BOTH SAID RACHEL HANNING SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT, CONTINUING ALONG SAID BOREN ROAD, FOR A DISTANCE OF 1333.90 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET AT THE SOUTHWEST CORNER OF BOTH SAID RACHEL HANNING SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT, THE SOUTHEAST CORNER OF THE JAMES M. THOMAS SURVEY, ABSTRACT NO. 1212, THE MOST SOUTHERLY SOUTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED TO CALVIN BLEDSOE, RECORDED IN VOLUME 2546, PAGE 224, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 01 DEGRESS 36 MINUTES 58 SECONDS EAST, WITH THE WEST LINE OF BOTH SAID RACHEL HANNING SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT, THE EAST LINE OF SAID JAMES THOMAS SURVEY, ABST. NO. 1212, AND SAID BLEDSOE

TRACT, FOR A DISTANCE OF 1595.82 FEET TO A 1/2 INCH IRON ROD CAPPED "COX 4577" FOUND AT THE NORTHWEST CORNER OF SAID 202 BOREN ROAD PARTNERS TRACT, THE MOST WESTERLY SOUTHWEST CORNER OF A 300.43 ACRE TRACT OF LAND DESCRIBED IN DEED TO BLUE ISLAND PARTNERS, LTD. BY DEED DATED JUNE 28, 2006, RECORDED IN VOLUME 4076, PAGE 824, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 01 DEGREES 26 MINUTES 55 SECONDS EAST, WITH THE WEST LINE OF SAID BLUE ISLAND TRACT, AND WITH THE EAST LINE OF SAID BLEDSOE TRACT, A DISTANCE OF 1631.30 FEET TO A 1/2 INCH IRON ROD CAPPED "COX 4577" FOUND FOR THE WESTERN MOST NORTHWEST CORNER OF BLUE ISLAND TRACT, AND THE NORTHEAST CORNER OF SAID BLEDSOE TRACT;

THENCE, NORTH 89 DEGREES 27 MINUTES 39 SECONDS EAST, WITH A NORTH LINE OF SAID BLUE ISLAND TRACT, A DISTANCE OF 1676.04 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN ELL CORNER OF SAID BLUE ISLAND TRACT, AND THE SOUTHEAST CORNER OF A TRACT AS DESCRIBED IN DEED TO NANCY SUSAN PARKER, FILED SEPTEMBER 15, 1993, AND RECORDED IN VOLUME 2306 PAGE 433, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 18 MINUTES 02 SECONDS WEST, WITH THE WEST LINE OF SAID BLUE ISLAND TRACT, AND WITH THE EAST LINE OF SAID PARKER TRACT, A DISTANCE OF 1411.57 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHWEST CORNER OF SAID BLUE ISLAND TRACT, SAID IRON ROD BEING THE NORTHEAST CORNER OF SAID PARKER TRACT, SAID IRON ROD ALSO BEING ON THE SOUTH LINE OF SAID BLEDSOE TRACT, SAID IRON ROD BEING IN SAID MACOMB CEMETERY ROAD;

THENCE, SOUTH 88 DEGREES 57 MINUTES 45 SECONDS EAST, WITH THE NORTH LINE OF SAID BLUE ISLAND TRACT, ALONG SAID ROAD, PASSING THE SOUTHEAST CORNER OF SAID BLEDSOE TRACT, AND THE SOUTHWEST CORNER OF SAID TODD TRACT, AND CONTINUING ALONG SAID COURSE, A DISTANCE OF 2597.18 FEET TO THE POINT OF BEGINNING AND CONTAINING 734.245 ACRES OF LAND, MORE OR LESS.

TRACT 2

BEING A 558.197 ACRE TRACT OF LAND SITUATED IN THE BURK TRAMMEL SURVEY, ABSTRACT NUMBER 1229, GRAYSON COUNTY, TEXAS, SAID 558.132 ACRE TRACT BEING COMPRISED BY THE TOTAL OF 6 TRACTS OF LAND RECORDED IN THE OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO W.P. PELPHREY AND C.F. PELPHREY AS RECORDED IN VOLUME 205, PAGE 591, DEED RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO W.P.

PELPHREY AS RECORDED IN VOLUME 234, PAGE 113, DEED RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO A.T. PELPHREY AS RECORDED IN VOLUME 129, PAGE 171, DEED RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO JACK M. DECORDOVA AND WIFE FRANCES M. DECORDOVA AS RECORDED IN VOLUME 1280, PAGE 29, DEED RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO C.F. PELPHREY AS RECORDED IN VOLUME 550, PAGE 399, DEED RECORDS, GRAYSON COUNTY, TEXAS, AND A TRACT OF LAND DESCRIBED IN A DEED TO W.P. PELPHREY AS RECORDED IN VOLUME 234, PAGE 113, DEED RECORDS, GRAYSON COUNTY, TEXAS, SAID 558.197 ACRE TRACT WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A P.K. NAIL SET FOR THE NORTHWEST CORNER OF SAID W.P. PELPHREY AND C.F. PELPHREY TRACT, SAME POINT BEING IN THE APPROXIMATE INTERSECTION OF SOUTHMAYD ROAD (AN APPARENT PERSCRIPTIVE RIGHT OF WAY) WITH MCGEEHE ROAD (AN APPARENT PERSCRIPTIVE RIGHT OF WAY);

THENCE, SOUTH 88 DEGREES 22 MINUTES 04 SECONDS EAST, IN SAID SOUTHMAYD ROAD, A DISTANCE OF 2563.72 FEET TO A P.K. NAIL FOUND FOR THE NORTHWEST CORNER OF THE AFOREMENTIONED W.P. PELPHREY TRACT DESCRIBED IN VOLUME 234 AT PAGE 113, DEED RECORDS, GRAYSON COUNTY, TEXAS FOR AN ANGLE POINT;

THENCE, SOUTH 88 DEGREES 29 MINUTES 07 SECONDS EAST, CONTINUING IN SAID ROAD, FOR A DISTANCE OF 1926.86 FEET TO A P.K. NAIL SET FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT AND THE NORTHWEST CORNER OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO GLEN D. MORGAN AS RECORDED IN VOLUME 2752, PAGE 321, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS

THENCE, SOUTH 00 DEGREES 58 MINUTES 51 SECONDS WEST, WITH THE WEST LINE OF SAID MORGAN TRACT AND ALONG A FENCE LINE AT A DISTANCE 3314.73 PASSING A 1/2" IRON ROD FOR THE SOUTHWEST CORNER OF SAID MORGAN TRACT, THE SAME BEING THE NORTHWEST CORNER OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO LOY RODERICK MAYFIELD AS RECORDED IN VOLUME 2889, PAGE 672 OF THE OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS AND WITH THE WEST LINE OF SAID MAYFIELD TRACT FOR A TOTAL DISTANCE 5469.03 FEET TO A 5/8"

IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER THE SAME BEING THE SOUTHEAST CORNER OF THE AFOREMENTIONED JACK M. DECORDOVA TRACT; THENCE, NORTH 88 DEGREES 58 MINUTES 51 SECONDS WEST, WITH THE SOUTH LINE OF SAID JACK M. DECORDOVA TRACT, IN BATES ROAD (AN APPARENT PERSCRPTIVE RIGHT OF WAY) FOR A DISTANCE OF 2596.11 FEET TO A 1/2" CAPPED IRON ROD FOUND STAMPED "SARTIN" FOR CORNER IN THE EAST LINE OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO CHALLENGE MOTOR SPORTS AS RECORDED IN VOLUME 4224, PAGE 225, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 40 MINUTES 14 SECONDS WEST, AT TIMES WITHIN SAID BATES ROAD, A DISTANCE OF 248.68 FEET A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND BEING THE SOUTHEAST CORNER OF THE AFOREMENTIONED C.F. PELPHREY TRACT;

THENCE, NORTH 88 DEGREES 23 MINUTES 47 SECONDS WEST, WITH THE SOUTH LINE OF SAID C.F. PHELPHREY TRACT AND GENERALLY ALONG SAID BATES ROAD A DISTANCE OF 1944.93 FEET TO A P.K. NAIL SET FOR CORNER AT THE INTERSECTION OF SAID BATES ROAD WITH RICE ROAD (AN APPARENT PERSCRPTIVE RIGHT OF WAY) THE SAME BEING THE SOUTHWEST CORNER OF SAID C.F. PELPHREY TRACT;

THENCE NORTH 01 DEGREES 36 MINUTES 42 SECONDS EAST, WITH THE WEST LINE OF SAID PELPHREY TRACTS, AND GENERALLY ALONG SAID RICE AND SOUTHMAYD ROADS, A DISTANCE OF 5245.00 FEET TO THE POINT OF BEGINNING, CONTAINING 558.197 ACRES OR OF LAND MORE OR LESS.

TRACT 3

BEING A 185.677 ACRE TRACT OF LAND SITUATED IN THE SAMUEL GILMAN SURVEY, ABSTRACT NO. 456, GRAYSON COUNTY, TEXAS, AND BEING ALL OF A 185.677 ACRE TRACT OF LAND, CONVEYED TO WALTON TEXAS, L.P. BY DEED RECORDED IN VOLUME 4782, PAGE 760, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID 185.677 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOND AT THE MOST WESTERLY SOUTHWEST CORNER OF SAID 185.677 ACRE TRACT, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF F.M. HIGHWAY NO. 902 (A 100' RIGHT OF WAY);

THENCE, NORTH 00 DEGREES 36 MINUTES 33 SECONDS WEST, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 996.90 FEET TO A 60D NAIL FOUND FOR CORNER NEAR THE CENTER LINE OF A PUBLIC ROAD;

THENCE, NORTH 88 DEGREES 59 MINUTES 45 SECONDS EAST, WITH THE GENERAL DIRECTION OF SAID CENTERLINE OF SAID PUBLIC ROAD, A DISTANCE OF 839.41 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 5433" FOUND FOR AND ELL CORNER OF SAID 185.677 ACRE TRACT, SAID POINT BEING ON THE WEST LINE OF A 51.465 ACRE TRACT OF LAND CONVEYED BY DEED TO CHALLENGE MOTOR SPORTS, L.P., RECORDED IN VOLUME 4224, PAGE 225, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, SOUTH 01 DEGREES 09 MINUTES 35 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 18.26 FEET TO A 1/2" IRON ROD FOUND FOR AN ELL CORNER OF SAID 185.677 ACRE TRACT AND THE COMMON SOUTHWEST CORNER OF SAID 51.465 ACRE TRACT;

THENCE, NORTH 87 DEGREES 42 MINUTES 40 SECONDS EAST, ALONG THE NORTH LINE OF SAID 185.677 ACRE TRACT AND THE SOUTH LINE OF SAID 51.465 ACRE TRACT, A DISTANCE OF 1953.64 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

THENCE, NORTH 88 DEGREES 42 MINUTES 58 SECONDS EAST, CONTINUING ALONG SAID NORTH LINE OF 185.677 ACRE TRACT, A DISTANCE OF 664.80 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 5433" FOUND FOR THE NORTHEAST CORNER OF SAID 185.677 ACRE TRACT, SAID POINT BEING THE ELL CORNER OF A 10.001 ACRE TRACT CONVEYED TO JESSE WHITTINGTON, RECORDED IN VOLUME 4272, PAGE 659, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, ALONG THE EAST LINE OF SAID 185.677 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES

SOUTH 00 DEGREES 27 MINUTES 48 SECONDS EAST, ALONG THE WEST LINE OF SAID 10.001 ACRE TRACT, A DISTANCE OF 413.59 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 5433" FOUND FOR CORNER, SAID POINT BEING THE SOUTHWEST CORNER OF SAID 10.001 ACRE TRACT AND THE NORTHWEST CORNER OF A 136.85 ACRE TRACT OF LAND CONVEYED BY DEED TO SUTTER INVESTMENTS, L.P., RECORDED IN VOLUME 4224, PAGE 231, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

SOUTH 00 DEGREES 46 MINUTES 35 SECONDS EAST, ALONG THE WEST LINE OF SAID 136.85 ACRE TRACT, A DISTANCE OF 2334.85 FEET TO A 1" IRON PIPE FOUND FOR CORNER, SAID POINT BEING THE SOUTHWEST CORNER OF SAID 136.85 ACRE TRACT AND THE NORTHWEST CORNER OF 15.00 ACRE TRACT OF LAND CONVEYED BY DEED TO BILLY LYNN, RECORDED IN VOLUME 1462, PAGE 390, DEED RECORDS, GRAYSON COUNTY, TEXAS;

SOUTH 00 DEGREES 04 MINUTES 17 SECONDS WEST, ALONG THE WEST LINE OF SAID 15.00 ACRE TRACT, A DISTANCE OF 510.69 FEET TO A 1/2" SQUARE IRON ROD FOUND FOR CORNER, SAID POINT BEING THE SOUTHWEST CORNER OF SAID 15.00 ACRE TRACT AND THE NORTHWEST CORNER OF A 16.866 ACRE TRACT OF LAND CONVEYED BY DEED TO JAMES D. HOOVER, RECORDED IN VOLUME 3245, PAGE 578, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID POINT ALSO LYING NEAR THE CENTER OF A PUBLIC ROAD KNOWN AS COBLER ROAD;

SOUTH 00 DEGREES 23 MINUTES 38 SECONDS EAST, ALONG THE WEST LINE OF SAID 16.866 ACRE TRACT AND WITH THE GENERAL DIRECTION OF THE CENTERLINE OF COBLER ROAD, A DISTANCE OF 407.48 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 5433" FOUND FOR THE SOUTHWEST CORNER OF SAID 185.677 ACRE TRACT, SAID POINT BEING AT THE INTERSECTION OF SAID COBLER ROAD AND A PUBLIC ROAD KNOWN AS MINNIS ROAD;

THENCE, SOUTH 89 DEGREES 02 MINUTES 11 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 185.677 ACRE TRACT AND WITH THE GENERAL DIRECTION OF SAID COBLER ROAD, A DISTANCE OF 1748.05 FEET TO A 1/2" IRON ROD FOUND FOR CORNER; THE SOUTHWEST CORNER OF SAID 185.677 ACRE TRACT AND THE SOUTHEAST CORNER OF A 33.04 ACRE TRACT OF LAND CONVEYED BY DEED TO THOMAS W. BYROM, SR., RECORDED IN 3117, PAGE 40, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 49 MINUTES 46 SECONDS WEST, ALONG THE COMMON WEST LINE OF SAID 185.677 ACRE TRACT AND THE EAST LINE OF SAID 33.04 ACRE TRACT, A DISTANCE OF 2562.49 FEET TO A 1/2" IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 33.04 ACRE TRACT AND THE SOUTHEAST CORNER OF A 12.352 ACRE TRACT OF LAND CONVEYED BY DEED TO THE MILDRED L. BROWN REVOCABLE TRUST, RECORDED IN VOLUME 3194, PAGE 344, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 01 DEGREES 43 MINUTES 38 SECONDS WEST, CONTINUING ALONG THE WEST LINE OF SAID 185.677 ACRE TRACT AND THE COMMON EAST LINE OF SAID 12.352 ACRE TRACT, A DISTANCE OF 103.58 FEET TO A 1/2" IRON ROD FOUND FOR AND INTERIOR ELL CORNER OF SAID 185.677 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 12.352 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 06 MINUTES 00 SECONDS WEST, ALONG THE COMMON SOUTH LINE OF SAID 185.677 ACRE TRACT AND THE NORTH LINE OF SAID 12.352 ACRE TRACT, A DISTANCE OF 1695.09 FEET; TO THE POINT OF BEGINNING AND CONTAINING 185.677 ACRES LAND, MORE OR LESS.

TRACT 4

BEING A 207.484 ACRE TRACT OF LAND SITUATED IN THE SAMUEL GILMAN SURVEY, ABSTRACT NO. 456 AND THE S. PRATHER SURVEY, ABSTRACT NO. 934, GRAYSON COUNTY, TEXAS, AND BEING ALL OF A 207.51 ACRE TRACT OF LAND, CONVEYED AS TRACT 1 TO WALTON TEXAS, L.P., BY DEED RECORDED IN VOLUME 4861, PAGE 258, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID 207.484 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 207.484 ACRE TRACT, SAID POINT BEING THE NORTHEAST CORNER OF A 130.028 ACRE TRACT OF LAND CONVEYED BY DEED TO LITTLE CREEK INVESTMENTS, L.P., RECORDED IN VOLUME 3751, PAGE 802, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID POINT BEING ON THE WEST LINE OF F.M. HIGHWAY NO. 902 (A 100 FOOT RIGHT-OF-WAY) AND IN A PUBLIC ROAD KNOWN AS SPRING CREEK ROAD;

THENCE, SOUTH 89 DEGREES 47 MINUTES 51 SECONDS WEST, ALONG THE COMMON SOUTH LINE OF SAID 207.484 ACRE TRACT AND THE NORTH LINE OF SAID 130.028 ACRE TRACT, A DISTANCE OF 1751.93 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 3688" FOUND FOR THE SOUTHWEST CORNER OF SAID 207.484 ACRE TRACT AND THE SOUTHEAST CORNER OF A 20.992 ACRE TRACT OF LAND CONVEYED BY DEED TO JOHN DANIEL BROWN JR. AND TWALLA Y. BROWN RECORDED IN VOLUME 4292, PAGE 423, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 57 MINUTES 18 SECONDS EAST, ALONG THE COMMON WEST LINE OF SAID 207.484 ACRE TRACT AND THE EAST LINE OF SAID 20.992 ACRE TRACT, A DISTANCE OF 880.65 FEET TO A 1/2" IRON ROD WITH FOUND FOR AN INTERIOR ELL CORNER OF SAID 207.484 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 20.992 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 18 MINUTES 15 SECONDS WEST, ALONG THE COMMON SOUTH LINE OF SAID 207.484 ACRE TRACT AND THE NORTH LINE OF SAID 20.992 ACRE TRACT AND THE NORTH LINES OF A 9.000 ACRE TRACT OF LAND CONVEYED BY DEED TO JONATHAN L. HACKETT, RECORDED IN VOLUME 3909, PAGE 579, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS; A 5.334 ACRE TRACT OF LAND CONVEYED BY DEED TO TIMOTHY A GARBACIK AND DEBBIE J. GARBACIK RECORDED IN VOLUME 3570, PAGE 885, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS; AND A 13.000 ACRE TRACT OF LAND CONVEYED BY DEED TO DOYLE ALAN COULTER, RECORDED

IN VOLUME 3356, PAGE 501, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS; A DISTANCE OF 2631.70 FEET TO A 1/2" IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 207.484 ACRE TRACT AND THE NORTHWEST CORNER OF SAID 13.000 ACRE TRACT AND BEING ON THE EAST LINE OF A TRACT OF LAND CONVEYED BY WILL TO NANCY L. LINDSAY, RECORDED IN VOLUME 4039, PAGE 877, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 01 DEGREES 06 MINUTES 22 SECONDS EAST, ALONG THE COMMON WEST LINE OF SAID 207.484 ACRE TRACT AND THE EAST LINE OF SAID LINDSAY TRACT, A DISTANCE OF 518.13 FEET TO A 60D NAIL FOUND IN FENCE POST FOR A NORTHWEST CORNER OF SAID 207.484 ACRE TRACT AND BEING THE SOUTHWEST CORNER OF A 78.974 ACRE TRACT OF LAND CONVEYED BY DEED TO TOW W. PINGLETON RECORDED IN VOLUME 4042, PAGE 73, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 59 MINUTES 22 SECONDS EAST, ALONG THE COMMON NORTH LINE OF SAID 78.974 ACRE TRACT, A DISTANCE OF 409.90 FEET TO A 1/2" IRON ROD FOUND FOR AND INTERIOR ELL CORNER OF SAID 207.484 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 78.974 ACRE TRACT;

THENCE, NORTH 01 DEGREES 11 MINUTES 10 SECONDS EAST, ALONG THE COMMON WEST LINE OF SAID 207.484 TRACT AND THE EAST LINE OF SAID 78.974 ACRE TRACT, A DISTANCE OF 1352.83 FEET TO A 1/2" IRON ROD WITH PLASTIC CAP STAMPED "COX4577" FOUND FOR THE NORTHWEST CORNER OF SAID 207.484 ACRE TRACT;

THENCE, NORTH 88 DEGREES 22 MINUTES 08 SECONDS EAST, ALONG THE NORTH LINE OF SAID 207.484 ACRE TRACT, A DISTANCE OF 3816.13 FEET TO A 5/8" IRON ROD WITH PLASTIC CAP STAMPED "PEISER SUR" FOUND FOR THE NORTHEAST CORNER OF SAID 207.484 ACRE TRACT, SAID POINT BEING ON THE AFORESAID WEST LINE OF F.M. HIGHWAY 902 AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 16 DEGREES 45 MINUTES 31 SECONDS, A RADIUS OF 1860.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 08 DEGREES 38 MINUTES 43 SECONDS EAST, A DISTANCE OF 542.10 FEET;

THENCE, ALONG SAID NON-TANGENT CURVE TO THE RIGHT AND THE COMMON EAST LINE OF SAID 207.484 ACRE TRACT AND SAID WEST LINE OF F.M. HIGHWAY 902, AN ARC DISTANCE OF 544.04 FEET TO A 5/8" IRON ROD WITH PLASTIC CAP STAMPED "PEISER SUR" FOUND FOR CORNER;

THENCE, SOUTH 00 DEGREES 36 MINUTES 33 SECONDS EAST, CONTINUING ALONG SAID COMMON LINE, A DISTANCE OF 2239.76 FEET TO THE POINT OF BEGINNING AND CONTAINING 207.484 ACRES LAND, MORE OR LESS.

SECTION ____ .03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

SECTION ____ .04. (a) Section 8249.106, Special District Local Laws Code, as added by Section ____ .01 of this article, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8249, Special District Local Laws Code, as added by Section ____ .01 of this article, is amended by adding Section 8249.106 to read as follows:

Sec. 8249.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION ____ .05. Except as provided by Section ____ .04 of this article, this article takes effect September 1, 2011.

HB 2725 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hartnett called up with senate amendments for consideration at this time,

HB 2725, A bill to be entitled An Act relating to the determination of incompetency in criminal cases.

Representative Hartnett moved to concur in the senate amendments to **HB 2725**.

The motion to concur in the senate amendments to **HB 2725** prevailed by (Record 1376): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; 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; 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; 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; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Peña; Villarreal.

Absent — Anchia; Laubenberg; Lucio; Paxton; Torres.

STATEMENT OF VOTE

When Record No. 1376 was taken, I was in the house but away from my desk. I would have voted yes.

Paxton

Senate Committee Substitute

CSHB 2725, A bill to be entitled An Act relating to the determination of incompetency in criminal cases.

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

SECTION 1. Section 2(a), Article 42.03, Code of Criminal Procedure, is amended to read as follows:

(a) In all criminal cases the judge of the court in which the defendant is convicted shall give the defendant credit on the defendant's sentence for the time that the defendant has spent:

(1) in jail for the case, including confinement served as described by Article 46B.009 and excluding ~~other than~~ confinement served as a condition of community supervision, from the time of his arrest and confinement until his sentence by the trial court; ~~or~~

(2) in a substance abuse treatment facility operated by the Texas Department of Criminal Justice under Section 493.009, Government Code, or another court-ordered residential program or facility as a condition of deferred adjudication community supervision granted in the case if the defendant successfully completes the treatment program at that facility; or

(3) confined in a mental health facility or residential care facility as described by Article 46B.009.

SECTION 2. Article 46B.009, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.009. TIME CREDITS. A court sentencing a person convicted of a criminal offense shall credit to the term of the person's sentence each of the following periods for which [the time] the person may be [is] confined in a mental health facility, residential care facility, or jail:

(1) any period of confinement that occurs pending a determination [trial] under Subchapter C as to the defendant's competency to stand trial; and

(2) any period of confinement that occurs between the date of any initial determination of the defendant's incompetency under that subchapter and the date the person is transported to jail following a final judicial determination that the person has been restored to competency.

SECTION 3. Article 46B.0095, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.0095. MAXIMUM PERIOD OF ~~[FACILITY]~~ COMMITMENT OR OUTPATIENT TREATMENT PROGRAM PARTICIPATION DETERMINED BY MAXIMUM TERM FOR OFFENSE. (a) A defendant may not, under Subchapter D or E or any other provision of this chapter, be committed to a mental hospital or other inpatient or residential facility, ordered to participate in an outpatient treatment program, or subjected to both inpatient and outpatient treatment for a cumulative period that exceeds the maximum term provided by law for the offense for which the defendant was to be tried, except that if the defendant is charged with a misdemeanor and has been ordered only to participate in an outpatient treatment program under Subchapter D or E, the maximum period of restoration is two years [beginning on the date of the initial order for outpatient treatment program participation was entered].

(b) On expiration of the maximum restoration period under Subsection (a), the defendant may be confined for an additional period in a mental hospital or other inpatient or residential facility or ordered to participate for an additional period in an outpatient treatment program, as appropriate, only pursuant to civil [commitment] proceedings conducted under Subtitle C or D, Title 7, Health and Safety Code, by a court with probate jurisdiction.

(c) The cumulative period described by Subsection (a):

(1) begins on the date the initial order of commitment or initial order for outpatient treatment program participation is entered under this chapter; and

(2) in addition to any inpatient or outpatient treatment periods described by Subsection (a), includes any time that, following the entry of an order described by Subdivision (1), the defendant is confined in a correctional facility, as defined by Section 1.07, Penal Code, or is otherwise in the custody of the sheriff during or while awaiting, as applicable:

(A) the defendant's transfer to a mental hospital or other inpatient or residential facility;

(B) the defendant's release on bail to participate in an outpatient treatment program; or

(C) a criminal trial following any temporary restoration of the defendant's competency to stand trial.

(d) The court shall credit to the cumulative period described by Subsection (a) any time that a defendant, following arrest for the offense for which the defendant was to be tried, is confined in a correctional facility, as defined by Section 1.07, Penal Code, before the initial order of commitment or initial order for outpatient treatment program participation is entered under this chapter.

SECTION 4. Article 46B.010, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.010. MANDATORY DISMISSAL OF MISDEMEANOR CHARGES. If a court orders that a defendant charged with a misdemeanor punishable by confinement be committed to a mental hospital or other inpatient or residential facility, participate in an outpatient treatment program, or be subjected to both inpatient and outpatient treatment, [the commitment of or participation in an outpatient treatment program by a defendant who is charged with a misdemeanor punishable by confinement] and the defendant is not tried before the [date of] expiration of the maximum period of restoration [under this chapter as] described by Article 46B.0095:

(1) on the motion of the attorney representing the state, the court shall dismiss the charge; or

(2) on the motion of the attorney representing the defendant and notice to the attorney representing the state, the court:

(A) shall set the matter to be heard not later than the 10th day after the date of filing of the motion; and

(B) may dismiss the charge on a finding that the defendant was not tried before the expiration of the maximum period of restoration[-the court on the motion of the attorney representing the state shall dismiss the charge].

SECTION 5. Article 46B.022(a), Code of Criminal Procedure, is amended to read as follows:

(a) To qualify for appointment under this subchapter as an expert, a psychiatrist or psychologist must:

(1) as appropriate, be a physician licensed in this state or be a psychologist licensed in this state who has a doctoral degree in psychology; and

(2) have the following certification [~~or experience~~] or training:

(A) as appropriate, certification by:

(i) the American Board of Psychiatry and Neurology with added or special qualifications in forensic psychiatry; or

(ii) the American Board of Professional Psychology in forensic psychology; or

(B) [~~experience or~~] training consisting of:

(i) at least 24 hours of specialized forensic training relating to incompetency or insanity evaluations; and

(ii) at least [~~for an appointment made before January 1, 2005, at least five years of experience before January 1, 2004, in performing criminal forensic evaluations for courts; or~~]

~~[(iii) for an appointment made on or after January 1, 2005, at least five years of experience before January 1, 2004, in performing criminal forensic evaluations for courts and] eight [or more] hours of continuing education relating to forensic evaluations, completed in the 12 months preceding the appointment [and documented with the court].~~

SECTION 6. Article 46B.024, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.024. FACTORS CONSIDERED IN EXAMINATION. During an examination under this subchapter and in any report based on that examination, an expert shall consider, in addition to other issues determined relevant by the expert, the following:

- (1) the capacity of the defendant during criminal proceedings to:
 - (A) rationally understand the charges against the defendant and the potential consequences of the pending criminal proceedings;
 - (B) disclose to counsel pertinent facts, events, and states of mind;
 - (C) engage in a reasoned choice of legal strategies and options;
 - (D) understand the adversarial nature of criminal proceedings;
 - (E) exhibit appropriate courtroom behavior; and
 - (F) testify;
- (2) as supported by current indications and the defendant's personal history, whether the defendant:
 - (A) has a ~~[diagnosable]~~ mental illness; or
 - (B) ~~[or]~~ is a person with mental retardation;
- (3) whether the identified condition has lasted or is expected to last continuously for at least one year;
- (4) the degree of impairment resulting from [impact of] the mental illness or mental retardation, if existent, and the specific impact on the defendant's capacity to engage with counsel in a reasonable and rational manner; and
- (5) ~~[(4)]~~ if the defendant is taking psychoactive or other medication:
 - (A) whether the medication is necessary to maintain the defendant's competency; and
 - (B) the effect, if any, of the medication on the defendant's appearance, demeanor, or ability to participate in the proceedings.

SECTION 7. Article 46B.025, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) An expert's report to the court must state an opinion on a defendant's competency or incompetency to stand trial or explain why the expert is unable to state such an opinion and must also:

- (1) identify and address specific issues referred to the expert for evaluation;
- (2) document that the expert explained to the defendant the purpose of the evaluation, the persons to whom a report on the evaluation is provided, and the limits on rules of confidentiality applying to the relationship between the expert and the defendant;

(3) in specific [general] terms, describe procedures, techniques, and tests used in the examination, [and] the purpose of each procedure, technique, or test, and the conclusions reached; and

(4) state the expert's clinical observations, findings, and opinions on each specific issue referred to the expert by the court, state the specific criteria supporting the expert's diagnosis, and state specifically any issues on which the expert could not provide an opinion.

(a-1) The expert's opinion on the defendant's competency or incompetency may not be based solely on the defendant's refusal to communicate during the examination.

(b) If in the opinion of an expert appointed under Article 46B.021 the defendant is incompetent to proceed, the expert shall state in the report:

(1) the symptoms, exact nature, severity, and expected duration of the deficits resulting from the defendant's mental illness or mental retardation, if any, and the [that] impact of the identified condition on the factors listed in Article 46B.024~~[, contributing to the defendant's incompetency]; [and]~~

(2) an estimate of the period needed to restore the defendant's competency, including whether the defendant is likely to be restored to competency in the foreseeable future; and

(3) prospective treatment options, if any, appropriate for the defendant.

SECTION 8. Article 46B.071, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.071. OPTIONS ON DETERMINATION OF INCOMPETENCY.

(a) Except as provided by Subsection (b), on [On] a determination that a defendant is incompetent to stand trial, the court shall:

(1) commit the defendant to a facility under Article 46B.073; or

(2) release the defendant on bail under Article 46B.072.

(b) On a determination that a defendant is incompetent to stand trial and is unlikely to be restored to competency in the foreseeable future, the court shall:

(1) proceed under Subchapter E or F; or

(2) release the defendant on bail as permitted under Chapter 17.

SECTION 9. Article 46B.072, Code of Criminal Procedure, is amended by amending Subsections (a), (b), and (c) and adding Subsection (a-1) to read as follows:

(a) This article applies only to a defendant who is subject to an initial restoration period based on Article 46B.071.

(a-1) Subject to conditions reasonably related to assuring public safety and the effectiveness of the defendant's treatment, if the court determines that a defendant found incompetent to stand trial is not a danger to others and may be safely treated on an outpatient basis with the specific objective of attaining competency to stand trial and if an appropriate outpatient treatment program is available for the defendant, the court:

(1) may release on bail a defendant found incompetent to stand trial with respect to a felony or may continue the defendant's release on bail; and

(2) shall release on bail a defendant found incompetent to stand trial with respect to a misdemeanor or shall continue the defendant's release on bail.

(b) The court shall order a defendant released on bail under Subsection (a-1) ~~[(a)]~~ to participate in an outpatient treatment program for a period not to exceed 120 days.

(c) Notwithstanding Subsection (a-1) ~~[(a)]~~, the court may order a defendant to participate in an outpatient treatment program under this article only if:

(1) the court receives and approves a comprehensive plan that:

(A) provides for the treatment of the defendant for purposes of competency restoration; and

(B) identifies the person who will be responsible for providing that treatment to the defendant; and

(2) the court finds that the treatment proposed by the plan will be available to and will be provided to the defendant.

SECTION 10. Articles 46B.073(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) This article applies only to a defendant not released on bail who is subject to an initial restoration period based on Article 46B.071.

(b) For further examination and treatment toward the specific objective of the defendant attaining competency to stand trial, the [The] court shall commit a defendant described by Subsection (a) to a mental health facility or residential care facility for the applicable [a] period as follows:

(1) a period of not more than 60 days, if the defendant is charged with an offense punishable as a misdemeanor; or

(2) a period of not more than 120 days, if the defendant is charged with an offense punishable as a felony [not to exceed 120 days for further examination and treatment toward the specific objective of attaining competency to stand trial].

SECTION 11. Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.0755 to read as follows:

Art. 46B.0755. PROCEDURES ON CREDIBLE EVIDENCE OF IMMEDIATE RESTORATION. (a) Notwithstanding any other provision of this subchapter, if the court receives credible evidence indicating that the defendant has been restored to competency at any time after the defendant's incompetency trial under Subchapter C but before the defendant is transported under Article 46B.075 to a mental health facility, residential care facility, or outpatient treatment program, as applicable, the court may appoint disinterested experts to reexamine the defendant in accordance with Subchapter B. The court is not required to appoint the same expert or experts who performed the initial examination of the defendant under that subchapter.

(b) If after a reexamination of the defendant the applicable expert's report states an opinion that the defendant remains incompetent, the court's order under Article 46B.072 or 46B.073 remains in effect, and the defendant shall be transported to the facility or outpatient treatment program as required by Article 46B.075. If after a reexamination of the defendant the applicable expert's report states an opinion that the defendant has been restored to competency, the court shall withdraw its order under Article 46B.072 or 46B.073 and proceed under Subsection (c) or (d).

(c) The court shall find the defendant competent to stand trial and proceed in the same manner as if the defendant had been found restored to competency at a hearing if:

- (1) both parties agree that the defendant is competent to stand trial; and
- (2) the court concurs.

(d) The court shall hold a hearing to determine whether the defendant has been restored to competency if any party fails to agree or if the court fails to concur that the defendant is competent to stand trial. If a court holds a hearing under this subsection, on the request of the counsel for either party or the motion of the court, a jury shall make the competency determination. For purposes of the hearing, incompetency is presumed, and the defendant's competency must be proved by a preponderance of the evidence. If after the hearing the defendant is again found to be incompetent to stand trial, the court shall issue a new order under Article 46B.072 or 46B.073, as appropriate based on the defendant's current condition.

SECTION 12. Article 46B.077(a), Code of Criminal Procedure, is amended to read as follows:

(a) The facility to which the defendant is committed or the outpatient treatment program to which the defendant is released on bail shall:

- (1) develop an individual program of treatment;
- (2) assess and evaluate whether the defendant is likely to be restored to ~~will obtain~~ competency in the foreseeable future; and
- (3) report to the court and to the local mental health authority or to the local mental retardation authority on the defendant's progress toward achieving competency.

SECTION 13. Article 46B.079, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.079. NOTICE AND REPORT TO COURT. (a) The head of the facility or the provider of the outpatient treatment program, as appropriate, not later than the 15th day before the date on which the initial [a] restoration period is to expire according to the terms of the order or under Article 46B.0095 or other applicable provisions of this chapter, shall notify the applicable court that the ~~restoration~~ period is about to expire.

(b) The head of the facility or outpatient treatment program provider shall promptly notify the court when the head of the facility or outpatient treatment program provider believes that:

- (1) the defendant has attained competency to stand trial; or
- (2) the defendant is not likely to ~~will not~~ attain competency in the foreseeable future.

(c) When the head of the facility or outpatient treatment program provider gives notice to the court under Subsection (a) or (b), the head of the facility or outpatient treatment program provider also shall file a final report with the court stating the reason for the proposed discharge under this chapter and including a list of the types and dosages of medications prescribed for ~~with which~~ the defendant ~~was treated for mental illness~~ while the defendant was in the facility or participating in the outpatient treatment program. To enable any objection to

the findings of the report to be made in a timely manner under Article 46B.084(a), the court shall provide copies of the report to the attorney representing the defendant and the attorney representing the state.

(d) If the head of the facility or outpatient treatment program provider notifies the court that the initial restoration period is about to expire, the notice may contain a request for an extension of the period for an additional period of 60 days and an explanation for the basis of the request. An explanation provided under this subsection must include a description of any evidence indicating a reduction in the severity of the defendant's symptoms or impairment.

SECTION 14. Articles 46B.080(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) The court may enter an order under Subsection (a) only if the court determines that ~~[, on the basis of information provided by the head of the facility or the treatment program provider]:~~

- (1) the defendant has not attained competency; and
- (2) an extension of the initial restoration period will likely enable the facility or program to restore the defendant to competency within the period of the extension.

(c) The court may grant only one 60-day extension under this article in connection with the specific offense with which the defendant is charged ~~[for a period of restoration ordered under this subchapter].~~

SECTION 15. Article 46B.084(a), Code of Criminal Procedure, is amended to read as follows:

(a) On the return of a defendant to the court, the court shall make a determination with regard to the defendant's competency to stand trial. The court may make the determination based ~~[solely]~~ on the report filed under Article 46B.079(c) and on other medical information or personal history information relating to the defendant. A ~~[, unless any]~~ party may object ~~[objects]~~ in writing or in open court to the findings of the report not later than the 15th day after the date on which the court received notification under Article 46B.079. The court shall make the determination not later than the 20th day after the date on which the court received notification under Article 46B.079, regardless of whether a party objects to the report as described by this subsection and the issue is set for hearing under Subsection (b).

SECTION 16. Article 46B.086(a), Code of Criminal Procedure, is amended to read as follows:

- (a) This article applies only to a defendant:
- (1) who is determined under this chapter to be incompetent to stand trial;
 - (2) who either:
 - (A) remains confined in a correctional facility, as defined by Section 1.07, Penal Code, for a period exceeding 72 hours while awaiting transfer to an inpatient mental health facility, a residential care facility, or an outpatient treatment program;
 - (B) is committed to an inpatient mental health facility or a residential care facility for the purpose of competency restoration;

(C) is confined in a correctional facility while awaiting further criminal proceedings following competency restoration treatment; or

(D) is subject to Article 46B.072, if the court has made the determinations required by Subsection (a-1) [~~(a)~~] of that article;

(3) for whom a correctional facility that employs or contracts with a licensed psychiatrist, an inpatient mental health facility, a residential care facility, or an outpatient treatment program provider has prepared a continuity of care plan that requires the defendant to take psychoactive medications; and

(4) who, after a hearing held under Section 574.106, Health and Safety Code, if applicable, has been found to not meet the criteria prescribed by Sections 574.106(a) and (a-1), Health and Safety Code, for court-ordered administration of psychoactive medications.

SECTION 17. Article 46B.101, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.101. APPLICABILITY. This subchapter applies to a defendant against whom a court is required to proceed according to [~~under~~] Article 46B.084(e) or according to the court's appropriate determination under Article 46B.071.

SECTION 18. Article 46B.151(a), Code of Criminal Procedure, is amended to read as follows:

(a) If a court is required by Article 46B.084(f) or by its appropriate determination under Article 46B.071 to proceed under this subchapter, or if the court is permitted by Article 46B.004(e) to proceed under this subchapter, the court shall determine whether there is evidence to support a finding that the defendant is either a person with mental illness or a person with mental retardation.

SECTION 19. The Department of State Health Services, in coordination with the Health and Human Services Commission, shall study the feasibility of providing home and community-based services, instead of institutional care, to persons with severe and persistent mental illness who have a history of more than one inpatient commitment under Chapter 46B, Code of Criminal Procedure. Not later than December 1, 2012, the department shall issue a report to the legislature regarding the results of the feasibility study.

SECTION 20. The change in law made by this Act applies only to a defendant with respect to whom any proceeding under Chapter 46B, Code of Criminal Procedure, is conducted on or after the effective date of this Act.

SECTION 21. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2725** (senate committee report) as follows:

(1) Strike the recital of SECTION 16 of the bill, amending Article 46B.086(a), Code of Criminal Procedure (page 6, lines 60-61), and substitute "Articles 46B.086(a) and (c), Code of Criminal Procedure, are amended to read as follows:".

(2) In SECTION 16 of the bill, after amended Article 46B.086(a), Code of Criminal Procedure (page 7, between lines 20 and 21), insert the following:

(c) The court, after notice and after a hearing held not later than the 10th day after the motion to compel medication is filed [~~5th day after the defendant is returned to the committing court~~], may authorize the director of the correctional facility or the program provider, as applicable, to have the medication administered to the defendant, by reasonable force if necessary. A hearing under this subsection may be conducted using an electronic broadcast system as provided by Article 46B.013.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 2725** (senate committee printing) as follows:

(1) In SECTION 20 of the bill (page 7, line 43), strike "The change in law" and substitute "(a) Except as provided by Subsection (b) of this section, the change in law".

(2) Between SECTIONS 20 and 21 of the bill (page 7, between lines 46 and 47), insert the following:

(b) Article 46B.004(c-1), Code of Criminal Procedure, as added by this Act, applies only to a motion suggesting a defendant's incompetency to stand trial made on or after the effective date of this Act. A motion suggesting a defendant's incompetency to stand trial made before the effective date of this Act is covered by the law in effect when the motion was made, and the former law is continued in effect for that purpose.

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

SECTION ____ . Article 46B.004, Code of Criminal Procedure, is amended by adding Subsection (c-1) to read as follows:

(c-1) A suggestion of incompetency is the threshold requirement for an informal inquiry under Subsection (c) and may consist solely of a representation from any credible source that the defendant may be incompetent. A further evidentiary showing is not required to initiate the inquiry, and the court is not required to have a bona fide doubt about the competency of the defendant. Evidence suggesting the need for an informal inquiry may be based on observations made in relation to one or more of the factors described by Article 46B.024 or on any other indication that the defendant is incompetent within the meaning of Article 46B.003.

**HB 338 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Aycock called up with senate amendments for consideration at this time,

HB 338, A bill to be entitled An Act relating to disclaimers by certain entities promulgating lists of noxious or invasive terrestrial plant species.

Representative Aycock moved to concur in the senate amendments to **HB 338**.

The motion to concur in the senate amendments to **HB 338** prevailed by (Record 1377): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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; 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; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Peña; Villarreal.

Absent — Burnam; Lucio; Sheffield; Torres.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 338** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in Section 71.154, Agriculture Code, page 1, line 39, between "published" and "distributed, strike "or" and replace with "and".

HB 2604 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative L. Taylor called up with senate amendments for consideration at this time,

HB 2604, A bill to be entitled An Act relating to unencumbered assets held by title agents.

Representative L. Taylor moved to concur in the senate amendments to **HB 2604**.

The motion to concur in the senate amendments to **HB 2604** prevailed by (Record 1378): 142 Yeas, 0 Nays, 2 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; 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; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; 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; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Peña; Villarreal.

Absent — Elkins; Lucio; Menendez; Torres.

Senate Committee Substitute

CSHB 2604, A bill to be entitled An Act relating to unencumbered assets held by title agents.

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

SECTION 1. Section 2651.012(a)(2), Insurance Code, is amended to read as follows:

(2) "Unencumbered assets" means:

(A) cash or cash equivalents;

(B) liquid assets that have a readily determinable market value and that do not have any lien against them;

(C) real estate, in excess of any encumbrances;

(D) investments, such as mutual funds, certificates of deposit, and stocks and bonds;

(E) a surety bond, the form and content of which shall be prescribed by the commissioner in accordance with this code;

(F) a deposit made in accordance with Section 2651.102; ~~and~~

(G) a letter of credit that meets the requirements of Section 493.104(b)(2)(C); and

(H) a solvency account that meets the requirements of Section 2651.0121.

SECTION 2. Section 2651.012(b), Insurance Code, is amended to read as follows as follows:

(b) The unencumbered assets required under this section are reserves for contingencies. The reserves must be deducted from premiums for purposes of proceedings conducted under Subchapter D, Chapter 2703. The reserves may only be spent or released:

(1) as permitted by the commissioner if the agent is declared impaired;

(2) if the agent merges or consolidates with another agent who maintains the amount of unencumbered assets that would be required for the survivor of the merger or consolidation;

(3) if the agent surrenders the agent's license under Section 2651.201 ~~[and the rules adopted under that section]; [or]~~

(4) if the agent is liquidated; or

(5) if the agent's license is revoked.

SECTION 3. Subchapter A, Chapter 2651, Insurance Code, is amended by adding Section 2651.0121 to read as follows:

Sec. 2651.0121. SOLVENCY ACCOUNT. (a) An agent may maintain a solvency account to accrue and hold unencumbered assets as provided by this section.

(b) An account under this section must be:

(1) in a financial institution in this state that is insured by an agency of the United States;

(2) accessible only to the department, on order of the commissioner; and

(3) audited in the same manner provided for trust funds by Section 2651.151.

(c) Subject to Subsection (d), an account under this section may be established by an initial deposit in an amount less than the amount provided by Section 2651.012(c).

(d) An account established by an initial deposit of an amount less than the amount provided by Section 2651.012(c) must be funded with a minimum deposit in the amount for each policy of title insurance issued by the agent that is equal to the greater of \$5 or one percent of the agent's portion of the retained premium received by the agent rounded to the nearest whole dollar.

(e) Deposits to the account must be made at least quarterly and must be made from and based on the agent's portion of retained premiums collected during the calendar quarter during which premiums were collected.

(f) Interest that accrues in an account the principal balance of which is less than the amount provided by Section 2651.012(c) must be retained in the account. Interest that accrues in an account the principal balance of which is greater than the amount provided by Section 2651.012(c) shall be paid to the agent maintaining the account.

(g) The commissioner may issue an order to access or release funds held in an account under this section if any of the events described by Section 2651.012(b) occur.

(h) The commissioner by rule shall adopt procedures and requirements for the release, transfer, or expenditure of the funds held in an account. The rules must establish the procedures and requirements by which the department shall account for any expenditures that the department makes from an account or funds transferred by the department to a third party.

(i) If an agent or an agent's principal office voluntarily ceases to engage in business, surrenders the agent's license, and liquidates the agent's assets, the agent may apply to the department in a form prescribed by the commissioner by rule for the release of the agent's solvency account.

(j) Not later than the 60th day after the date the department receives an application under Subsection (i), provided that the title agent complied with all applicable rules adopted under Subsection (h), the commissioner shall enter an order authorizing the financial institution in which the solvency account is held to release all or part of the account balance to the agent or the agent's principal office. If the commissioner does not enter the order within that 60-day period, the application is denied.

(k) An agent may appeal an order of the commissioner or denial of an application without an order by filing a petition in a district court of Travis County to seek injunctive or other relief against the commissioner.

(l) An account established, funded, and maintained as provided by this section complies with the requirement for maintenance of unencumbered assets under Section 2651.012(c), regardless of whether the amount required by that section is fully accrued. The amount required by Section 2651.012(c) may be accrued in an account as provided by this section according to the schedule established by Section 2651.012(g) or as provided by the commissioner by rule under Section 2651.012(j).

(m) In a home office issue transaction in which a title insurance company issues a policy of title insurance, an agent who closes the transaction and remits premium to the title insurance company shall make the deposit required by this section. An agent who otherwise participates in a home office issue transaction but does not close the transaction is not required to make a deposit under this section.

SECTION 4. Section 2651.158, Insurance Code, is amended to read as follows:

Sec. 2651.158. CERTIFICATION OF UNENCUMBERED ASSETS. (a) Unless the agent has elected to make a deposit with the department under Section 2651.012(f), the annual audit of escrow accounts must be accompanied by a certification by the title insurance agent or direct operation ~~[a certified public accountant]~~ that the title insurance agent has the appropriate unencumbered assets in excess of liabilities, exclusive of the value of its abstract plants, as required by Section 2651.012.

(b) The commissioner by rule shall establish[-

~~[(1) a procedure to be used to determine the value of categories of assets; and~~

~~[(2) the method by which the certification required by this section must be made, which shall not include an audit of operating accounts or a certification by a certified public accountant.~~

SECTION 5. As soon as practicable after the effective date of this Act, but not later than January 1, 2012, the commissioner of insurance shall promulgate rules and forms governing the operation of a solvency account under Section 2651.0121, Insurance Code, as added by this Act.

SECTION 6. 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.

**HB 254 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hilderbran called up with senate amendments for consideration at this time,

HB 254, A bill to be entitled An Act relating to establishing the Texas Derbies.

Representative Hilderbran moved to concur in the senate amendments to **HB 254**.

The motion to concur in the senate amendments to **HB 254** prevailed by (Record 1379): 118 Yeas, 23 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Branch; Brown; Burnam; Cain; Callegari; Castro; Chisum; Christian; Coleman; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Harcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; 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; Truitt; Turner; Veasey; Vo; Walle; White; Woolley; Zedler; Zerwas.

Nays — Aycock; Berman; Bonnen; Burkett; Button; Carter; Craddick; Flynn; Frullo; Hancock; Hartnett; Howard, C.; Landtroop; Laubenberg; Lewis; Miller, S.; Parker; Paxton; Perry; Phillips; Shelton; Weber; Workman.

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

Absent, Excused — Peña; Villarreal.

Absent — Bohac; Cook; King, S.; Lucio; Torres.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1379. I intended to vote yes.

Aycock

I was shown voting yes on Record No. 1379. I intended to vote no.

Christian

I was shown voting no on Record No. 1379. I intended to vote yes.

Lewis

I was shown voting yes on Record No. 1379. I intended to vote no.

T. Smith

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 254** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 9A.003, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), immediately following Subsection (d) (page 2, between lines 16-17), insert the following:

(e) The commission may not:

(1) use funds from the Accredited Texas-bred program under Article 9 of this Act or the escrowed purse account under Section 6.091(e) of this Act to fund the Texas Derby escrow purse fund; or

(2) order a breed registry to fund a purse for a Texas Derby, make contributions to the Texas Derby escrow purse fund, or pay the expenses of a Texas Derby race.

(2) In SECTION 1 of the bill, in added Section 9A.003, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), reletter the subsequent subsections accordingly (page 1, line 17).

**HB 364 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Turner called up with senate amendments for consideration at this time,

HB 364, A bill to be entitled An Act relating to condominiums in certain municipalities, including the exercise of eminent domain authority by those municipalities with respect to certain condominiums.

Representative Turner moved to concur in the senate amendments to **HB 364**.

The motion to concur in the senate amendments to **HB 364** prevailed by (Record 1380): 113 Yeas, 30 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Beck; Berman; Branch; Brown; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Legler; Lewis; Lozano; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Vo; Walle; Woolley; Zerwas.

Nays — Aliseda; Anderson, R.; Aycock; Bonnen; Burkett; Carter; Craddick; Frullo; Gooden; Hancock; Hartnett; Hilderbran; Hughes; Isaac; Landtroop; Laubenberg; Lavender; Madden; Miller, D.; Miller, S.; Parker; Paxton; Perry; Phillips; Sheets; Smith, T.; Weber; White; Workman; Zedler.

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

Absent, Excused — Peña; Villarreal.

Absent — Bohac; Lucio; Torres.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1380. I intended to vote no.

Button

I was shown voting yes on Record No. 1380. I intended to vote no.

Christian

I was shown voting yes on Record No. 1380. I intended to vote no.

Harless

I was shown voting yes on Record No. 1380. I intended to vote no.

Truitt

REASON FOR VOTE

I voted to support **HB 364** because it is good policy for the residents of the city of Houston. Much of my district falls within the city limits and I feel this legislation will assist the city in renewing itself through the revival of blighted areas.

Huberty

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 364** (senate committee printing), in SECTION 5 of the bill, by striking proposed Section 214.303(2), Property Code (page 2, lines 44-48) and substituting the following:

(2) the property:

(A) contains uninhabitable, unsafe, and unsanitary units that are not fit for their intended use because the utilities, sewerage, plumbing, or heating or a similar service or facility of the units has been destroyed, removed, or rendered ineffective; or

(B) contained units described by Paragraph (A) that were demolished in accordance with a court order issued under Section 54.018, Local Government Code; and

**HB 3727 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hilderbran called up with senate amendments for consideration at this time,

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.

Representative Hilderbran moved to concur in the senate amendments to **HB 3727**.

The motion to concur in the senate amendments to **HB 3727** prevailed by (Record 1381): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; 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; 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; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Peña; Villarreal.

Absent — Callegari; Lucio; Pitts.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3727** in SECTION 1 of the bill, at the end of added Section 23.1211, Tax Code (senate committee printing, page 1, between lines 39 and 40), by inserting the following:

(c) The legislature finds that there is a lack of information that reliably establishes the market value of temporary production aircraft. Accordingly, the legislature has enacted this section to specify the method to be used in determining the appraised value of such aircraft.

HB 1610 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative L. Gonzales called up with senate amendments for consideration at this time,

HB 1610, A bill to be entitled An Act relating to employment termination procedures applicable to a teacher who is convicted of or receives deferred adjudication for a felony.

Representative L. Gonzales moved to concur in the senate amendments to **HB 1610**.

The motion to concur in the senate amendments to **HB 1610** prevailed by (Record 1382): 144 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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; 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; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo.

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

Absent, Excused — Peña; Villarreal.

Absent — Lucio.

Senate Committee Substitute

CSHB 1610, A bill to be entitled An Act relating to employment termination procedures applicable to a teacher who is convicted of or receives deferred adjudication for a felony.

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

SECTION 1. Section 21.058, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (c-1), (c-2), and (e) to read as follows:

(a) The procedures described by Subsections (b) and (c) apply [~~This section applies~~] only:

(1) to conviction of a felony offense under Title 5, Penal Code, or an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) if the victim of the offense is under 18 years of age.

(c) A school district or open-enrollment charter school that receives notice under Subsection (b) of the revocation of a certificate issued under this subchapter shall:

(1) immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and

(2) if the person is employed under a probationary, continuing, or term contract under this chapter:

(A) suspend the person without pay;

(B) provide the person with written notice that the person's contract is void as provided by Subsection (c-2); and

(C) ~~[as soon as practicable,]~~ terminate the employment of the person as soon as practicable ~~[in accordance with the person's contract and with this subchapter].~~

(c-1) If a school district or open-enrollment charter school becomes aware that a person employed by the district or school under a probationary, continuing, or term contract under this chapter has been convicted of or received deferred adjudication for a felony offense, and the person is not subject to Subsection (c), the district or school may:

(1) suspend the person without pay;

(2) provide the person with written notice that the person's contract is void as provided by Subsection (c-2); and

(3) terminate the employment of the person as soon as practicable.

(c-2) A person's probationary, continuing, or term contract is void if the school district or open-enrollment charter school takes action under Subsection (c)(2)(B) or (c-1)(2).

(e) Action taken by a school district or open-enrollment charter school under Subsection (c) or (c-1) is not subject to appeal under this chapter, and the notice and hearing requirements of this chapter do not apply to the action.

SECTION 2. This Act applies beginning with the 2011-2012 school year.

SECTION 3. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1610** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 21.12(a) and (b-1), Penal Code, are amended to read as follows:

(a) An employee of a public or private primary or secondary school commits an offense if the employee:

(1) engages in[~~+~~

~~(4)]~~ sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works; [~~or~~]

(2) holds a certificate or permit issued as provided by Subchapter B, Chapter 21, Education Code, or is a person who is required to be licensed by a state agency as provided by Section 21.003(b), Education Code, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:

(A) enrolled in a public primary or secondary school in the same school district as the school at which the employee works; or

(B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if:

(i) students enrolled in a public or private primary or secondary school are the primary participants in the activity; and

(ii) the employee provides education services to those participants; or

(3) engages in conduct described by Section 33.021, with a person described by Subdivision (1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person.

(b-1) It is an affirmative defense to prosecution under this section that:

(1) the actor was the spouse of the enrolled person at the time of the offense; or

(2) the actor was not more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor's employment at a public or private primary or secondary school.

SECTION _____. Section 21.006, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A superintendent or director of a school district shall complete an investigation of an educator that is based on reasonable cause to believe the educator may have engaged in misconduct described by Subsection (b)(2)(A), despite the educator's resignation from district employment before completion of the investigation.

SECTION _____. Section 21.006(b-1), Education Code, as added by this Act, applies to an investigation of possible public school educator misconduct begun on or after the effective date of this Act, regardless of whether the alleged misconduct occurred before, on, or after the effective date of this Act.

SECTION _____. The change in law made by this Act to Section 21.12, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SB 28 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Branch submitted the conference committee report on **SB 28**.

Representative Branch moved to adopt the conference committee report on **SB 28**.

The motion to adopt the conference committee report on **SB 28** prevailed by (Record 1383): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; 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; 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; Patrick; Paxton; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alvarado.

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

Absent, Excused — Peña; Villarreal.

Absent — Lucio; Parker.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1383. I intended to vote yes.

Alvarado

When Record No. 1383 was taken, my vote failed to register. I would have voted yes.

Parker

GENERAL STATE CALENDAR (consideration continued)

CSSB 978 ON SECOND READING (V. Gonzales - House Sponsor)

CSSB 978, A bill to be entitled An Act relating to procedures for the dissolution of the Hidalgo County Water Improvement District No. 3.

(Keffer in the chair)

CSSB 978 - POINT OF ORDER

Representative Riddle raised a point of order against further consideration of **CSSB 978** under Rule 8, Section 10(b) and Rule 4, Section 32(c) of the House Rules on the grounds that the bill is limited to one or more subdivisions by means of artificial devices and the committee report is incorrect.

Representative V. Gonzales moved to postpone consideration of **CSSB 978** until 7:20 p.m. today.

The motion prevailed.

SB 1285 ON SECOND READING
(Strama - House Sponsor)

SB 1285, A bill to be entitled An Act relating to contributions to the retirement systems for certain police officers in certain municipalities.

Amendment No. 1

Representative Orr offered the following amendment to **SB 1285**:

Amend **SB 1285** (house engrossment) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subdivision (1), Subsection (a), Section 8.01, Chapter 452 (**SB 738**), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) Deposits by the members to the police retirement system shall be made at a rate of at least 13 [~~six~~] percent of the basic hourly earnings of each member. Deposits required to be made by members shall be deducted from payroll. On recommendation of the board, the Active-Contributory members may by a majority of those voting increase the rate of member deposits above 13 [~~six~~] percent to whatever amount the board has recommended. If the deposit rate for members has been increased to a rate above 13 [~~six~~] percent, the rate may be decreased if the board recommends the decrease, the board's actuary approves the decrease, and a majority of the Active-Contributory members voting on the matter approve the decrease.

Amendment No. 1 was adopted.

SB 1285, as amended, was passed to third reading. (Landtroop and Perry recorded voting no.)

POSTPONED BUSINESS

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

CSSB 1048 ON SECOND READING
(J. Davis - House Sponsor)

CSSB 1048, A bill to be entitled An Act relating to the creation of public and private facilities and infrastructure.

CSSB 1048 was read second time earlier today, amendments were offered and disposed of, and **CSSB 1048** was postponed until this time.

Amendment No. 2 - Vote Reconsidered

Representative D. Howard moved to reconsider the vote by which Amendment No. 2 was adopted.

The motion to reconsider prevailed.

Amendment No. 2 was withdrawn.

Amendment No. 3 - Vote Reconsidered

Representative Margo moved to reconsider the vote by which Amendment No. 3 was adopted.

The motion to reconsider prevailed.

Amendment No. 3 was withdrawn.

Amendment No. 4 - Vote Reconsidered

Representative Lewis moved to reconsider the vote by which Amendment No. 4 was adopted.

The motion to reconsider prevailed.

Amendment No. 4 was withdrawn.

Amendment No. 8

Representative Dukes offered the following amendment to **CSSB 1048**:

Amend **CSSB 1048** (house committee report) in SECTION 1 of the bill, immediately following proposed Section 2267.065, Government Code (page 27, between lines 5 and 6), by inserting the following:

Sec. 2267.0655. HISTORICALLY UNDERUTILIZED BUSINESSES. A responsible governmental entity selecting a provider of services for a qualifying project or awarding a contract for a qualifying project shall comply with the requirements of Chapter 2161 if:

(1) the entity receives more than \$10 million in appropriated state funds in a state fiscal year; or

(2) the entity is awarding a contract in an amount that exceeds \$100,000 or is selecting a provider of services for the project in connection with a contract in an amount that exceeds \$100,000.

Amendment No. 8 was adopted.

CSSB 1048, as amended, was passed to third reading. (Cain, Kolkhorst, Landtroop, and Perry recorded voting no.)

**GENERAL STATE CALENDAR
(consideration continued)**

**SB 1009 ON SECOND READING
(Sheffield - House Sponsor)**

SB 1009, A bill to be entitled An Act relating to requiring public institutions of higher education to notify the federal Student and Exchange Visitor Information System (SEVIS) regarding the withdrawal or nonattendance of certain foreign students.

SB 1009 - POINT OF ORDER

Representative Gutierrez raised a point of order against further consideration of **SB 1009** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Sheffield moved to postpone consideration of **SB 1009** until 7:45 p.m. today.

The motion prevailed.

(Geren in the chair)

**CSSB 81 ON SECOND READING
(Kolkhorst - House Sponsor)**

CSSB 81, A bill to be entitled An Act relating to food safety.

Amendment No. 1

Representative Kolkhorst offered the following amendment to **CSSB 81**:

Amend **CSSB 81** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 437.001, Health and Safety Code, is amended by amending Subdivisions (1) and (3) and adding Subdivisions (2-a), (2-b), (3-a), and (5) to read as follows:

(1) "Board" means the executive commissioner [Texas Board of Health].

(2-a) "Baked good" includes cookies, cakes, breads, Danish, donuts, pastries, pies, and other items that are prepared by baking the item in an oven. A baked good does not include a potentially hazardous food item as defined by department rule.

(2-b) "Cottage food production operation" means an individual, operating out of the individual's home, who:

(A) produces a baked good, a canned jam or jelly, or a dried herb or herb mix for sale at the person's home or a farmers' market;

(B) has an annual gross income of \$50,000 or less from the sale of food described by Paragraph (A); and

(C) sells the foods produced under Paragraph (A) only directly to consumers.

(3) "Department" means the [~~Texas~~] Department of State Health Services.

(3-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Home" means a primary residence that contains a kitchen and appliances designed for common residential usage.

SECTION _____. Chapter 437, Health and Safety Code, is amended by adding Sections 437.0191 and 437.0192 to read as follows:

Sec. 437.0191. EXEMPTION FOR COTTAGE FOOD PRODUCTION OPERATIONS. A cottage food production operation is not a food service establishment for purposes of this chapter.

Sec. 437.0192. REGULATION OF COTTAGE FOOD PRODUCTION OPERATIONS BY LOCAL HEALTH DEPARTMENT PROHIBITED; COMPLAINTS. (a) A local health department may not regulate the production of food at a cottage food production operation.

(b) Each local health department and the department shall maintain a record of a complaint made by a person against a cottage food production operation.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Rodriguez offered the following amendment to **CSSB 81**:

Amend **CSSB 81** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 437, Health and Safety Code, is amended by adding Sections 437.0201 and 437.0202 to read as follows:

Sec. 437.0201. REGULATION OF FOOD AT FARMERS' MARKETS UNDER TEMPORARY FOOD ESTABLISHMENT PERMITS. (a) In this section:

(1) "Farmers' market" means a designated location used primarily for the distribution and sale directly to consumers of food products by farmers or other producers.

(2) "Food" means a raw, cooked, or processed edible substance, including a beverage, ice, or an ingredient in an edible substance, that is intended for use or sale wholly or partly for human consumption, or chewing gum.

(b) The department or a local health department may issue a temporary food establishment permit to a person who sells food at a farmers' market without limiting the number of days for which the permit is effective to the number of days during which the farmer's market takes place.

(c) A permit issued under Subsection (b) may be valid for up to one year and may be renewed on expiration.

Sec. 437.0202. TEMPERATURE REQUIREMENTS FOR FOOD AT FARMERS' MARKETS. (a) In this section, "farmers' market" and "food" have the meanings assigned by Section 437.0201.

(b) The executive commissioner by rule may adopt temperature requirements for food sold at, prepared on-site at, or transported to or from a farmers' market under Section 437.020 or 437.0201. Food prepared on-site at a farmers' market may be sold or distributed at the farmers' market only if the food is prepared in compliance with the temperature requirements adopted under this section.

(c) Except as provided by Subsection (d), the executive commissioner or a state or local enforcement agency may not mandate a specific method for complying with the temperature control requirements adopted under Subsection (b).

(d) The municipality in which a municipally owned farmers' market is located may adopt rules specifying the method or methods that must be used to comply with the temperature control requirements adopted under Subsection (b).

Amendment No. 3

Representative Kolkhorst offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 by Rodriguez to **CSSB 81** as follows:

(1) In added Section 437.0201, Health and Safety Code (page 1, between lines 23 and 24) add the following:

(d) This section does not apply to a farmers' market in a county:

(1) that has a population of less than 50,000; and

(2) over which no local health department has jurisdiction.

(2) In added Section 437.0202, Health and Safety Code (page 2, after line 12) add the following:

(e) This section does not apply to a farmers' market in a county:

(1) that has a population of less than 50,000; and

(2) over which no local health department has jurisdiction.

Amendment No. 3 was adopted.

COMMITTEE GRANTED PERMISSION TO MEET

Representative McClendon requested permission for the Committee on Rules and Resolutions to meet while the house is in session, at 7:45 p.m. today, in 3W.9, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, 7:45 p.m. today, 3W.9, for a formal meeting, to set a calendar.

HR 1991 - ADOPTED (by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 1991**.

The motion prevailed.

The following resolution was laid before the house:

HR 1991, Congratulating Kerrville Municipal/Louis Schreiner Field Airport on being named the 2011 General Aviation Airport of the Year by the Texas Department of Transportation aviation division.

HR 1991 was adopted.

CSSB 81 - (consideration continued)

Amendment No. 4

Representative S. Miller offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 by Rodriguez to **CSSB 81** in added Section 437.0201(a)(2), Health and Safety Code (page 1, line 14), by striking "a beverage" and substituting "juice".

Amendment No. 4 was adopted.

Amendment No. 2, as amended, was adopted.

CSSB 81, as amended, was passed to third reading. (Landtroop and Perry recorded voting no.)

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).

**CSSB 1664 ON SECOND READING
(Truitt and Creighton - House Sponsors)**

CSSB 1664, A bill to be entitled An Act relating to the powers and duties of and contributions to and benefits from the systems and programs administered by the Employees Retirement System of Texas.

Amendment No. 1

Representative Truitt offered the following amendment to **CSSB 1664**:

Amend **CSSB 1664** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 815.317, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The comptroller shall deposit fees collected under Section 133.102(e)(7), Local Government Code, to the credit of the law enforcement and custodial officer supplemental retirement fund.

(b) Section 133.102(e), Local Government Code, is amended to read as follows:

(e) The comptroller shall allocate the court costs received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the

account or fund would have received if the court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

- (1) abused children's counseling 0.0088 percent;
- (2) crime stoppers assistance 0.2581 percent;
- (3) breath alcohol testing 0.5507 percent;
- (4) Bill Blackwood Law Enforcement Management Institute 2.1683 percent;
- (5) law enforcement officers standards and education 5.0034 percent;
- (6) comprehensive rehabilitation 5.3218 percent;
- (7) law enforcement and custodial officer supplemental retirement fund
~~operator's and chauffeur's license~~ 11.1426 percent;
- (8) criminal justice planning 12.5537 percent;
- (9) an account in the state treasury to be used only for the establishment and operation of the Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University 1.2090 percent;
- (10) compensation to victims of crime fund 37.6338 percent;
- (11) fugitive apprehension account 12.0904 percent;
- (12) judicial and court personnel training fund 4.8362 percent;
- (13) an account in the state treasury to be used for the establishment and operation of the Correctional Management Institute of Texas and Criminal Justice Center Account 1.2090 percent; and
- (14) fair defense account 6.0143 percent.

(c) Notwithstanding any other provision of this Act, this section takes effect September 1, 2013.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Johnson offered the following amendment to **CSSB 1664**:

Amend **CSSB 1664** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter B, Chapter 814, Government Code, is amended by adding Section 814.1021 to read as follows:

Sec. 814.1021. CERTAIN ELECTED MEMBERS INELIGIBLE FOR RETIREMENT ANNUITY. (a) In this section, "qualifying felony" means any felony involving:

- (1) bribery;
- (2) the embezzlement, extortion, or other theft of public money;
- (3) perjury; or
- (4) conspiracy or the attempt to commit any of the above crimes.

(b) This section applies only to a member of the elected class of the retirement system as described by Section 812.002(a)(1) or (2).

(c) Except as provided by Subsection (d), a member is not eligible to receive a service retirement annuity for service credit in the elected class under the retirement system if the member is convicted of a qualifying felony committed while in office and arising directly from the official duties of that elected office.

(d) The retirement system shall suspend payments of an annuity to a person ineligible to receive the annuity under Subsection (c). A person whose conviction is overturned on appeal or who meets either of the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (e).

(e) A member who is not eligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of the member's retirement annuity contributions, including interest earned on those contributions.

(f) Benefits payable to an alternate payee under Chapter 804 who is recognized by a domestic relations order established before September 1, 2011, are not affected by a member's ineligibility to receive a retirement annuity under Subsection (c).

(g) Ineligibility for a retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(h) The board of trustees of the retirement system shall adopt rules and procedures to implement this section.

SECTION _____. Article 6220, Revised Statutes, is repealed.

SECTION _____. (a) Section 814.1021, Government Code, as added by this Act, applies only to a member of the Employees Retirement System of Texas who is or was a member of the state legislature or holds or has held a statewide elected office and, on or after the effective date of this Act, commits an offense that is a qualifying felony as defined by that section. A person who commits a qualifying felony before the effective date of this Act is subject to the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

(b) For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 2 - Point of Order

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

The chair overruled the point of order.

(Speaker in the chair)

Amendment No. 3

Representative Hartnett offered the following amendment to Amendment No. 2:

Amend the Johnson amendment to **CSSB 1664** as follows:

Add Subsection (i) to Sec. 814.1021:

(i) Nothing in this section shall impair or affect a spouse's community property right in any accrued benefit.

Amendment No. 3 was adopted.

Amendment No. 2, as amended, was adopted.

CSSB 1664, as amended, was passed to third reading.

CSSB 1605 ON SECOND READING
(Lewis, Geren, and Cook - House Sponsors)

CSSB 1605, A bill to be entitled An Act relating to the Texas Low-Level Radioactive Waste Disposal Compact Commission.

Amendment No. 1

Representative Bonnen offered the following amendment to **CSSB 1605**:

Amend **CSSB 1605** (house committee report) as follows:

(1) In Section 3 of the bill, in amended Section 403.002, Health and Safety Code (page 2, lines 1-2), strike "February 1 of each even-numbered year" and substitute "September 1 of each odd-numbered year".

(2) In Section 5 of the bill (page 3, line 24), strike "February 1, 2012" and substitute "on that date".

(3) In Section 5(1) of the bill (page 4, line 2), strike "February 1, 2014" and substitute "September 1, 2013".

(4) In Section 5(2) of the bill (page 4, line 4), strike "February 1, 2016" and substitute "September 1, 2015".

(5) In Section 5(3) of the bill (page 4, line 6), strike "February 1, 2018" and substitute "September 1, 2017".

Amendment No. 2

Representatives Menendez, S. Miller, Truitt, Madden, Kuempel, Scott, Hopson, Isaac, Smithee, Hilderbran, Darby, Sheets, Workman, and Murphy offered the following amendment to Amendment No. 1:

Amend **CSSB 1605** as follows:

(1) In SECTION 5 of the bill, page 3, line 22, strike "The term of office of a person serving as a host state commissioner of the Texas Low-Level Radioactive Waste Disposal Compact Commission on the effective date of this Act expires February 1, 2012."

(2) In SECTION 5 of the bill, page 3, line 25, after "To begin the staggering of terms," insert "when persons who, on the effective date of this Act, are serving as host state commissioners of the Texas Low-Level Radioactive Waste Disposal Compact Commission come to the end of their normal terms or resign as commissioners."

(3) In SECTION 5 of the bill, page 4, line 3, strike "2014", and insert "2017".

(4) In SECTION 5 of the bill, page 4, line 5 strike "2016", and insert "2019".

(5) In SECTION 5 of the bill, page 4, line 7 strike "2018", and insert "2021".

Amendment No. 2 was withdrawn.

(Villarreal now present)

Amendment No. 3

Representative Menendez offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Bonnen to **CSSB 1605** by striking the text of the amendment and substituting the following:

Amend **CSSB 1605** by striking SECTION 5 of the bill, page 3, lines 21 through page 4, line 6 and substituting the following:

SECTION 5. To begin the staggering of terms, when persons who on the effective date of this Act are serving as host state commissioners of the Texas Low-Level Radioactive Waste Disposal Compact Commission come to an end of their normal terms or resign as commissioners, the governor shall appoint host state commissioners, in accordance with the provisions of Section 403.002, Health and Safety Code, as amended by this Act, as follows:

(1) two host state commissioners to terms expiring February 1, 2017;

(2) two host state commissioners to terms expiring February 1, 2019;

and

(3) two host state commissioners to terms expiring February 1, 2021.

Representative Lewis moved to table Amendment No. 3.

The motion to table prevailed by (Record 1384): 81 Yeas, 60 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Dukes; Dutton; Eiland; Elkins; Farrar; Flynn; Frullo; Garza; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harper-Brown; Hopson; Howard, C.; Hughes; Hunter; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Lewis; Lozano; Lyne; Madden; Miles; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Quintanilla; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Taylor, L.; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Carter; Castro; Coleman; Darby; Davis, Y.; Deshotel; Eissler; Farias; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Howard, D.; Isaac; Johnson; Kuempel; Larson; Legler; Lucio; Mallory Caraway; Margo; Martinez; Martinez Fischer; Menendez;

Muñoz; Naishtat; Oliveira; Pickett; Price; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Simpson; Smithee; Solomons; Strama; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Peña.

Absent — Fletcher; Geren; Huberty; Jackson; Marquez; McClendon; Torres.

STATEMENTS OF VOTE

When Record No. 1384 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

When Record No. 1384 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

I was shown voting no on Record No. 1384. I intended to vote yes.

Kuempel

When Record No. 1384 was taken, I was temporarily out of the house chamber. I would have voted no.

Marquez

When Record No. 1384 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:

Harless on motion of Truitt.

CSSB 1605 - (consideration continued)

Amendment No. 1 was adopted.

CSSB 1605, as amended, was passed to third reading. (Burnam recorded voting no.)

POSTPONED BUSINESS

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

CSSB 978 ON SECOND READING

(V. Gonzales - House Sponsor)

CSSB 978, A bill to be entitled An Act relating to procedures for the dissolution of the Hidalgo County Water Improvement District No. 3.

CSSB 978 was read second time earlier today and was postponed until this time. A point of order was pending at the time of postponement.

CSSB 978 - POINT OF ORDER DISPOSITION

The speaker overruled the point of order.

CSSB 978 was passed to third reading by (Record 1385): 133 Yeas, 7 Nays, 6 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Fletcher; Garza; King, T.; Murphy; Riddle; Simpson; Weber.

Present, not voting — Mr. Speaker(C); Hilderbran; Isaac; Landtroop; Perry; Ritter.

Absent, Excused — Harless; Peña.

Absent — Lucio; Torres.

GENERAL STATE CALENDAR
(consideration continued)

CSSB 1810 ON SECOND READING
(Truitt - House Sponsor)

CSSB 1810, A bill to be entitled An Act relating to the exemption of certain retirement accounts from access by creditors.

CSSB 1810 was passed to third reading.

SB 407 ON SECOND READING
(Craddick, Gallego, et al. - House Sponsors)

SB 407, A bill to be entitled An Act relating to the creation of the offense of electronic transmission of certain visual material depicting a minor and to certain educational programs concerning the prevention and awareness of that offense.

Amendment No. 1 (Committee Amendment No. 1)

Representative Gallego offered the following committee amendment to **SB 407**:

Amend **SB 407** (senate engrossed version) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 43.26, Penal Code, is amended by adding Subsection (h) to read as follows:

(h) It is a defense to prosecution under Subsection (a) or (c) that the actor is a law enforcement officer or a school administrator who:

(1) possessed the visual material in good faith solely as a result of an allegation of a violation of Section 43.261;

(2) allowed other law enforcement or school administrative personnel to access the material only as appropriate based on the allegation described by Subdivision (1); and

(3) took reasonable steps to destroy the material within an appropriate period following the allegation described by Subdivision (1).

SECTION _____. The change in law made by this Act to Section 43.26, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Gallego offered the following amendment to **SB 407**:

Amend **SB 407** (house committee printing) as follows:

(1) In SECTION 6 of the bill, strike the amended heading to Article 38.45, Code of Criminal Procedure (page 6, lines 17 through 19), and substitute the following:

Art. 38.45. EVIDENCE DEPICTING OR DESCRIBING ABUSE OF OR SEXUAL CONDUCT BY ~~[THAT CONSTITUTES]~~ CHILD OR MINOR ~~[PORNOGRAPHY].~~

(2) In SECTION 7 of the bill, in amended Article 38.45(a), Code of Criminal Procedure (page 6, line 24), strike "that".

(3) In SECTION 7 of the bill, in amended Article 38.45(a)(1), Code of Criminal Procedure (page 6, line 25), between "(1)" and "constitutes", insert "that".

(4) In SECTION 7 of the bill, in added Article 38.45(a)(1), Code of Criminal Procedure (page 6, line 26), strike "or".

(5) In SECTION 7 of the bill, in added Article 38.45(a)(2), Code of Criminal Procedure (page 7, line 1), between "Penal Code" and the period, insert the following:

; or

(3) that is described by Section 2 or 5, Article 38.071, of this code

(6) In SECTION 8 of the bill, strike the amended heading to Article 39.15, Code of Criminal Procedure (page 7, lines 4 through 6) and substitute the following:

Art. 39.15. DISCOVERY OF EVIDENCE DEPICTING OR DESCRIBING ABUSE OF OR SEXUAL CONDUCT BY [THAT CONSTITUTES] CHILD OR MINOR [PORNOGRAPHY].

(7) In SECTION 9 of the bill, in added Article 39.15(a)(1), Code of Criminal Procedure (page 7, line 12), strike "or".

(8) In SECTION 9 of the bill, in added Article 39.15(a)(2), Code of Criminal Procedure (page 7, line 14), between "Penal Code" and the period, insert the following:

; or

(3) that is described by Section 2 or 5, Article 38.071, of this code

Amendment No. 2 was adopted.

SB 407, as amended, was passed to third reading.

CSSB 100 ON SECOND READING (V. Taylor - House Sponsor)

CSSB 100, A bill to be entitled An Act relating to the adoption of voting procedures necessary to implement the federal Military and Overseas Voter Empowerment Act.

Amendment No. 1

Representative Pickett offered the following amendment to **CSSB 100**:

Amend **CSSB 100** (house committee printing) as follows:

(1) On page 15, line 20, strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(2) On page 16, between lines 8 and 9, insert the following:

(e) For a city to which Sec. 501.0211 applies holding an election under Subsection (a)(2):

(1) the commissioner's court of the county in which the city is located is required to comply with election requirements under Title 17;

(2) the city is required to incorporate the election as part of the regular election ballot of the city; and

(3) the city pays all costs related to holding the election.

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

SECTION ____ . Section 501.0211(a), Election Code, is amended to read as follows:

(a) This section applies only to a municipality:

(1) with a population of at least 112,000 located in a county with a population of not more than 135,000;

(2) in which the sale of one or more types or classifications of alcoholic beverage is legal in the municipality as a result of a local option election held in the municipality; ~~and~~

(3) that, after the election is held, annexes territory in which the sale of one or more of those types or classifications of alcoholic beverage is not legal; and

(4) that is wholly contained in a single county and that is conducting a municipal election on the election date described by Section 41.001(a)(2).

Amendment No. 1 was adopted.

Amendment No. 2

Representative Sheffield offered the following amendment to **CSSB 100**:

(1) Amend **CSSB 100** (house committee printing), from page 16, line 22 to page 17, line 1 by striking Subsection (b).

(2) Renumber subsequent subsections accordingly.

Amendment No. 2 was adopted.

Amendment No. 3

Representative T. Smith offered the following amendment to **CSSB 100**:

Amend **CSSB 100** (house committee printing) as follows:

(1) Amend SECTION 5, Subsection (d) of Section 41.0052, Election Code (page 17, line 6) of the bill, after "(a)" insert "or provide for the election of all members of the governing body at the same election" and adjust accordingly.

(2) Amend SECTION 45 of the bill, by striking added Section 21.004, Local Government Code (page 30, line 18 through page 31, line 3), and substituting the following:

Sec. 21.004. CHANGE OF LENGTH OR STAGGERING OF TERMS IN GENERAL-LAW MUNICIPALITY. (a) This section applies only to a general-law municipality whose governing body is composed of members that serve:

(1) a term of one or three years; or

(2) staggered terms.

(b) Not later than December 31, 2012, the governing body of the general-law municipality may adopt a resolution:

(1) changing the length of the terms of its members to two years; or

(2) providing for the election of all members of the governing body at the same election.

(c) The resolution must specify the manner in which the transition in the length of terms is made. The transition must begin with the first regular election for members of the governing body that occurs after January 1, 2013, and a member who serves on that date shall serve the remainder of that term.

(d) This section expires January 1, 2016.

Amendment No. 3 was adopted.

Amendment No. 4

Representatives Branch, Nash, Kuempel, Pickett, Turner, Hopson, Bonnen, Keffer, Geren, Button, Ritter, and J. Davis offered the following amendment to **CSSB 100**:

Amend **CSSB 100** as follows:

(1) Strike SECTION 6 and substitute the following appropriately numbered SECTION:

SECTION _____. Section 41.007(b), Election Code, is amended to read as follows:

(b) The runoff primary election date is the fourth Tuesday in May [~~second Tuesday in April~~] following the general primary election.

(2) Insert the following appropriately numbered SECTION to the bill and renumber the existing SECTIONS as appropriate:

SECTION _____. Section 172.023(a), Election Code, is amended to read as follows:

(a) An application for a place on the general primary election ballot must be filed not later than 6 p.m. on the second Monday in December of an odd-numbered year [~~January 2 in the primary election year~~] unless the filing deadline is extended under Subchapter C.

Amendment No. 4 was adopted by (Record 1386): 121 Yeas, 16 Nays, 1 Present, not voting.

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

Nays — Aliseda; Burkett; Cain; Christian; Creighton; Driver; Flynn; Gonzales, L.; Hartnett; Hughes; Miller, S.; Phillips; Raymond; Riddle; Taylor, V.; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harless; Peña.

Absent — Bohac; Elkins; Farias; Hunter; Lozano; Madden; Morrison; Paxton; Sheffield; Villarreal.

STATEMENTS OF VOTE

When Record No. 1386 was taken, I was in the house but away from my desk. I would have voted yes.

Hunter

When Record No. 1386 was taken, I was in the house but away from my desk. I would have voted yes.

Paxton

Amendment No. 5

Representative Sheffield offered the following amendment to **CSSB 100**:

Amend **CSSB 100** by striking SECTION 29 of the bill amending Section 171.0231(d), Election Code (pages 25, line 18 to page 26, line 1), and substituting the following:

SECTION 29. Section 171.0231(d), Election Code, is amended to read as follows:

(d) A declaration of write-in candidacy must be filed not later than 6 [5] p.m. of the fifth [6~~2nd~~] day after the date of the regular filing deadline for the general primary election [before general primary election day]. ~~However, if a candidate whose name is to appear on the ballot for the office of county chair or precinct chair dies or is declared ineligible after the third day before the date of the regular filing deadline prescribed by this subsection, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 59th day before election day.~~

Amendment No. 5 was adopted.

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).

CSSB 100 - (consideration continued)

CSSB 100, as amended, was passed to third reading.

HB 447 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Menendez called up with senate amendments for consideration at this time,

HB 447, A bill to be entitled An Act relating to the powers of a defense base development authority.

Representative Menendez moved to concur in the senate amendments to **HB 447**.

The motion to concur in the senate amendments to **HB 447** prevailed by (Record 1387): 136 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harless; Peña.

Absent — Aliseda; Alvarado; Coleman; Farias; Hughes; Martinez Fischer; Schwertner; Solomons; Veasey; Villarreal; Walle.

STATEMENTS OF VOTE

When Record No. 1387 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

When Record No. 1387 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

When Record No. 1387 was taken, my vote failed to register. I would have voted yes.

Schwertner

Senate Committee Substitute

CSHB 447, A bill to be entitled An Act relating to the powers of a defense base development authority.

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

SECTION 1. Section 379B.004(a), Local Government Code, is amended to read as follows:

(a) An authority may exercise power necessary or convenient to carry out a purpose of this chapter, including the power to:

- (1) adopt an official seal, or alter it;
- (2) adopt rules;
- (3) enter into a contract or incur a liability;
- (4) acquire and dispose of money;
- (5) select a depository;
- (6) establish a system of accounts for the authority;
- (7) invest funds in accordance with Chapter 2256, Government Code;
- (8) set the fiscal year for the authority;
- (9) adopt an annual operating budget for major expenditures before the beginning of the fiscal year;

(10) borrow money or issue a bond in an amount that does not exceed the maximum amount set by the board;

(11) loan money;

(12) acquire, lease, lease-purchase, convey, grant a mortgage on, or otherwise dispose of a property right, including a right regarding base property;

(13) lease property located on the base property to a person to effect the purposes of this chapter;

(14) request and accept a donation, grant, guaranty, or loan from any source permitted by law;

(15) operate and maintain an office;

(16) charge for the use, lease, or sale of an open space or a facility [~~or service~~];

(17) exercise a power granted to a municipality by Chapter 380;

(18) authorize by resolution the incorporation of a nonprofit airport facility financing corporation as provided and authorized by Subchapter E, Chapter 22, Transportation Code, to provide financing to pay the costs, including interest, and reserves for the costs of an airport facility authorized by that chapter and for other purposes set forth in the articles of incorporation;

(19) exercise the powers granted to a local government for the financing of facilities to be located on airport property, including those set out in Chapter 22, Transportation Code, consistent with the requirements and the purposes of Section 52-a, Article III, Texas Constitution;

(20) lease, own, and operate an airport and exercise the powers granted to municipalities and counties by Chapter 22, Transportation Code;

(21) lease, own, and operate port facilities for air, trucking, and rail transportation;

(22) provide security for port functions, facilities, and operations; and

(23) cooperate with and participate in programs and security efforts of this state and the federal Department of Homeland Security.

SECTION 2. Chapter 379B, Local Government Code, is amended by adding Sections 379B.0042 and 379B.0043 to read as follows:

Sec. 379B.0042. SERVICES. An authority may charge for a service provided, including:

(1) professional consultation services provided in relation to international trade, planning, land use, or construction;

(2) real estate development services, including an employee licensed under Chapter 1101, Occupations Code, acting as a broker;

(3) support or participation in the acquisition of venture capital to finance the authority's redevelopment project, both inside and outside the authority;

(4) participation in or assistance on a joint venture composed of both public and private entities;

(5) promotion of an activity that creates employment opportunities; and

(6) any other service provided in relation to a project undertaken by the authority, alone or with others, to fulfill an authority purpose or objective.

Sec. 379B.0043. TRANSPORTATION PROJECT. (a) An authority may implement a transportation project:

(1) on the base property; or

(2) outside of the base property to provide access to the base property.

(b) An authority may enter into an agreement with any person, including another governmental entity, to plan, finance, construct, or maintain a project described by Subsection (a).

(c) An authority may construct a building, loading dock, or other facility as part of a transportation project described by Subsection (a)(1).

SECTION 3. This Act takes effect September 1, 2011.

HB 1315 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Aliseda called up with senate amendments for consideration at this time,

HB 1315, A bill to be entitled An Act relating to the use of municipal hotel occupancy tax revenue in certain municipalities.

Representative Aliseda moved to concur in the senate amendments to **HB 1315**.

The motion to concur in the senate amendments to **HB 1315** prevailed by (Record 1388): 132 Yeas, 6 Nays, 1 Present, not voting.

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

Nays — Berman; Creighton; Flynn; Kolkhorst; Madden; Sheffield.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harless; Peña.

Absent — Bohac; Hardcastle; Hochberg; Jackson; Marquez; Martinez Fischer; Solomons; Veasey; Villarreal.

STATEMENTS OF VOTE

When Record No. 1388 was taken, I was in the house but away from my desk. I would have voted yes.

Marquez

When Record No. 1388 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

I was shown voting yes on Record No. 1388. I intended to vote no.

Paxton

I was shown voting yes on Record No. 1388. I intended to vote no.

Weber

Senate Committee Substitute

CSHB 1315, A bill to be entitled An Act relating to the use of municipal hotel occupancy tax revenue in certain municipalities.

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

SECTION 1. Subchapter B, Chapter 351, Tax Code, is amended by adding Section 351.1066 to read as follows:

Sec. 351.1066. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) This section applies only to:

(1) a municipality with a population of at least 3,500 but less than 5,500 that is the county seat of a county with a population of less than 50,000 that borders a county with a population of more than 1.6 million; and

(2) a municipality with a population of at least 2,900 but less than 3,500 that is the county seat of a county with a population of less than 22,000 that is bordered by the Trinity River and includes a state park and a portion of a wildlife management area.

(b) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use all or any portion of the revenue derived from the municipal hotel occupancy tax for:

(1) a business recruitment project to substantially enhance hotel activity and encourage tourism; and

(2) the construction, enlarging, equipping, improvement, maintenance, repairing and operation of a recreational facility to substantially enhance hotel activity and encourage tourism.

SECTION 2. Section 351.003, Tax Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The rate in a municipality that has a population of more than 95,000 and is in a county that borders Lake Palestine and has a population of more than 200,000 may not exceed nine percent of the price paid for a room. The municipality shall allocate for the construction, expansion, maintenance, or operation of convention center facilities all revenue received by the municipality that is derived from the application of the tax at a rate of more than seven percent of the price paid for a room in a hotel.

(f) The rate in a municipality that has a population of at least 80,000 and is partly located in a county that borders the State of Louisiana and has a population of at least 60,000 may not exceed nine percent of the price paid for a room. The municipality shall allocate for the construction, expansion, maintenance, or operation of convention center facilities all revenue received by the municipality that is derived from the application of the tax at a rate of more than seven percent of the price paid for a room in a hotel.

SECTION 3. 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.

HB 1964 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Madden called up with senate amendments for consideration at this time,

HB 1964, A bill to be entitled An Act relating to discharging fines and costs assessed against certain juvenile defendants through community service.

Representative Madden moved to concur in the senate amendments to **HB 1964**.

The motion to concur in the senate amendments to **HB 1964** prevailed by (Record 1389): 145 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; 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; Lucio; 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; 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 — Harless; Peña.

Absent — Eiland; Marquez.

STATEMENT OF VOTE

When Record No. 1389 was taken, I was in the house but away from my desk. I would have voted yes.

Marquez

Senate Committee Substitute

CSHB 1964, A bill to be entitled An Act relating to discharging fines and costs assessed against certain juvenile defendants through community service.

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

SECTION 1. Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by adding Article 45.0492 to read as follows:

Art. 45.0492. COMMUNITY SERVICE IN SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS. (a) This article applies only to a defendant younger than 17 years of age who is assessed a fine or costs for a Class C misdemeanor.

(b) A justice or judge may require a defendant described by Subsection (a) to discharge all or part of the fine or costs by performing community service. A defendant may discharge an obligation to perform community service under this article by paying at any time the fine and costs assessed.

(c) In the justice's or judge's order requiring a defendant to perform community service under this article, the justice or judge shall specify the number of hours of service the defendant is required to perform and may not order more than 200 hours of service.

(d) The justice or judge may order the defendant to perform community service work under this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. A governmental entity or nonprofit organization that accepts a defendant under this article to perform community service must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the justice or judge who ordered the community service.

(e) A justice or judge may not order a defendant to perform more than 16 hours of community service per week under this article unless the justice or judge determines that requiring additional hours of work does not cause a hardship on the defendant or the defendant's family. For purposes of this subsection, "family" has the meaning assigned by Section 71.003, Family Code.

(f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county is not liable for damages arising from an act or failure to act in connection with community service performed by a defendant under this article if the act or failure to act:

(1) was performed pursuant to court order; and

(2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

(g) A local juvenile probation department or a court-related services office may provide the administrative and other services necessary for supervision of a defendant required to perform community service under this article.

SECTION 2. Article 45.051(a-1), Code of Criminal Procedure, is amended to read as follows:

(a-1) Notwithstanding any other provision of law, as an alternative to requiring a defendant charged with one or more offenses to make payment of all court costs as required by Subsection (a), the judge may:

(1) allow the defendant to enter into an agreement for payment of those costs in installments during the defendant's period of probation;

(2) require an eligible defendant to discharge all or part of those costs by performing community service under Article 45.049 or 45.0492; or

(3) take any combination of actions authorized by Subdivision (1) or (2).

SECTION 3. The changes in law made by this Act apply only to an offense committed or conduct that occurs on or after the effective date of this Act. An offense committed or conduct that occurs before the effective date of this Act is governed by the law in effect when the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed or conduct occurs before the effective date of this Act if any element of the offense or conduct occurs before the effective date.

SECTION 4. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1964** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 45.057(b), Code of Criminal Procedure, is amended to read as follows:

(b) On a finding by a justice or municipal court that a child committed an offense that the court has jurisdiction of under Article 4.11 or 4.14, the court has jurisdiction to enter an order:

(1) referring the child or the child's parent for services under Section 264.302, Family Code;

(2) requiring that the child attend a special program that the court determines to be in the best interest of the child and, if the program involves the expenditure of municipal or county funds, that is approved by the governing body of the municipality or county commissioners court, as applicable, including a rehabilitation, counseling, self-esteem and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring program; or

(3) requiring that the child's parent do any act or refrain from doing any act that the court determines will increase the likelihood that the child will comply with the orders of the court and that is reasonable and necessary for the welfare of the child, including:

- (A) attend a parenting class or parental responsibility program; and
- (B) attend the child's school classes or functions.

**HB 1619 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Orr called up with senate amendments for consideration at this time,

HB 1619, A bill to be entitled An Act relating to emergency services districts.

Representative Orr moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1619**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1619**: Orr, chair; Coleman, L. Gonzales, D. Miller, and Schwertner.

**HB 1942 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Patrick called up with senate amendments for consideration at this time,

HB 1942, A bill to be entitled An Act relating to bullying in public schools.

Representative Patrick moved to concur in the senate amendments to **HB 1942**.

The motion to concur in the senate amendments to **HB 1942** prevailed by (Record 1390): 118 Yeas, 26 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Murphy; Naishtat; Nash; Orr; Otto; Parker; Patrick; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Berman; Cain; Carter; Crownover; Flynn; Harper-Brown; Hughes; King, P.; Landtroop; Larson; Laubenberg; Lavender; Legler; Miller, S.; Morrison; Paxton; Perry; Phillips; Price; Taylor, L.; Taylor, V.; Weber; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harless; Peña.

Absent — Keffer; Oliveira; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1390. I intended to vote no.

Garza

I was shown voting yes on Record No. 1390. I intended to vote no.

Workman

Senate Committee Substitute

CSHB 1942, A bill to be entitled An Act relating to bullying in public schools.

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

SECTION 1. Section 21.451(d), Education Code, is amended to read as follows:

(d) The staff development:

(1) may include training in:

(A) technology;

(B) conflict resolution; ~~and~~

(C) discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section 37.001 and Chapter 37; and

(D) preventing, identifying, responding to, and reporting incidents of bullying; and

(2) subject to Subsection (e), must include training based on scientifically based research, as defined by Section 9101, No Child Left Behind Act of 2001 (20 U.S.C. Section 7801), that:

(A) relates to instruction of students with disabilities; and

(B) is designed for educators who work primarily outside the area of special education.

SECTION 2. The heading to Section 25.0342, Education Code, is amended to read as follows:

Sec. 25.0342. TRANSFER OF STUDENTS WHO ARE VICTIMS OF OR HAVE ENGAGED IN BULLYING.

SECTION 3. Section 25.0342, Education Code, is amended by amending Subsection (a) and adding Subsections (b-1) and (b-2) to read as follows:

(a) In this section, "bullying" has the meaning assigned by Section 37.0832 ~~[means engaging in written or verbal expression or physical conduct that a school district board of trustees or the board's designee determines:~~

~~(1) will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or~~

~~(2) is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student].~~

(b-1) The board of trustees of a school district may transfer the student who engaged in bullying to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred; or

(2) a campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

(b-2) Section 37.004 applies to a transfer under Subsection (b-1) of a student with a disability who receives special education services.

SECTION 4. Section 28.002, Education Code, is amended by adding Subsection (s) to read as follows:

(s) In this subsection, "bullying" has the meaning assigned by Section 37.0832 and "harassment" has the meaning assigned by Section 37.001. In addition to any other essential knowledge and skills the State Board of Education adopts for the health curriculum under Subsection (a)(2)(B), the board shall adopt for the health curriculum, in consultation with the Texas School Safety Center, essential knowledge and skills that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.

SECTION 5. Section 37.001(b), Education Code, is amended to read as follows:

(b) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

(3) ~~(2)~~ "Hit list" means a list of people targeted to be harmed, using:

(A) a firearm, as defined by Section 46.01(3), Penal Code;

(B) a knife, as defined by Section 46.01(7), Penal Code; or

(C) any other object to be used with intent to cause bodily harm.

SECTION 6. Section 37.083(a), Education Code, is amended to read as follows:

(a) Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. The program must provide for prevention of and education concerning unwanted physical or verbal aggression and [;] sexual harassment ~~[, and other forms of bullying]~~ in school, on school grounds, and in school vehicles.

SECTION 7. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.0832 to read as follows:

Sec. 37.0832. BULLYING PREVENTION POLICIES AND PROCEDURES. (a) In this section, "bullying" means, subject to Subsection (b), engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and that:

(1) has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or

(2) is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

(b) Conduct described by Subsection (a) is considered bullying if that conduct:

(1) exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct; and

(2) interferes with a student's education or substantially disrupts the operation of a school.

(c) The board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying that:

(1) prohibits the bullying of a student;

(2) prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;

(3) establishes a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident;

(4) establishes the actions a student should take to obtain assistance and intervention in response to bullying;

(5) sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;

(6) establishes procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;

(7) prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying; and

(8) requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(d) The policy and any necessary procedures adopted under Subsection (c) must be included:

(1) annually, in the student and employee school district handbooks;
and

(2) in the district improvement plan under Section 11.252.

(e) The procedure for reporting bullying established under Subsection (c) must be posted on the district's Internet website to the extent practicable.

SECTION 8. This Act applies beginning with the 2012-2013 school year.

SECTION 9. 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.

**SB 1811 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE INSTRUCTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Pitts, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1811**.

Representative Cain moved to instruct the Conference Committee on **SB 1811** to include in the conference committee report language from Amendment No. 45, as amended, relating to the language that will clarify the budget in the General Appropriations Act format without change to the substance of that section.

The motion to instruct conferees prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1811**: Pitts, chair; Turner, Crownover, Eissler, and Geren.

**SB 23 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE INSTRUCTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Zerwas, the house granted the request of the senate for the appointment of a Conference Committee on **SB 23**.

Representative Brown moved to instruct the Conference Committee on **SB 23** to retain the "bad actor" amendment adopted by the house.

The motion to instruct conferees prevailed.

Representative Hopson moved to instruct the Conference Committee on **SB 23** to follow the house version of the bill as it relates to the managed care pharmacy benefit rollout.

The motion to instruct conferees prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 23**: Zerwas, chair; J. Davis, V. Gonzales, Hopson, and Pitts.

**SB 263 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Kolkhorst, the house granted the request of the senate for the appointment of a Conference Committee on **SB 263**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 263**: Kolkhorst, chair; Coleman, S. Davis, S. King, and Zerwas.

GENERAL STATE CALENDAR
(consideration continued)

SB 809 ON SECOND READING
(Giddings - House Sponsor)

SB 809, A bill to be entitled An Act relating to judicial review in district court of certain workers' compensation disputes.

(L. Taylor in the chair)

Amendment No. 1

Representative Giddings offered the following amendment to **SB 809**:

Amend **SB 809** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 413.031(k-1), Labor Code, is amended to read as follows:

(k-1) A party who has exhausted all administrative remedies described by ~~under~~ Subsection (k) and who is aggrieved by a final decision of the division or the State Office of Administrative Hearings may seek judicial review of the decision. Judicial review under this subsection shall be conducted in the manner provided for judicial review of a contested case under Subchapter G, Chapter 2001, Government Code, except that in the case of a medical fee dispute the party seeking judicial review under this section must file suit not later than the 45th day after the date on which the State Office of Administrative Hearings mailed the party the notification of the decision. For purposes of this subsection, the mailing date is considered to be the fifth day after the date the decision was issued by the State Office of Administrative Hearings.

SECTION _____. Section 1305.103(c), Insurance Code, is amended to read as follows:

(c) An employee who lives within the service area of a network and who is being treated by a non-network provider for an injury that occurred before the employer's insurance carrier established or contracted with the network, shall select a network treating doctor on notification by the carrier that health care services are being provided through the network. The carrier shall provide to the employee all information required by Section 1305.451. If the employee fails to select a treating doctor on or before the 14th day after the date of receipt of the information required by Section 1305.451, the network may assign the employee a network treating doctor. An issue regarding whether a carrier properly provided an employee the information required by this subsection may be resolved using the process for adjudication of disputes under Chapter 410, Labor Code, as used by the department's division of workers' compensation.

SECTION _____. Section 1305.451, Insurance Code, is amended by adding Subsection (e) to read as follows:

(e) An issue regarding whether an employer properly provided an employee with the information required by this section may be resolved using the process for adjudication of disputes under Chapter 410, Labor Code, as used by the department's division of workers' compensation.

Amendment No. 1 was adopted.

SB 809, as amended, was passed to third reading.

SB 717 ON SECOND READING
(Truitt and Naishtat - House Sponsors)

SB 717, A bill to be entitled An Act relating to the purpose and duties of the Council on Children and Families.

SB 717 was passed to third reading.

SB 460 ON SECOND READING
(Hunter - House Sponsor)

SB 460, A bill to be entitled An Act relating to regulation of the import, export, and management of mule deer; providing penalties.

Amendment No. 1

Representative Phillips offered the following amendment to **SB 460**:

Amend **SB 460** (house committee printing) as follows:

(1) In SECTION 2 of the bill, in added Subchapter R-1, Chapter 43, Parks and Wildlife Code, between added Sections 43.621 and 43.622 (page 1, between lines 21 and 22), insert the following:

Sec. 43.6211. DEFINITION. In this subchapter, "animal health commission" means the Texas Animal Health Commission.

(2) In SECTION 2 of the bill, in added Subchapter R-1, Chapter 43, Parks and Wildlife Code, between added Sections 43.625 and 43.626 (page 3, between lines 21 and 22), insert the following:

Sec. 43.6251. DESTRUCTION OF DEER. (a) To control or prevent the spread of disease, deer on acreage covered by a permit issued under this subchapter may be destroyed only if:

(1) an agent of the animal health commission has conducted an epidemiological assessment;

(2) based on the assessment under Subdivision (1), the executive director of the animal health commission determines that the deer pose a threat to the health of other deer or other species, including humans; and

(3) the executive director of the animal health commission orders the destruction of the deer.

(b) The animal health commission shall provide written notification of an order to destroy deer to:

(1) the department; and

(2) the applicable permit holder as provided by Section 43.6252.

(c) The department shall carry out an order to destroy deer after notice has been provided to the applicable permit holder. The destruction must be conducted in the presence of and under the direction of animal health commission officials.

Sec. 43.6252. NOTICE OF DEER DESTRUCTION. (a) The animal health commission must provide notice to a permit holder before the department may destroy any of the deer covered by the permit.

(b) A notice provided under this section must be sent by certified mail to the last known address of the permit holder and must contain:

(1) the date of destruction, which may not be sooner than the 10th day after the date of the notice;

(2) an explanation of any access restrictions imposed on the acreage covered by the permit during the destruction of the deer; and

(3) an explanation of the reasons for the destruction.

Sec. 43.6253. COST RECOVERY. The permit holder shall pay to the department all costs associated with the epidemiological assessment and destruction of deer under this subchapter. The department and the animal health commission shall divide the payment to cover the costs incurred by each agency in carrying out their respective duties under this subchapter.

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

SECTION _____. Section 12.501(b), Parks and Wildlife Code, is amended to read as follows:

(b) Except as provided by Subchapter G, the [The] director may suspend or revoke an original or renewal permit or license issued under this code if it is found, after notice and hearing, that:

(1) the permittee or licensee has been finally convicted of a violation of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(2) the permittee or licensee violated a provision of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(3) the permittee or licensee made a false or misleading statement in connection with the permittee's or licensee's [his] original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission or its officers or employees;

(4) the permittee or licensee is indebted to the state for taxes, fees, or payment of penalties imposed by this code or by a commission rule relating to a permit or license to be suspended or revoked; or

(5) the permittee or licensee is liable to the state under Section 12.301.

SECTION _____. Section 12.506, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to a permit to which Subchapter G applies.

SECTION _____. Section 12.508(b), Parks and Wildlife Code, is amended to read as follows:

(b) Except as provided by Subchapter G, the [The] department may refuse to issue or transfer an original or renewal license, permit, or tag if the applicant or transferee:

(1) has been finally convicted of a violation under this code or a rule adopted or a proclamation issued under this code;

(2) is liable to the state under Section 12.301; and

(3) has failed to fully pay the amount due under Section 12.301 after the department has issued notice of liability to the applicant or transferee.

SECTION ____ Chapter 12, Parks and Wildlife Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. REFUSAL TO ISSUE OR RENEW AND APPEAL OF CERTAIN DECISIONS REGARDING CERTAIN PERMITS RELATING TO THE CONTROL, BREEDING, OR MANAGEMENT OF DEER

Sec. 12.601. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the following permits:

(1) a trap, transport, and transplant permit under Section 43.061 or 43.0611;

(2) a trap, transport, and process permit under Section 43.0612;

(3) a deer breeder's permit under Subchapter L, Chapter 43; and

(4) a deer management permit under Subchapter R or R-1, Chapter 43.

Sec. 12.602. DEFINITIONS. In this subchapter:

(1) "Applicant" means a person who has applied for a new or renewal permit.

(2) "Final conviction" means a final judgment of guilt, the granting of deferred adjudication or pretrial diversion, or the entering of a plea of guilty or nolo contendere.

(3) "Permittee" means a person to whom a permit has been issued, including each member of a partnership or association, an agent acting on behalf of a partnership or association, each officer of a corporation, and the owner of a majority of a corporation's corporate stock.

Sec. 12.603. GENERAL CIRCUMSTANCES FOR REFUSAL TO ISSUE OR RENEW PERMIT. The department may refuse to issue or renew a permit if the applicant fails to submit in a timely manner the following:

(1) a completed application on a form supplied by the department and all application materials required by the department;

(2) the required permit fee;

(3) accurate reports as applicable; and

(4) any additional information that the department determines is necessary to process the application.

Sec. 12.604. REFUSAL TO ISSUE OR RENEW PERMIT BASED ON CERTAIN CONVICTIONS. (a) This section applies only to a determination of whether to issue a permit to or renew a permit for an applicant who has a final conviction for a violation of:

(1) Subchapter C, E, L, R, or R-1, Chapter 43;

(2) a provision of this code not described by Subdivision (1) that is punishable as a Class A or B Parks and Wildlife Code misdemeanor, a Parks and Wildlife Code state jail felony, or a Parks and Wildlife Code felony;

(3) Section 63.002; or

(4) the Lacey Act (16 U.S.C. Sections 3371-3378).

(b) In determining whether to issue a permit to or renew a permit for an applicant with a final conviction, the department shall consider:

- (1) the number of convictions and the seriousness of each conviction;
- (2) the existence, number, and seriousness of offenses or violations other than offenses or violations that resulted in a final conviction described by Subsection (a);
- (3) the length of time between the most recent final conviction and the permit application;
- (4) whether the final conviction or other offense or violation was the result of negligence or intentional conduct;
- (5) the applicant's efforts toward rehabilitation;
- (6) the accuracy of the permit history information provided by the applicant; and
- (7) other mitigating factors.

Sec. 12.605. PROCEDURE FOR REFUSAL TO ISSUE OR RENEW PERMIT. (a) Not later than the 10th day after the date a decision to refuse to issue or renew a permit has been made, the department shall provide to the applicant a written statement of the reasons for the decision.

(b) The commission by rule shall adopt procedures consistent with this subchapter for the department's review of a refusal to issue or renew a permit.

Sec. 12.606. REVIEW OF REFUSAL TO ISSUE OR RENEW PERMIT. In conducting a review of a decision by the department to refuse to issue or renew a permit, the department shall consider:

- (1) whether the conduct on which the refusal is based was negligent or intentional;
- (2) for a refusal based on conduct that is a violation of a provision listed in Section 12.604(a), whether the applicant has a final conviction based on the conduct;
- (3) the seriousness of an offense described by Subdivision (2) for which the applicant was finally convicted;
- (4) whether the conduct on which the refusal was based was committed or omitted by the applicant, an agent of the applicant, or both;
- (5) for a renewal, whether the applicant agreed to any special conditions recommended by the department in lieu of a decision to refuse to issue or renew the expiring permit;
- (6) whether there is a substantial likelihood that the applicant would repeat the conduct on which the refusal is based;
- (7) whether the conduct on which the refusal is based involved a threat to public safety; and
- (8) other mitigating factors.

Sec. 12.607. APPEAL OF DEPARTMENT DECISION TO REVOKE, SUSPEND, OR REFUSE PERMIT. (a) Except as provided by this section, the revocation or suspension of a permit is governed by Subchapter F.

(b) Venue for an appeal from a decision of the department refusing to issue or renew a permit or revoking or suspending a permit is a district court in:

- (1) the county where the permitted facility, if applicable, is located;
- (2) the county where the permittee resides; or
- (3) Travis County.

(c) The appeal shall be by trial de novo.

SECTION _____. Section 43.351, Parks and Wildlife Code, is amended by adding Subdivision (8) to read as follows:

(8) "Animal health commission" means the Texas Animal Health Commission.

SECTION _____. Section 43.352(b), Parks and Wildlife Code, is amended to read as follows:

(b) At the option of the person applying for the issuance or renewal of a permit under this section, the [The] department may issue a permit [under this section] that is valid for [longer than] one year, three years, or five years. A three-year or five-year permit is available only to a person who agrees to submit the annual reports required under this subchapter electronically. The commission may adopt rules allowing the department to terminate a permit before the date originally specified for the permit issuance or renewal if the permit holder fails to submit the annual reports electronically as required for a three-year or five-year permit.

SECTION _____. Subchapter L, Chapter 43, Parks and Wildlife Code, is amended by adding Sections 43.3591, 43.3661, 43.370, 43.371, and 43.372 to read as follows:

Sec. 43.3591. GENETIC TESTING. (a) In this section:

(1) "DNA" means deoxyribonucleic acid.

(2) "Genetic test" means a laboratory analysis of a deer's genes, gene products, or chromosomes that:

(A) analyzes the deer's DNA, RNA, proteins, or chromosomes;
and

(B) is performed to determine genetically the deer's ancestral lineage or descendants.

(3) "RNA" means ribonucleic acid.

(b) After an inspection, the department shall notify a deer breeder in writing when the department has reason to believe the deer breeder possesses deer that may pose a disease risk to other deer. The notice must include an explanation of the rationale used to establish the disease risk.

(c) If genetic testing is timely conducted, the department must postpone any actions that may be affected by the test results until the test results are available.

(d) The results of genetic testing may not be used as evidence to establish a defense against a fine imposed on a deer breeder found guilty of failure to keep records of all deer in a deer breeder facility as required by this subchapter.

Sec. 43.3661. RULES. The commission may adopt rules as needed to implement this subchapter.

Sec. 43.370. DESTRUCTION OF DEER. (a) To control or prevent the spread of disease, deer held at a deer breeding facility may be destroyed only if:

(1) an agent of the animal health commission has conducted an epidemiological assessment;

(2) based on the assessment under Subdivision (1), the executive director of the animal health commission determines that the deer pose a threat to the health of other deer or other species, including humans; and

(3) the executive director of the animal health commission orders the destruction of the deer.

(b) The animal health commission shall provide written notification of an order to destroy deer to:

(1) the department; and

(2) the applicable deer breeder as provided by Section 43.371.

(c) The department shall carry out an order to destroy deer after notice has been provided to the applicable deer breeder. The destruction must be conducted in the presence of and under the direction of animal health commission officials.

Sec. 43.371. NOTICE OF DEER DESTRUCTION. (a) The animal health commission must provide notice to a deer breeder before the department may destroy any of the deer held at the deer breeder's facility.

(b) A notice provided under this section must be sent by certified mail to the last known address of the deer breeder and must contain:

(1) the date of destruction, which may not be sooner than the 10th day after the date of the notice;

(2) an explanation of any access restrictions imposed on the deer breeder's facility during the destruction of the deer; and

(3) an explanation of the reasons for the destruction.

Sec. 43.372. COST RECOVERY. The deer breeder shall pay to the department all costs associated with the epidemiological assessment and destruction of deer under this subchapter. The department and the animal health commission shall divide the payment to cover the costs incurred by each agency in carrying out their respective duties under this subchapter.

SECTION _____. Subchapter R, Chapter 43, Parks and Wildlife Code, is amended by adding Sections 43.6011, 43.608, 43.609, and 43.610 to read as follows:

Sec. 43.6011. DEFINITION. In this subchapter, "animal health commission" means the Texas Animal Health Commission.

Sec. 43.608. DESTRUCTION OF DEER. (a) To control or prevent the spread of disease, deer on acreage covered by a permit issued under this subchapter may be destroyed only if:

(1) an agent of the animal health commission has conducted an epidemiological assessment;

(2) based on the assessment under Subdivision (1), the executive director of the animal health commission determines that the deer pose a threat to the health of other deer or other species, including humans; and

(3) the executive director of the animal health commission orders the destruction of the deer.

(b) The animal health commission shall provide written notification of an order to destroy deer to:

(1) the department; and

(2) the applicable permit holder as provided by Section 43.609.

(c) The department shall carry out an order to destroy deer after notice has been provided to the applicable permit holder. The destruction must be conducted in the presence of and under the direction of animal health commission officials.

Sec. 43.609. NOTICE OF DEER DESTRUCTION. (a) The animal health commission must provide notice to a permit holder before the department may destroy any of the deer covered by the permit.

(b) A notice provided under this section must be sent by certified mail to the last known address of the permit holder and must contain:

(1) the date of destruction, which may not be sooner than the 10th day after the date of the notice;

(2) an explanation of any access restrictions imposed on the acreage covered by the permit during the destruction of the deer; and

(3) an explanation of the reasons for the destruction.

Sec. 43.610. COST RECOVERY. The permit holder shall pay to the department all costs associated with the epidemiological assessment and destruction of deer under this subchapter. The department and the animal health commission shall divide the payment to cover the costs incurred by each agency in carrying out their respective duties under this subchapter.

SECTION _____. (a) Except as provided by Subsection (b) of this section, Subchapter G, Chapter 12, Parks and Wildlife Code, as added by this Act, applies only to a permit that is issued or renewed on or after the effective date of this Act. A permit issued 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.

(b) Section 12.607, Parks and Wildlife Code, as added by this Act, applies only to an appeal from a decision of the Parks and Wildlife Department refusing to issue or renew a permit or revoking or suspending a permit that is filed on or after the effective date of this Act. An appeal filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed, and that law is continued in effect for that purpose.

SECTION _____. Section 43.3591(d), Parks and Wildlife Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 1 was withdrawn.

SB 460 was passed to third reading.

SB 766 ON SECOND READING
(Isaac - House Sponsor)

SB 766, A bill to be entitled An Act relating to the liability of a sport shooting range and the regulation of firearms, ammunition, firearm supplies, and sport shooting ranges.

SB 766 was passed to third reading.

CSSB 76 ON SECOND READING
(Morrison - House Sponsor)

CSSB 76, A bill to be entitled An Act relating to certain providers of subsidized child care.

Amendment No. 1

Representative Miles offered the following amendment to **CSSB 76**:

Amend **CSSB 76** (house committee printing) as follows:

(1) In SECTION 2 of the bill, immediately following added Section 301.191, Labor Code (page 4, between lines 9 and 10), add the following:

(c) The commission may use a motor vehicle record, including a photographic image and signature, to prevent and detect fraud, waste, and abuse in child-care programs.

(d) The commission may use the information under Subsection (c) otherwise for enforcement under this title.

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

SECTION _____. Section 730.005, Transportation Code, is amended to read as follows:

Sec. 730.005. **REQUIRED DISCLOSURE.** Personal information obtained by an agency in connection with a motor vehicle record shall be disclosed for use in connection with any matter of:

(1) motor vehicle or motor vehicle operator safety;

(2) motor vehicle theft;

(3) motor vehicle emissions;

(4) motor vehicle product alterations, recalls, or advisories;

(5) performance monitoring of motor vehicles or motor vehicle dealers by a motor vehicle manufacturer;

(6) removal of nonowner records from the original owner records of a motor vehicle manufacturer to carry out the purposes of:

(A) the Automobile Information Disclosure Act, 15 U.S.C. Section 1231 et seq.;

(B) 49 U.S.C. Chapters 301, 305, 323, 325, 327, 329, and 331;

(C) the Anti Car Theft Act of 1992, 18 U.S.C. Sections 553, 981, 982, 2119, 2312, 2313, and 2322, 19 U.S.C. Sections 1646b and 1646c, and 42 U.S.C. Section 3750a et seq., all as amended;

(D) the Clean Air Act, 42 U.S.C. Section 7401 et seq., as amended;

and

(E) any other statute or regulation enacted or adopted under or in relation to a law included in Paragraphs (A)-(D); [~~or~~]

(7) child support enforcement under Chapter 231, Family Code; or

(8) enforcement by the Texas Workforce Commission under Title 4, Labor Code.

SECTION _____. Section 730.007(c), Transportation Code, is amended to read as follows:

(c) This section does not:

(1) prohibit the disclosure of a person's photographic image to:

(A) a law enforcement agency or a criminal justice agency for an official purpose; [~~or~~]

(B) an agency of this state investigating an alleged violation of a state or federal law relating to the obtaining, selling, or purchasing of a benefit authorized by Chapter 31 or 33, Human Resources Code; or

(C) an agency of this state investigating an alleged violation of a state or federal law under authority provided by Title 4, Labor Code; or

(2) prevent a court from compelling by subpoena the production of a person's photographic image.

Amendment No. 1 was adopted.

CSSB 76, as amended, was passed to third reading.

SB 364 ON SECOND READING
(Brown - House Sponsor)

SB 364, A bill to be entitled An Act relating to statistical information on the prosecution of certain offenses relating to the operating of a motor vehicle while intoxicated.

SB 364 was passed to third reading. (C. Anderson, Carter, V. Taylor, and Weber recorded voting no.)

SB 498 ON SECOND READING
(Phillips - House Sponsor)

SB 498, A bill to be entitled An Act relating to the trapping and transport of surplus white-tailed deer.

Amendment No. 1

Representative Phillips offered the following amendment to **SB 498**:

Amend **SB 498** (house committee printing) as follows:

(j) The commission by rule may set and the department may [~~not~~] charge a fee not to exceed \$300 for a white-tailed deer trapping and transporting permit issued under this section, except that the department may not charge a fee for a permit issued to a political subdivision or property owners' association if the deer pose a threat to human health or safety.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Phillips offered the following amendment to **SB 498**:

Amend **SB 498** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Sections 43.357(a) and (b), Parks and Wildlife Code, are amended to read as follows:

(a) The holder of a valid deer breeder's permit may:

(1) engage in the business of breeding breeder deer in the immediate locality for which the permit was issued; ~~and~~

(2) sell, transfer to another person, or hold in captivity live breeder deer for the purpose of propagation or sale; and

(3) transfer and sell live breeder deer not needed for propagation for the purpose of processing and sale as venison.

(b) The commission may make regulations governing:

(1) the possession of breeder deer held under the authority of this subchapter;

(2) the recapture of lawfully possessed breeder deer that have escaped from the facility of a deer breeder;

(3) permit applications and fees;

(4) reporting requirements;

(5) procedures and requirements for the purchase, transfer, sale, or shipment of breeder deer;

(6) the endorsement of a deer breeder facility by a certified wildlife biologist;

(7) the number of breeder deer that a deer breeder may possess; ~~and~~

(8) the dates for which a deer breeder permit is valid; and

(9) procedures for the identification, transfer, and sale of live breeder deer not needed for propagation for the purpose of processing and sale as venison.

SECTION _____. Section 43.364, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.364. USE OF BREEDER DEER. (a) Except as provided by Subsection (b), breeder ~~[Breeder]~~ deer may be purchased, sold, transferred, or received in this state only for the purposes of liberation or holding for propagation. All breeder deer and increase from breeder deer are under the full force of the laws of this state pertaining to deer, and those breeder deer may be held in captivity for propagation in this state only after a deer breeder's permit is issued by the department under this subchapter.

(b) Live breeder deer not needed for propagation may be transferred, processed, and sold as venison only in accordance with Section 43.357 and either:

(1) Chapter 433, Health and Safety Code, and rules adopted under that chapter; or

(2) 9 C.F.R. Part 352, as authorized by the federal Agricultural Marketing Act of 1946 (7 U.S.C. Section 1621 et seq.).

SECTION _____. Section 433.003(5), Health and Safety Code, is amended to read as follows:

(5) "Exotic animal" means:

(A) a member of a species of game not indigenous to this state, including an axis deer, nilga antelope, red sheep, or other cloven-hooved ruminant animal; or

(B) a breeder deer as defined by Section 43.351, Parks and Wildlife Code, that the Parks and Wildlife Department has identified for the purpose of processing and sale as venison.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Phillips offered the following amendment to **SB 498**:

Amend **SB 498** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 43.352(b), Parks and Wildlife Code, is amended to read as follows:

(b) At the option of the person applying for the issuance or renewal of a permit under this section, the [The] department may issue a permit [under this section] that is valid for [longer than] one year, three years, or five years. A three-year or five-year permit is available only to a person who agrees to submit the annual reports required under this subchapter electronically. The commission may adopt rules allowing the department to terminate a permit before the date originally specified for the permit issuance or renewal if the permit holder fails to submit the annual reports electronically as required for a three-year or five-year permit.

Amendment No. 3 - Point of Order

Representative Hilderbran raised a point of order against further consideration of Amendment No. 3 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. 3 was withdrawn.

Representative Phillips moved to postpone consideration of **SB 498** until 10:45 p.m. today.

The motion prevailed.

POSTPONED BUSINESS

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

SB 1009 ON SECOND READING (Sheffield - House Sponsor)

SB 1009, A bill to be entitled An Act relating to requiring public institutions of higher education to notify the federal Student and Exchange Visitor Information System (SEVIS) regarding the withdrawal or nonattendance of certain foreign students.

SB 1009 was read second time earlier today and was postponed until this time.

SB 1009 - POINT OF ORDER

Representative Gutierrez raised a point of order against further consideration of **SB 1009** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The chair overruled the point of order.

SB 1009 was passed to third reading.

GENERAL STATE CALENDAR**(consideration continued)****CSSB 635 ON SECOND READING****(Larson - House Sponsor)**

CSSB 635, A bill to be entitled An Act relating to the authority of the Texas Commission on Environmental Quality.

Amendment No. 1

Representative Larson offered the following amendment to **CSSB 635**:

Amend **CSSB 635** (house committee printing) to read as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 5), strike "Section 13.043(h), Water Code, is" and substitute "Sections 13.043(h) and (i), Water Code, are".

(2) In SECTION 1 of the bill, in amended Section 13.043, Water Code (page 1, between lines 11 and 12), insert the following:

(i) The governing body of a municipally owned utility or a political subdivision, within 60 [~~30~~] days after the date of a final decision on a rate change, shall provide individual written notice to each ratepayer eligible to appeal who resides outside the boundaries of the municipality or the political subdivision. The notice must include, at a minimum, the effective date of the new rates, the new rates, and the location where additional information on rates can be obtained. The governing body of a municipally owned utility or a political subdivision may provide the notice electronically if the utility or political subdivision has access to a ratepayer's e-mail address.

(3) In SECTION 2 of the bill, in amended Section 13.187(b), Water Code (page 1, lines 14-15), strike "mailed or delivered" and substitute "mailed, sent by e-mail, or delivered".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Larson offered the following amendment to **CSSB 635**:

Amend **CSSB 635** (house committee printing) by adding the following SECTIONS to the bill, numbered appropriately, and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.0865 to read as follows:

Sec. 361.0865. CONSIDERATION OF PROCESSING OR TREATMENT FACILITY PERMIT APPLICATIONS. (a) This section applies only to an application for the issuance, amendment, extension, or renewal of a permit for a commercial facility that accepts nonhazardous liquid waste from municipal or industrial sources for processing or treatment. This section does not apply to a facility owned or operated by or affiliated with:

(1) a local government, including a facility leased to or from a local government; or

(2) a person who holds a permit to dispose of hazardous, municipal, or industrial solid waste.

(b) The commission may not issue, amend, extend, or renew a permit unless the commission determines that the applicant possesses adequate technical, managerial, and financial ability to operate the facility safely and in compliance with all applicable legal requirements. The commission shall consider, at a minimum:

(1) financial assurance information described by Section 361.085(a);

(2) evidence of the professional qualifications of the management or principals of the applicant;

(3) evidence of training, licensure, certification, or relevant experience of individuals employed by the applicant who are or will be involved in the operation of the facility;

(4) whether the applicant has a compliance history classification as a poor performer, as determined by rules adopted under Section 5.754, Water Code, or does not have a compliance history;

(5) information related to past compliance, in addition to the information provided under Section 361.084, as required by the commission, including information indicating:

(A) for the preceding five years, whether, in connection with an unauthorized acceptance or discharge of municipal solid waste:

(i) two or more administrative orders that assess penalties against the applicant or order the applicant to take corrective measures have been issued by the commission; or

(ii) four or more notices of violation have been issued by the commission to the applicant; and

(B) for the preceding 10 years, whether the facility, the applicant, the principal shareholders of the owner of the facility, or the individuals employed by the facility who are or will be responsible for the operation of the facility have been convicted of a violation of any environmental law; and

(6) any other evidence required by the commission relating to the applicant's ability to comply with all applicable legal requirements.

(c) The commission by rule shall adopt standards for making a determination under Subsection (b).

(d) The commission may impose conditions on the issuance, amendment, extension, or renewal of a permit designed to increase the likelihood of the applicant's operation of the facility safely and in compliance with all applicable legal requirements.

SECTION _____. The changes in law made by Section 361.0865, Health and Safety Code, as added by this Act, apply only to an application for the issuance, amendment, extension, or renewal of a permit that is received by the Texas Commission on Environmental Quality on or after the effective date of this Act. An application that is received before that date is governed by the law in effect at the time the application is received, and the former law is continued in effect for that purpose.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Gooden offered the following amendment to **CSSB 635**:

Amend **CSSB 635** (committee printing) SECTION 2, by adding a new subsection to Section 13.187, Water Code, as follows:

(q) For the purpose of ratemaking proceedings initiated by an investor-owned utility under this Chapter an "affected county" is one that has more than 3000 customers in the county when the rate change is filed with the commission or a local regulatory authority.

Amendment No. 3 - Point of Order

Representative D. Miller raised a point of order against further consideration of Amendment No. 3 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. 3 was adopted.

Amendment No. 4

Representative Aycock offered the following amendment to **CSSB 635**:

Amend **CSSB 635** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter B, Chapter 11, Water Code, is amended by adding Section 11.0392 to read as follows:

Sec. 11.0392. COMMISSION REVIEW OF CERTAIN RIVER AUTHORITY WATER MANAGEMENT PLANS. (a) In this section:

(1) "Authority" means a river authority to which this section applies under Subsection (b).

(2) "Firm water" means a supply of stored water that could be supplied without shortage during each year of a simulated repeat of the drought of record, while honoring all senior water rights. During a drought of record, the supply of water for firm water customers has a higher priority than that of interruptible water customers.

(3) "Interruptible water" means a stored supply of water for customers of an authority that must be curtailed before the authority curtails firm water supplies.

(b) This section applies only to a river authority whose water management plan consists of a reservoir operation plan for the operation of two water supply reservoirs and was:

(1) developed by an applicant for a permit under this chapter; and

(2) originally required by a court order adjudicating the water rights for those reservoirs.

(c) Before approving an authority's water management plan, the commission shall require that the plan:

(1) ensures that adequate firm water supplies are available to meet the existing and projected demands of firm water customers to the extent:

(A) provided by previously adjudicated water rights; and

(B) other supplies are not available to the authority to meet those firm water customer demands; and

(2) provides for curtailing water supplies under interruptible commitments before requesting that firm water customers institute voluntary drought contingency measures.

Amendment No. 4 - Point of Order

Representative Kleinschmidt raised a point of order against further consideration of Amendment No. 4 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. 4 was withdrawn.

Amendment No. 5

Representative Coleman offered the following amendment to **CSSB 635**:

Amend **CSSB 635** (house committee printing) by adding the following appropriately numbered sections to the bill and renumbering subsequent sections of the bill appropriately:

SECTION _____. Subtitle B, Title 5, Health and Safety Code, is amended by adding Chapter 376 to read as follows:

CHAPTER 376. DISPOSABLE PLASTIC BAG FEE; LOCAL RECYCLING ASSISTANCE GRANT PROGRAM

Sec. 376.001. DEFINITIONS. In this chapter:

(1) "Compostable plastic bag" means a plastic bag that meets or exceeds the standard for compostable plastics developed by the American Society for Testing and Materials International as specified in ASTM D6400-04 as that standard existed on January 1, 2011.

(2) "Disposable plastic bag" means a plastic carryout bag that is provided by a retailer to a customer at the point of sale. The term does not include a reusable plastic bag.

(3) "Retailer" means a person engaged in the business of selling goods directly to a customer.

(4) "Reusable plastic bag" means a bag with handles that is specifically designed and manufactured for multiple reuses and is made of plastic that is at least 2.25 millimeters thick.

(5) "Commission" means the Texas Commission on Environmental Quality

Sec. 376.002. GRANT PROGRAM. (a) The commission or executive director shall establish and administer a local recycling assistance grant program for the public purpose of supporting municipal and county recycling efforts in this state.

(b) Only a municipality or county may apply for and receive a grant under the program.

(c) The commission or executive director by rule shall establish criteria for the awarding of grants under this section. In adopting the rules, the commission or executive director must give preference to applicants that:

(1) do not have a recycling program on the date of the application; or

(2) will use the grant money to expand the recycling capacity of an existing recycling program.

(d) The commission or executive director shall adopt any other rules and forms necessary for the implementation and administration of the program.

Sec. 376.003. DISPOSABLE PLASTIC BAG FEE. Except as provided by Section 376.004, a fee of five cents is imposed on a customer for each disposable plastic bag provided to the customer to carry out or protect goods purchased from a retailer.

Sec. 376.004. EXEMPTIONS. A fee may not be imposed under Section 376.003 for:

(1) a disposable plastic bag that is used solely to carry bulk food, produce, or meat from a department within a store to the point of sale; or

(2) a compostable plastic bag.

Sec. 376.005. COLLECTION BY RETAILER. (a) A retailer who provides a disposable plastic bag to a customer shall collect the fee imposed by Section 376.003. Except as provided by Subsection (d), the retailer shall remit the fee to the commission or executive director.

(b) The retailer shall add the fee imposed by Section 376.003 to the total price of the goods sold to the customer, and the fee is a part of the sales price, is a debt owed to the retailer by the customer, and is recoverable at law in the same manner as the original sales price.

(c) The amount of the fee shall be stated separately on a sales receipt, invoice, or other record of sale.

(d) A retailer may retain three percent of the total amount of the fees collected under Subsection (a) as reimbursement for any costs associated with the collection of the fees.

Sec. 376.006. ADMINISTRATION, COLLECTION, AND ENFORCEMENT BY COMMISSION OR EXECUTIVE DIRECTOR. The commission or executive director shall adopt any rules for the administration, payment, collection, and enforcement of the fee imposed by this chapter.

Sec. 376.007. LOCAL RECYCLING PROGRAM ASSISTANCE ACCOUNT. (a) The local recycling program assistance account is established as an account in the general revenue fund.

(b) The commission or executive director shall deposit the revenue received from the fee imposed by Section 376.003 to the credit of the account.

(c) Money in the account may be appropriated only for the implementation and administration of the grant program established under Section 376.002.

Amendment No. 5 failed of adoption by (Record 1391): 37 Yeas, 97 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Miles; Naishtat; Oliveira; Reynolds; Rodriguez; 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; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Flynn; Frullo; Garza; Geren; Gonzales, L.; 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; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Ritter; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Harless; Peña.

Absent — Anchia; Creighton; Crownover; Fletcher; Gonzales, V.; Guillen; Marquez; Menendez; Riddle; Sheffield; Strama; Villarreal.

STATEMENTS OF VOTE

When Record No. 1391 was taken, I was in the house but away from my desk. I would have voted no.

Crownover

When Record No. 1391 was taken, my vote failed to register. I would have voted no.

Guillen

When Record No. 1391 was taken, I was in the house but away from my desk. I would have voted yes.

Marquez

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. 7).

CSSB 635 - (consideration continued)**Amendment No. 6**

Representative Coleman offered the following amendment to **CSSB 635**:

Amend **CSSB 635** (house committee printing) by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill appropriately:

SECTION _____. Subtitle B, Title 5, Health and Safety Code, is amended by adding Chapter 376 to read as follows:

CHAPTER 376. TEXAS CONTAINER RECYCLING INITIATIVE
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 376.001. DEFINITIONS. In this chapter:

(1) "Beverage" means an alcoholic, nonalcoholic, carbonated, or noncarbonated drink prepared in liquid, ready-to-drink form and intended for human consumption. The term includes:

- (A) beer;
- (B) ale;
- (C) malt liquor;
- (D) other drinks produced by fermenting malt;
- (E) wine coolers;
- (F) soda;
- (G) water, including mineral water;
- (H) carbonated water, including carbonated mineral water;
- (I) carbonated soft drinks;
- (J) noncarbonated soft drinks and sport drinks;
- (K) noncarbonated fruit drinks;
- (L) energy drinks;
- (M) coffee and tea drinks; and
- (N) carbonated fruit drinks.

(2) "Beverage container" means a glass, metal, or plastic vessel that is hermetically sealed or capped and that contains a beverage at the time it is sold or offered for sale.

(3) "Consumer" means a person who purchases a beverage in a beverage container for the person's own use or consumption. The term includes a lodging, eating, or drinking establishment if beverages are generally consumed on the establishment's premises and does not include a person who purchases the beverage from the establishment for consumption on the premises.

(4) "Distributor" means a person who distributes beverages in beverage containers to retail dealers.

(5) "Infant formula" means any liquid food sold as an alternative for human milk for the feeding of infants.

(6) "Medical food" means a food or beverage that is formulated to be consumed or administered under the supervision of a physician and that is intended for specific dietary management of diseases or health conditions for which distinctive nutritional requirements, based on recognized scientific

principles, are established by medical evaluation. The term also includes any product that meets the definition of "medical food" under Section 5(b)(3), the Food, Drug, and Cosmetic Act (21 U.S.C. Section 360ee).

(7) "Redemption center" means an operation approved by the commission to redeem beverage containers under this chapter and includes a manned operation or a mechanical device that accepts empty beverage containers and issues a cash refund or a redeemable credit slip with a value not less than the container's refund value.

(8) "Redemption zone" means:

(A) the one-half-mile radius around a retail dealer with at least \$2 million in food-related sales each year who is located in a municipality with a population of more than 50,000; or

(B) the two-mile radius around a retail dealer with at least \$2 million in food-related sales each year who is not located in a municipality described by Paragraph (A).

(9) "Refund" means a payment by a redemption center under Section 376.201 to a person who presents a beverage container at the redemption center.

(10) "Retail dealer" means a person who sells a beverage in a beverage container to a consumer.

Sec. 376.002. ADMINISTRATION AND RULES. (a) The commission shall establish and administer the Texas container recycling initiative in accordance with this chapter.

(b) In administering the Texas container recycling initiative, the commission shall:

(1) approve redemption centers under Section 376.152;

(2) enforce compliance with the provisions of this chapter;

(3) administer the infrastructure improvement grant program under Section 376.003;

(4) develop and implement a marketing plan to provide information and educate consumers about the initiative;

(5) conduct any audit of the initiative the commission determines is necessary;

(6) develop an operating budget for the initiative;

(7) ensure the solvency of the initiative's account;

(8) develop a system for reimbursement of deposits and refunds and for distribution of handling fees;

(9) develop a system for monitoring the number of containers sold by distributors and the number of containers returned to redemption centers and curbside recycling centers;

(10) administer the Texas container recycling initiative account as provided by Section 376.104; and

(11) adopt rules and forms necessary to implement this chapter.

Sec. 376.003. INFRASTRUCTURE IMPROVEMENT GRANT PROGRAM. (a) The commission shall develop and administer a program to provide grants from money in the Texas container recycling initiative account to

ensure sufficient infrastructure is available to increase the state recycling rate by expanding curbside recycling programs, municipal recycling facilities, and independent redemption centers.

(b) The total amount of money available each year under the grant program may not exceed five percent of the unencumbered money available in the account at the end of the preceding state fiscal year.

(c) Annually, the commission shall allocate the grant money to municipal solid waste geographic planning regions for use by local governments and regional planning commissions according to a formula established by the Texas Commission on Environmental Quality that takes into account population, area, solid waste fee generation, and public health needs.

(d) At the end of each state fiscal biennium:

(1) a municipal solid waste geographic planning region that receives grant money under Subsection (c) shall issue a report to the legislature detailing how the grant money is used; and

(2) any unencumbered grant money must be returned to the Texas container recycling initiative account.

(e) The commission shall establish and implement any additional controls necessary to ensure that the grant money allocated under this section is used for the state purpose for which the money was intended.

(f) A project funded under this section must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

(g) This section expires when the state recycling rate reaches 65 percent, as determined by the commission.

Sec. 376.004. CRIMINAL PENALTIES. A person commits an offense if the person knowingly violates Section 376.051, 376.101, 376.102, or 376.201. An offense under this section is a Class C misdemeanor.

Sec. 376.005. REPORT TO LEGISLATURE. Not later than November 1 of each year, the commission shall submit a report to the governor, lieutenant governor, speaker of the house of representatives, and committee in each house of the legislature that has primary jurisdiction over environmental matters about the progress and success of the Texas container recycling initiative established under this chapter.

[Sections 376.006-376.050 reserved for expansion]

SUBCHAPTER B. REFUND VALUE AND LABELING OF BEVERAGE CONTAINERS

Sec. 376.051. REFUND VALUE AND LABEL REQUIRED. (a) Except as provided by Subsection (b), a person may not sell or offer for sale in this state a beverage container unless the container:

(1) has:

(A) a fluid capacity of less than 24 ounces and a refund value of 5 cents; or

(B) a fluid capacity of at least 24 ounces and a refund value of 10 cents; and

(2) is labeled as required by Section 376.052.

(b) A person may sell or offer for sale a beverage container that does not have a refund value if:

(1) the container has a fluid capacity of more than one gallon; or

(2) the container contains:

(A) a beverage that consists of milk or of 100 percent fruit or vegetable juice; or

(B) medical food or infant formula.

Sec. 376.052. LABELING. (a) A beverage container required to have a refund value under Section 376.051 that is offered for sale in this state must have legibly stamped, labeled, or embossed on the container:

(1) the refund value of the container;

(2) the name "Texas" or the abbreviation "TX"; and

(3) other language as required by the commission.

(b) Any beverage container intended for sale in this state must be printed, embossed, stamped, labeled, or otherwise marked with a universal product code or similar machine-readable indicia.

[Sections 376.053-376.100 reserved for expansion]

SUBCHAPTER C. COLLECTION OF DEPOSIT

Sec. 376.101. COLLECTION OF DEPOSIT BY DISTRIBUTOR AND RETAIL DEALER. (a) A distributor shall collect a deposit of 5 or 10 cents, as established by Section 376.051, from a retail dealer for each beverage container that the distributor sells to the retail dealer.

(b) A retail dealer shall collect a deposit of 5 or 10 cents, as established by Section 376.051, from a consumer for each beverage container that the retail dealer sells to the consumer.

(c) The invoice for a beverage container sold by a retail dealer to a consumer must list the beverage container deposit as a separate line item. The deposit may not be included in the sales tax calculation.

Sec. 376.102. REMITTANCE OF DEPOSITS BY DISTRIBUTOR. Not later than the fifth day of each month, a distributor shall remit to the commission the deposits collected by the distributor under Section 376.101 during the preceding month.

Sec. 376.103. MONTHLY REPORT. (a) Not later than the fifth day of each month, a distributor who collects a deposit under Section 376.101 shall report to the commission, on a form approved by the commission:

(1) the total amount of deposits collected during the preceding month; and

(2) the number of beverage containers sold during the preceding month separated by deposit amount and material of container.

(b) The commission may require a distributor to include in the report required by Subsection (a) other information the commission considers necessary.

(c) The information contained in the report required by this section is confidential and may not be disclosed by the commission or an officer or employee of the commission.

Sec. 376.104. TEXAS CONTAINER RECYCLING INITIATIVE ACCOUNT. (a) Deposits collected under this chapter shall be deposited to the credit of the Texas container recycling initiative account in the general revenue fund. Money in the account may be appropriated only for:

- (1) reimbursements and handling fees paid to redemption centers or curbside recycling programs, as applicable;
- (2) administration of this chapter;
- (3) providing information and educating consumers about the Texas container recycling initiative; and
- (4) the purposes authorized under Section 376.003.

(b) At the end of each state fiscal biennium, any money in the account that is unencumbered must be distributed as follows:

- (1) 15 percent must be retained in the account for unforeseen costs associated with a higher than expected recycling rate; and
- (2) 85 percent must be transferred to the undedicated portion of the general revenue fund.

Sec. 376.105. FINANCING START-UP COSTS. (a) The commission may apply for, accept, receive, and administer gifts, grants, loans, and other funds available from any source to cover the start-up costs of the Texas container recycling initiative.

(b) The commission shall deposit revenue collected under this section to the credit of the Texas container recycling initiative account in the general revenue fund.

[Sections 376.106-376.150 reserved for expansion]

SUBCHAPTER D. REDEMPTION CENTERS AND REDEMPTION ZONES

Sec. 376.151. REDEMPTION ZONES. (a) A retail dealer may not sell a beverage in a beverage container eligible for redemption under this chapter to a consumer if there is not a redemption center within the retail dealer's redemption zone unless the retail dealer is located in a county with a population of less than 3,000.

(b) On petition by a retail dealer, the commission may exempt the dealer from the requirements of this section if the commission determines that extenuating circumstances support the exemption.

(c) A redemption center within a redemption zone may be owned and operated by a retail dealer, local government, or independent entity.

(d) A retail dealer who owns and operates a redemption center shall register with the commission in the manner described by Section 376.152.

Sec. 376.152. REDEMPTION CENTERS. (a) To facilitate the return of empty beverage containers, a retail dealer, local government, or independent entity may establish a redemption center at which empty containers may be returned for their refund value.

(b) The retail dealer, local government, or independent entity must file an application for approval of a redemption center with the commission. The application must state:

(1) the name, mailing address, telephone number, e-mail address, and title of the person responsible for the establishment and operation of the redemption center;

(2) the physical address of the redemption center;

(3) the name and address of each retail dealer in whose redemption zone the redemption center is located;

(4) the applicant's federal tax identification number, if applicable; and

(5) any additional information the commission by rule requires as necessary or convenient for the implementation of this section.

(c) The commission by order shall approve a redemption center if it finds the redemption center will provide a convenient service to persons for the return of empty beverage containers. The commission may include in the order other provisions that the commission determines are necessary to ensure that the redemption center will provide a convenient service to the public.

(d) The commission at any time may review its approval of a redemption center. After written notice to the person responsible for the establishment and operation of the redemption center and to each retail dealer in whose redemption zone the redemption center is located, the commission may, after a hearing, withdraw approval of a redemption center if the commission finds the redemption center has violated the order approving the redemption center.

(e) The commission by rule shall establish the required hours of operation for a redemption center.

(f) The commission may not limit the number of redemption centers within a redemption zone.

(g) Only a redemption center in a redemption zone that has been registered with the commission for the longest period may receive handling fees for returned used beverage containers.

[Sections 376.153-376.200 reserved for expansion]

SUBCHAPTER E. BEVERAGE CONTAINER REDEMPTION

Sec. 376.201. USED BEVERAGE CONTAINER REDEMPTION. Except as provided by Sections 376.202 and 376.203, a redemption center shall accept a used beverage container that has a refund value as established by Section 376.051 and shall pay the refund value of the container in cash to the person presenting the container if the container is stamped, labeled, or embossed with the refund value and the name "Texas" or the abbreviation "TX."

Sec. 376.202. REFUSAL PERMITTED. A redemption center may refuse to accept for refund:

(1) a glass bottle that is broken to the extent that it would present a safety hazard when handled; or

(2) a used beverage container that contains part of its original contents or other foreign matter to the extent that it could present health or sanitation problems.

Sec. 376.203. REDEMPTION BY WEIGHT. (a) The commission by rule shall establish:

(1) a procedure for providing a reimbursement based on the weight of the beverage containers presented to be used in circumstances in which the number of containers is so large that counting the containers individually would be burdensome on a redemption center or curbside recycling program;

(2) a per pound redemption value for containers composed of each material covered by this chapter that are redeemed in the manner described by Subdivision (1);

(3) a per pound redemption value for unsorted containers composed of any material covered by this chapter that are collected as part of a single-stream recycling program and redeemed in the manner described by Subdivision (1);

(4) a per pound handling fee to be paid to redemption centers and curbside recycling programs for containers redeemed in the manner described by Subdivision (1); and

(5) procedures for regulating the accuracy of scales used to weigh containers under this section.

(b) Not more than every six months the commission by rule may adjust the per pound rates described by Subsection (a).

Sec. 376.204. DISPOSAL OF BEVERAGE CONTAINERS BY REDEMPTION CENTER AND CURBSIDE RECYCLING PROGRAM. A redemption center or curbside recycling program shall dispose of the returned used beverage containers by:

(1) selling the material generated by the crushed or shredded used beverage containers to a processor or other end user; or

(2) recycling the material in another manner prescribed by the commission.

Sec. 376.205. REIMBURSEMENT OF REDEMPTION CENTERS BY COMMISSION; HANDLING FEE. (a) On submission of a completed invoice of refunds paid by a redemption center on a form adopted by the commission, the commission shall pay to the redemption center an amount equal to the redemption value established by Section 376.051 or 376.203, as applicable, plus, for a redemption center eligible under Section 376.152(g), a handling fee of:

(1) one and one-half cents for each beverage container redeemed by the redemption center under Section 376.201; or

(2) the per pound amount determined under Section 376.203 for beverage containers redeemed in the manner described by that section.

(b) The commission shall reimburse a redemption center under Subsection (a) not later than the fifth working day after the date the commission receives the invoice submitted by the redemption center.

(c) The commission by rule may adjust a handling fee to account for changes in market conditions. The commission may periodically conduct research to determine if an adjustment is necessary.

Sec. 376.206. REIMBURSEMENT OF CURBSIDE RECYCLING PROGRAM BY COMMISSION. (a) On submission of a completed report, on a form adopted by the commission, indicating the number or weight, as applicable, of beverage containers collected by a curbside recycling program that are covered

under this chapter, the commission shall pay to the curbside recycling program an amount equal to the redemption value established by Section 376.051 or 376.203, as applicable, plus a handling fee of:

(1) one-half of one cent for each beverage container collected by the curbside recycling program; or

(2) the per pound amount determined under Section 376.203 for beverage containers redeemed in the manner described by that section.

(b) The commission shall reimburse a curbside recycling program under Subsection (a) not later than the fifth working day after the date the commission receives the invoice submitted by the curbside recycling program.

(c) The commission by rule may adjust a handling fee to account for changes in market conditions. The commission may periodically conduct research to determine if an adjustment is necessary.

Sec. 376.207. REPORTING REQUIREMENTS. Each redemption center and curbside recycling program shall submit a report with the submission of the completed invoice required under Sections 376.205 and 376.206, respectively, to the commission, on a form approved by the commission, that provides:

(1) the redemption value of beverage containers collected by the redemption center or curbside recycling program;

(2) the number or weight of beverage containers collected by the center or curbside recycling program; and

(3) an invoice or other documentation that provides proof that the collected recycled material was recycled in a manner described under Section 376.204.

SECTION _____. Section 151.007(c), Tax Code, is amended to read as follows:

(c) "Sales price" or "receipts" does not include any of the following if separately identified to the customer by such means as an invoice, billing, sales slip or ticket, or contract:

(1) a cash discount allowed on the sale;

(2) the amount charged for tangible personal property returned by a customer if the total amount charged is refunded by cash or credit;

(3) a refund of the charges for the performance of a taxable service;

(4) finance, carrying and service charges, or interest from credit extended on sales of taxable items under a conditional sales contract or other contract providing for the deferred payment of the purchase price;

(5) the value of tangible personal property that:

(A) is taken by a seller in trade as all or part of the consideration for a sale of a taxable item; and

(B) is of a type of property sold by the seller in the regular course of business;

(6) the face value of United States coin or currency in a sale of that coin or currency in which the total consideration given by the purchaser exceeds the face value of the coin or currency; [☞]

(7) a voluntary gratuity or a reasonable mandatory charge for the service of a meal or food products, including soft drinks and candy, for immediate human consumption when the service charge is separated from the sales price of the meal or food product and identified as a gratuity or tip and when the total amount of the service charge is disbursed by the employer to employees who customarily and regularly provide the service; or

(8) a beverage container redemption fee under Chapter 376, Health and Safety Code.

SECTION _____. (a) Not later than September 1, 2012, the commission shall adopt the rules necessary to implement Chapter 376, Health and Safety Code, as added by this Act.

(b) The requirements of and penalties imposed by Chapter 376, Health and Safety Code, as added by this Act, do not apply to any person before January 1, 2013.

Amendment No. 6 failed of adoption by (Record 1392): 40 Yeas, 101 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Johnson; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Naishtat; Oliveira; Reynolds; Rodriguez; Schwertner; Sheets; Thompson; Turner; Veasey; Vo; Walle.

Nays — Aliseda; Alvarado; 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; Guillen; Hamilton; Hancock; 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; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Scott; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Harless; Peña.

Absent — Hardcastle; Menendez; Quintanilla; Strama; Villarreal.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1392. I intended to vote yes.

Alvarado

I was shown voting no on Record No. 1392. I intended to vote yes.

D. Howard

I was shown voting yes on Record No. 1392. I intended to vote no.

Schwertner

I was shown voting yes on Record No. 1392. I intended to vote no.

Sheets

Amendment No. 7

Representative Cook offered the following amendment to **CSSB 635**:

Amend **CSSB 635** (house committee report) as follows:

(1) Redesignate SECTIONS 1-11 of the bill as ARTICLE 1, name the ARTICLE "GENERAL AUTHORITY OF TEXAS COMMISSION ON ENVIRONMENTAL QUALITY," and renumber all SECTIONS appropriately.

(2) Strike SECTION 1 of the bill, amending Section 13.043(h), Water Code (page 1, line 7 through page 1, line 11), and substitute the following:

SECTION 1. Section 13.043(h), Water Code, is amended to read as follows:

(h) The utility commission or the executive director of the utility commission may ~~[, on a motion by the executive director or by the appellant under Subsection (a), (b), or (f) of this section,]~~ establish interim rates to be in effect until a final decision is made in an appeal filed under Subsection (a), (b), or (f).

(3) In SECTION 2 of the bill, in amended Section 13.187(b), Water Code (page 1, line 16), strike "executive director" and substitute "executive director of the utility commission".

(4) In SECTION 2 of the bill, in amended Section 13.187(l), Water Code (page 1, line 20), strike "commission, the executive director", and substitute "utility commission, the executive director of the utility commission".

(5) Strike SECTION 3 of the bill, amending Section 13.242(c), Water Code (page 1, line 22 through page 2, line 7) and substitute the following:

SECTION 2. Section 13.242(c), Water Code is amended to read as follows:

(c) The utility commission may by rule allow a municipality or utility or water supply corporation to render retail water or sewer service without a certificate of public convenience and necessity if the municipality has given notice under Section 13.255 ~~[of this code]~~ that it intends to provide retail water or sewer service to an area or if the utility or water supply corporation has less than 15 potential connections and is not within the certificated area of another retail public utility.

(6) Strike SECTION 4 of the bill (page 2, lines 8-16).

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

SECTION _____. Section 13.084, Water Code, is amended to read as follows:

Sec. 13.084. AUTHORITY OF GOVERNING BODY; COST REIMBURSEMENT. The governing body of any municipality, ~~[or]~~ the commissioners court of an affected county, or the commissioners court of a county with a population of more than four million shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers, or any combination of these experts to conduct investigations, present evidence, advise and represent the governing body, and assist with litigation on water and sewer utility ratemaking proceedings. The water and sewer utility engaged in those proceedings shall be required to reimburse the governing body or the commissioners court for the reasonable costs of those services and shall be allowed to recover those expenses through its rates with interest during the period of recovery.

(8) Add the following ARTICLES to the bill:

ARTICLE 2. WATER AND SEWER UTILITIES

SECTION 2.01. Section 13.002, Water Code, is amended by amending Subdivisions (2) and (18) and adding Subdivision (22-a) to read as follows:

(2) "Affiliated interest" or "affiliate" means:

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

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

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

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

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

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

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

(18) "Regulatory authority" means, in accordance with the context in which it is found, either the commission, the utility commission, or the governing body of a municipality.

(22-a) "Utility commission" means the Public Utility Commission of Texas.

SECTION 2.02. Section 13.004, Water Code, is amended to read as follows:

Sec. 13.004. JURISDICTION OF UTILITY COMMISSION OVER CERTAIN WATER SUPPLY OR SEWER SERVICE CORPORATIONS.

(a) Notwithstanding any other law, the utility commission has the same jurisdiction over a water supply or sewer service corporation that the utility commission has under this chapter over a water and sewer utility if the utility commission finds that the water supply or sewer service corporation:

(1) is failing to conduct annual or special meetings in compliance with Section 67.007; or

(2) is operating in a manner that does not comply with the requirements for classifications as a nonprofit water supply or sewer service corporation prescribed by Sections 13.002(11) and (24).

(b) If the water supply or sewer service corporation voluntarily converts to a special utility district operating under Chapter 65, the utility commission's jurisdiction provided by this section ends.

SECTION 2.03. Section 13.011, Water Code, is amended to read as follows:

Sec. 13.011. EMPLOYEES. (a) The executive director of the utility commission and the executive director of the commission, subject to approval, as applicable, by the utility commission or the commission, shall employ any engineering, accounting, and administrative personnel necessary to carry out each agency's powers and duties under this chapter.

(b) The executive director and the commission's staff are responsible for the gathering of information relating to all matters within the jurisdiction of the commission under this subchapter. The executive director of the utility commission and the utility commission's staff are responsible for the gathering of information relating to all matters within the jurisdiction of the utility commission under this subchapter. The duties of the respective executive directors and staffs [director and the staff] include:

(1) accumulation of evidence and other information from water and sewer utilities, ~~[and]~~ from the agency and governing body, ~~[commission and the board]~~ and from other sources for the purposes specified by this chapter;

(2) preparation and presentation of evidence before the agency ~~[commission]~~ or its appointed examiner in proceedings;

(3) conducting investigations of water and sewer utilities under the jurisdiction of the agency ~~[commission]~~;

(4) preparation of recommendations that the agency ~~[commission]~~ undertake an investigation of any matter within its jurisdiction;

(5) preparation of recommendations and a report for inclusion in the annual report of the agency ~~[commission]~~;

(6) protection and representation of the public interest [~~together with the public interest advocate,~~] before the agency [~~commission~~]; and

(7) other activities that are reasonably necessary to enable the executive director and the staff to perform their duties.

SECTION 2.04. Section 13.014, Water Code, is amended to read as follows:

Sec. 13.014. ATTORNEY GENERAL TO REPRESENT COMMISSION OR UTILITY COMMISSION. The attorney general shall represent the commission or the utility commission under this chapter in all matters before the state courts and any court of the United States.

SECTION 2.05. Subchapter B, Chapter 13, Water Code, is amended by adding Section 13.017 to read as follows:

Sec. 13.017. OFFICE OF PUBLIC UTILITY COUNSEL; POWERS AND DUTIES. (a) In this section, "counsellor" and "office" have the meanings assigned by Section 11.003, Utilities Code.

(b) The office represents the interests of residential and small commercial consumers under this chapter. The office:

(1) shall assess the effect of utility rate changes and other regulatory actions on residential consumers in this state;

(2) shall advocate in the office's own name a position determined by the counsellor to be most advantageous to a substantial number of residential consumers;

(3) may appear or intervene, as a party or otherwise, as a matter of right on behalf of:

(A) residential consumers, as a class, in any proceeding before the utility commission, including an alternative dispute resolution proceeding; and

(B) small commercial consumers, as a class, in any proceeding in which the counsellor determines that small commercial consumers are in need of representation, including an alternative dispute resolution proceeding;

(4) may initiate or intervene as a matter of right or otherwise appear in a judicial proceeding:

(A) that involves an action taken by an administrative agency in a proceeding, including an alternative dispute resolution proceeding, in which the counsellor is authorized to appear; or

(B) in which the counsellor determines that residential consumers or small commercial consumers are in need of representation;

(5) is entitled to the same access as a party, other than utility commission staff, to records gathered by the utility commission under Section 13.133;

(6) is entitled to discovery of any nonprivileged matter that is relevant to the subject matter of a proceeding or petition before the utility commission;

(7) may represent an individual residential or small commercial consumer with respect to the consumer's disputed complaint concerning retail utility services that is unresolved before the utility commission; and

(8) may recommend legislation to the legislature that the office determines would positively affect the interests of residential and small commercial consumers.

(c) This section does not limit the authority of the utility commission to represent residential or small commercial consumers.

(d) The appearance of the counsellor in a proceeding does not preclude the appearance of other parties on behalf of residential or small commercial consumers. The counsellor may not be grouped with any other party.

SECTION 2.06. Section 13.041, Water Code, is amended to read as follows:

Sec. 13.041. GENERAL POWERS OF UTILITY COMMISSION AND COMMISSION ~~[POWER]~~; RULES; HEARINGS. (a) The utility commission may regulate and supervise the business of each [every] water and sewer utility within its jurisdiction, including ratemaking and other economic regulation. The commission shall regulate water and sewer utilities within its jurisdiction to ensure safe drinking water and environmental protection. The utility commission and the commission [and] may do all things, whether specifically designated in this chapter or implied in this chapter, necessary and convenient to the exercise of these powers [this power] and jurisdiction. The utility commission may consult with the commission as necessary in carrying out its duties related to the regulation of water and sewer utilities.

(b) The commission and the utility commission shall adopt and enforce rules reasonably required in the exercise of [its] powers and jurisdiction of each agency, including rules governing practice and procedure before the commission and the utility commission.

(c) The commission and the utility commission may call and hold hearings, administer oaths, receive evidence at hearings, issue subpoenas to compel the attendance of witnesses and the production of papers and documents, and make findings of fact and decisions with respect to administering this chapter or the rules, orders, or other actions of the commission or the utility commission.

(d) The utility commission may issue emergency orders, with or without a hearing:

(1) to compel a water or sewer service provider that has obtained or is required to obtain a certificate of public convenience and necessity to provide continuous and adequate water service, sewer service, or both, if the discontinuance of the service is imminent or has occurred because of the service provider's actions or failure to act; and

(2) to compel a retail public utility to provide an emergency interconnection with a neighboring retail public utility for the provision of temporary water or sewer service, or both, for not more than 90 days if service discontinuance or serious impairment in service is imminent or has occurred.

(e) The utility commission may establish reasonable compensation for the temporary service required under Subsection (d)(2) [of this section] and may allow the retail public utility receiving the service to make a temporary adjustment to its rate structure to ensure proper payment.

(f) If an order is issued under Subsection (d) without a hearing, the order shall fix a time, as soon after the emergency order is issued as is practicable, and place for a hearing to be held before the utility commission.

(g) The regulatory assessment required by Section 5.701(n) [~~5.235(n) of this code~~] is not a rate and is not reviewable by the utility commission under Section 13.043 [~~of this code~~]. The commission has the authority to enforce payment and collection of the regulatory assessment.

SECTION 2.07. Section 13.042, Water Code, is amended to read as follows:

Sec. 13.042. JURISDICTION OF MUNICIPALITY; ORIGINAL AND APPELLATE JURISDICTION OF UTILITY COMMISSION. (a) Subject to the limitations imposed in this chapter and for the purpose of regulating rates and services so that those rates may be fair, just, and reasonable and the services adequate and efficient, the governing body of each municipality has exclusive original jurisdiction over all water and sewer utility rates, operations, and services provided by a water and sewer utility within its corporate limits.

(b) The governing body of a municipality by ordinance may elect to have the utility commission exercise exclusive original jurisdiction over the utility rates, operation, and services of utilities, within the incorporated limits of the municipality.

(c) The governing body of a municipality that surrenders its jurisdiction to the utility commission may reinstate its jurisdiction by ordinance at any time after the second anniversary of the date on which the municipality surrendered its jurisdiction to the utility commission, except that the municipality may not reinstate its jurisdiction during the pendency of a rate proceeding before the utility commission. The municipality may not surrender its jurisdiction again until the second anniversary of the date on which the municipality reinstates jurisdiction.

(d) The utility commission shall have exclusive appellate jurisdiction to review orders or ordinances of those municipalities as provided in this chapter.

(e) The utility commission shall have exclusive original jurisdiction over water and sewer utility rates, operations, and services not within the incorporated limits of a municipality exercising exclusive original jurisdiction over those rates, operations, and services as provided in this chapter.

(f) This subchapter does not give the utility commission power or jurisdiction to regulate or supervise the rates or service of a utility owned and operated by a municipality, directly or through a municipally owned corporation, within its corporate limits or to affect or limit the power, jurisdiction, or duties of a municipality that regulates land and supervises water and sewer utilities within its corporate limits, except as provided by this code.

SECTION 2.08. Subsections (a), (b), (c), (e), (f), (g), and (j), Section 13.043, Water Code, are amended to read as follows:

(a) Any party to a rate proceeding before the governing body of a municipality may appeal the decision of the governing body to the utility commission. This subsection does not apply to a municipally owned utility. An appeal under this subsection must be initiated within 90 days after the date of

notice of the final decision by the governing body by filing a petition for review with the utility commission and by serving copies on all parties to the original rate proceeding. The utility commission shall hear the appeal de novo and shall fix in its final order the rates the governing body should have fixed in the action from which the appeal was taken and may include reasonable expenses incurred in the appeal proceedings. The utility commission may establish the effective date for the utility commission's rates at the original effective date as proposed by the utility provider and may order refunds or allow a surcharge to recover lost revenues. The utility commission may consider only the information that was available to the governing body at the time the governing body made its decision and evidence of reasonable expenses incurred in the appeal proceedings.

(b) Ratepayers of the following entities may appeal the decision of the governing body of the entity affecting their water, drainage, or sewer rates to the utility commission:

(1) a nonprofit water supply or sewer service corporation created and operating under Chapter 67;

(2) a utility under the jurisdiction of a municipality inside the corporate limits of the municipality;

(3) a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality;

(4) a district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution that provides water or sewer service to household users; and

(5) a utility owned by an affected county, if the ratepayer's rates are actually or may be adversely affected. For the purposes of this section ratepayers who reside outside the boundaries of the district or authority shall be considered a separate class from ratepayers who reside inside those boundaries.

(c) An appeal under Subsection (b) [~~of this section~~] must be initiated by filing a petition for review with the utility commission and the entity providing service within 90 days after the effective day of the rate change or, if appealing under Subdivision (b)(2) or (5) [~~of this section~~], within 90 days after the date on which the governing body of the municipality or affected county makes a final decision. The petition must be signed by the lesser of 10,000 or 10 percent of those ratepayers whose rates have been changed and who are eligible to appeal under Subsection (b) [~~of this section~~].

(e) In an appeal under Subsection (b) [~~of this section~~], the utility commission shall hear the appeal de novo and shall fix in its final order the rates the governing body should have fixed in the action from which the appeal was taken. The utility commission may establish the effective date for the utility commission's rates at the original effective date as proposed by the service provider, may order refunds or allow a surcharge to recover lost revenues, and may allow recovery of reasonable expenses incurred by the retail public utility in the appeal proceedings. The utility commission may consider only the information that was available to the governing body at the time the governing body made its decision and evidence of reasonable expenses incurred by the retail public utility in the appeal proceedings. The rates established by the utility

commission in an appeal under Subsection (b) [~~of this section~~] remain in effect until the first anniversary of the effective date proposed by the retail public utility for the rates being appealed or until changed by the service provider, whichever date is later, unless the utility commission determines that a financial hardship exists.

(f) A retail public utility that receives water or sewer service from another retail public utility or political subdivision of the state, including an affected county, may appeal to the utility commission a decision of the provider of water or sewer service affecting the amount paid for water or sewer service. An appeal under this subsection must be initiated within 90 days after the date of notice of the decision is received from the provider of water or sewer service by the filing of a petition by the retail public utility.

(g) An applicant for service from an affected county or a water supply or sewer service corporation may appeal to the utility commission a decision of the county or water supply or sewer service corporation affecting the amount to be paid to obtain service other than the regular membership or tap fees. In addition to the factors specified under Subsection (j), in an appeal brought under this subsection the utility commission shall determine whether the amount paid by the applicant is consistent with the tariff of the water supply or sewer service corporation and is reasonably related to the cost of installing on-site and off-site facilities to provide service to that applicant. If the utility commission finds the amount charged to be clearly unreasonable, it shall establish the fee to be paid for that applicant. An appeal under this subsection must be initiated within 90 days after the date written notice is provided to the applicant or member of the decision of an affected county or water supply or sewer service corporation relating to the applicant's initial request for that service. A determination made by the utility commission on an appeal under this subsection is binding on all similarly situated applicants for service, and the utility commission may not consider other appeals on the same issue until the applicable provisions of the tariff of the water supply or sewer service corporation are amended.

(j) In an appeal under this section, the utility commission shall ensure that every rate made, demanded, or received by any retail public utility or by any two or more retail public utilities jointly shall be just and reasonable. Rates shall not be unreasonably preferential, prejudicial, or discriminatory but shall be sufficient, equitable, and consistent in application to each class of customers. The utility commission shall use a methodology that preserves the financial integrity of the retail public utility. For agreements between municipalities the utility commission shall consider the terms of any wholesale water or sewer service agreement in an appellate rate proceeding.

SECTION 2.09. Subsection (b), Section 13.044, Water Code, is amended to read as follows:

(b) Notwithstanding the provisions of any resolution, ordinance, or agreement, a district may appeal the rates imposed by the municipality by filing a petition with the utility commission. The utility commission shall hear the appeal de novo and the municipality shall have the burden of proof to establish that the

rates are just and reasonable. The utility commission shall fix the rates to be charged by the municipality and the municipality may not increase such rates without the approval of the utility commission.

SECTION 2.10. Section 13.046, Water Code, is amended to read as follows:

Sec. 13.046. TEMPORARY RATES FOR SERVICES PROVIDED FOR NONFUNCTIONING SYSTEM; SANCTIONS FOR NONCOMPLIANCE.

(a) The utility commission by rule shall establish a procedure that allows a retail public utility that takes over the provision of services for a nonfunctioning retail water or sewer utility service provider to charge a reasonable rate for the services provided to the customers of the nonfunctioning system and to bill the customers for the services at that rate immediately to recover service costs.

(b) The rules must provide a streamlined process that the retail public utility that takes over the nonfunctioning system may use to apply to the utility commission for a ruling on the reasonableness of the rates the utility is charging under Subsection (a). The process must allow for adequate consideration of costs for interconnection or other costs incurred in making services available and of the costs that may necessarily be incurred to bring the nonfunctioning system into compliance with utility commission and commission rules.

(c) The utility commission shall provide a reasonable period for the retail public utility that takes over the nonfunctioning system to bring the nonfunctioning system into compliance with utility commission and commission rules during which the utility commission or the commission may not impose a penalty for any deficiency in the system that is present at the time the utility takes over the nonfunctioning system. The utility commission must consult with the utility before determining the period and may grant an extension of the period for good cause.

SECTION 2.11. Subchapter C, Chapter 13, Water Code, is amended by adding Section 13.047 to read as follows:

Sec. 13.047. REVIEW AND ORDER FOR CERTAIN WHOLESAL WATER RATES. (a) A conservation and reclamation district that provides potable water service to district customers may file an application with the utility commission requesting a review of the rate a supplier of raw or treated surface water or groundwater charges the district to determine whether the rate adversely affects the public interest.

(b) The utility commission shall presume that the rate adversely affects the public interest if it is shown on hearing that the rate the supplier charges the district at the time the application is made is at least 50 percent higher than the rate charged at any time during the 36-month period before the date of the application. The utility commission shall determine the rate the supplier charges the district adversely affects the public interest if the utility commission determines:

(1) the protested rate impairs the district's ability to continue to provide service to its retail customers, based on the district's financial integrity and operational capability;

(2) the rate evidences the supplier's abuse of monopoly power in the supplier's provision of water to the district after weighing all relevant factors, including:

(A) the disparate bargaining power of the parties, including the district's alternative means, alternative costs, environmental impact, regulatory issues, and problems of obtaining alternative supplies of water;

(B) whether the supplier failed to reasonably demonstrate the changed conditions that are the basis for a change in rates;

(C) whether the supplier changed the computation of the revenue requirement or rate from one methodology to another;

(D) where the supplier demands the rate in accordance with a contract, whether other valuable consideration was paid or received by a party incident to that contract;

(E) incentives necessary to encourage regional projects or water conservation measures;

(F) the supplier's obligation to meet federal and state wastewater discharge and drinking water standards;

(G) the rates charged in this state by other similarly situated suppliers of water for resale; and

(H) the supplier's rates for water charged to the supplier's retail customers, if any, compared to the retail rates the district charges the district's retail customers as a result of the wholesale rate the supplier demands from the district; or

(3) the rate is unreasonably preferential, prejudicial, or discriminatory, compared to the wholesale rates the supplier charges other wholesale customers.

(c) If the utility commission finds on hearing the application that the rate adversely affects the public interest or if the rate is presumed to adversely affect the public interest as provided by Subsection (b), the utility commission by order shall fix a just and reasonable rate at which the supplier may charge the district. In fixing the rate, the utility commission shall use a methodology that preserves the financial integrity of the supplier.

SECTION 2.12. Section 13.081, Water Code, is amended to read as follows:

Sec. 13.081. FRANCHISES. This chapter may not be construed as in any way limiting the rights and powers of a municipality to grant or refuse franchises to use the streets and alleys within its limits and to make the statutory charges for their use, but no provision of any franchise agreement may limit or interfere with any power conferred on the utility commission by this chapter. If a municipality performs regulatory functions under this chapter, it may make such other charges as may be provided in the applicable franchise agreement, together with any other charges permitted by this chapter.

SECTION 2.13. Section 13.082, Water Code, is amended to read as follows:

Sec. 13.082. LOCAL UTILITY SERVICE; EXEMPT AND NONEXEMPT AREAS. (a) Notwithstanding any other provision of this section, municipalities shall continue to regulate each kind of local utility service inside their boundaries until the utility commission has assumed jurisdiction over the respective utility pursuant to this chapter.

(b) If a municipality does not surrender its jurisdiction, local utility service within the boundaries of the municipality shall be exempt from regulation by the utility commission under this chapter to the extent that this chapter applies to local service, and the municipality shall have, regarding service within its boundaries, the right to exercise the same regulatory powers under the same standards and rules as the utility commission or other standards and rules not inconsistent with them. The utility commission's rules relating to service and response to requests for service for utilities operating within a municipality's corporate limits apply unless the municipality adopts its own rules.

(c) Notwithstanding any election, the utility commission may consider water and sewer utilities' revenues and return on investment in exempt areas in fixing rates and charges in nonexempt areas and may also exercise the powers conferred necessary to give effect to orders under this chapter for the benefit of nonexempt areas. Likewise, in fixing rates and charges in the exempt area, the governing body may consider water and sewer utilities' revenues and return on investment in nonexempt areas.

(d) Utilities serving exempt areas are subject to the reporting requirements of this chapter. Those reports and tariffs shall be filed with the governing body of the municipality as well as with the utility commission.

(e) This section does not limit the duty and power of the utility commission to regulate service and rates of municipally regulated water and sewer utilities for service provided to other areas in Texas.

SECTION 2.14. Section 13.085, Water Code, is amended to read as follows:

Sec. 13.085. ASSISTANCE BY UTILITY COMMISSION. On request, the utility commission may advise and assist a municipality, an affected county, and a county with a population of more than four million [~~municipalities and affected counties~~] in connection with questions and proceedings arising under this chapter. This assistance may include aid [~~to municipalities or an affected county~~] in connection with matters pending before the utility commission, the courts, the governing body of any municipality, [~~or~~] the commissioners court of an affected county, or the commissioners court of a county with a population of more than four million, including making members of the staff available to them as witnesses and otherwise providing evidence.

SECTION 2.15. Subsection (c), Section 13.087, Water Code, is amended to read as follows:

(c) Notwithstanding any other provision of this chapter, the utility commission has jurisdiction to enforce this section.

SECTION 2.16. Subsections (a), (b), (c), and (e), Section 13.131, Water Code, are amended to read as follows:

(a) Every water and sewer utility shall keep and render to the regulatory authority in the manner and form prescribed by the utility commission uniform accounts of all business transacted. The utility commission may also prescribe forms of books, accounts, records, and memoranda to be kept by those utilities, including the books, accounts, records, and memoranda of the rendition of and capacity for service as well as the receipts and expenditures of money, and any other forms, records, and memoranda that in the judgment of the utility commission may be necessary to carry out this chapter.

(b) In the case of a utility subject to regulation by a federal regulatory agency, compliance with the system of accounts prescribed for the particular class of utilities by that agency may be considered a sufficient compliance with the system prescribed by the utility commission. However, the utility commission may prescribe forms of books, accounts, records, and memoranda covering information in addition to that required by the federal agency. The system of accounts and the forms of books, accounts, records, and memoranda prescribed by the utility commission for a utility or class of utilities may not conflict or be inconsistent with the systems and forms established by a federal agency for that utility or class of utilities.

(c) The utility commission shall fix proper and adequate rates and methods of depreciation, amortization, or depletion of the several classes of property of each utility and shall require every utility to carry a proper and adequate depreciation account in accordance with those rates and methods and with any other rules the utility commission prescribes. Rules adopted under this subsection must require the book cost less net salvage of depreciable utility plant retired to be charged in its entirety to the accumulated depreciation account in a manner consistent with accounting treatment of regulated electric and gas utilities in this state. Those rates, methods, and accounts shall be utilized uniformly and consistently throughout the rate-setting and appeal proceedings.

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

SECTION 2.17. Section 13.132, Water Code, is amended to read as follows:

Sec. 13.132. POWERS OF UTILITY COMMISSION. (a) The utility commission may:

(1) require that water and sewer utilities report to it any information relating to themselves and affiliated interests both inside and outside this state that it considers useful in the administration of this chapter;

(2) establish forms for all reports;

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

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

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

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

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

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

SECTION 2.18. Subsection (b), Section 13.133, Water Code, is amended to read as follows:

(b) The regulatory authority may require, by order or subpoena served on any utility, the production within this state at the time and place it may designate of any books, accounts, papers, or records kept by that utility outside the state or verified copies of them if the regulatory authority [~~commission~~] so orders. A utility failing or refusing to comply with such an order or subpoena violates this chapter.

SECTION 2.19. Subsections (b) and (c), Section 13.136, Water Code, are amended to read as follows:

(b) Each utility annually shall file a service and financial report in a form and at times specified by utility commission rule.

(c) Every water supply or sewer service corporation shall file with the utility commission tariffs showing all rates that are subject to the appellate jurisdiction of the utility commission and that are in force at the time for any utility service, product, or commodity offered. Every water supply or sewer service corporation shall file with and as a part of those tariffs all rules and regulations relating to or affecting the rates, utility service, product, or commodity furnished. The filing required under this subsection shall be for informational purposes only.

SECTION 2.20. Section 13.137, Water Code, is amended to read as follows:

Sec. 13.137. OFFICE AND OTHER BUSINESS LOCATIONS OF UTILITY; RECORDS; REMOVAL FROM STATE. (a) Every utility shall:

(1) make available and notify its customers of a business location where its customers may make payments to prevent disconnection of or to restore service:

(A) in each county in which the utility provides service; or

(B) not more than 20 miles from the residence of any residential customer if there is no location to receive payments in the county; and

(2) have an office in a county of this state or in the immediate area in which its property or some part of its property is located in which it shall keep all books, accounts, records, and memoranda required by the utility commission to be kept in this state.

(b) The utility commission by rule may provide for waiving the requirements of Subsection (a)(1) for a utility for which meeting those requirements would cause a rate increase or otherwise harm or inconvenience customers. The rules must provide for an additional 14 days to be given for a customer to pay before a utility that is granted a waiver may disconnect service for late payment.

(c) Books, accounts, records, or memoranda required by the regulatory authority to be kept in the state may not be removed from the state, except on conditions prescribed by the utility commission.

SECTION 2.21. Subsection (b), Section 13.139, Water Code, is amended to read as follows:

(b) The governing body of a municipality, as the regulatory authority for public utilities operating within its corporate limits, and the utility commission or the commission as the regulatory authority for public utilities operating outside the corporate limits of any municipality, after reasonable notice and hearing on its own motion, may:

(1) ascertain and fix just and reasonable standards, classifications, regulations, service rules, minimum service standards or practices to be observed and followed with respect to the service to be furnished;

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

(3) prescribe reasonable regulations for the examination and testing of the service and for the measurement of service; and

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

SECTION 2.22. Section 13.1395, Water Code, is amended by adding Subsection (m) to read as follows:

(m) The commission shall coordinate with the utility commission in the administration of this section.

SECTION 2.23. Subsection (b), Section 13.142, Water Code, is amended to read as follows:

(b) The utility commission shall adopt rules concerning payment of utility bills that are consistent with Chapter 2251, Government Code.

SECTION 2.24. Section 13.144, Water Code, is amended to read as follows:

Sec. 13.144. NOTICE OF WHOLESALE WATER SUPPLY CONTRACT. A district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a retail public utility, a wholesale water service, or other person providing a retail public utility with a wholesale water supply shall provide the utility commission and the commission with a certified copy of any

wholesale water supply contract with a retail public utility within 30 days after the date of the execution of the contract. The submission must include the amount of water being supplied, term of the contract, consideration being given for the water, purpose of use, location of use, source of supply, point of delivery, limitations on the reuse of water, a disclosure of any affiliated interest between the parties to the contract, and any other condition or agreement relating to the contract.

SECTION 2.25. Subsection (a), Section 13.147, Water Code, is amended to read as follows:

(a) A retail public utility providing water service may contract with a retail public utility providing sewer service to bill and collect the sewer service provider's fees and payments as part of a consolidated process with the billing and collection of the water service provider's fees and payments. The water service provider may provide that service only for customers who are served by both providers in an area covered by both providers' certificates of public convenience and necessity. If the water service provider refuses to enter into a contract under this section or if the water service provider and sewer service provider cannot agree on the terms of a contract, the sewer service provider may petition the utility commission to issue an order requiring the water service provider to provide that service.

SECTION 2.26. Subsection (b), Section 13.181, Water Code, is amended to read as follows:

(b) Subject to this chapter, the utility commission has all authority and power of the state to ensure compliance with the obligations of utilities under this chapter. For this purpose the regulatory authority may fix and regulate rates of utilities, including rules and regulations for determining the classification of customers and services and for determining the applicability of rates. A rule or order of the regulatory authority may not conflict with the rulings of any federal regulatory body. The utility commission may adopt rules which authorize a utility which is permitted under Section 13.242(c) to provide service without a certificate of public convenience and necessity to request or implement a rate increase and operate according to rules, regulations, and standards of service other than those otherwise required under this chapter provided that rates are just and reasonable for customers and the utility and that service is safe, adequate, efficient, and reasonable.

SECTION 2.27. Subsections (c) and (d), Section 13.182, Water Code, are amended to read as follows:

(c) For ratemaking purposes, the utility commission may treat two or more municipalities served by a utility as a single class wherever the utility commission considers that treatment to be appropriate.

(d) The utility commission by rule shall establish a preference that rates under a consolidated tariff be consolidated by region. The regions under consolidated tariffs must be determined on a case-by-case basis.

SECTION 2.28. Subsection (d), Section 13.183, Water Code, is amended to read as follows:

(d) A regulatory authority other than the utility commission may not approve an acquisition adjustment for a system purchased before the effective date of an ordinance authorizing acquisition adjustments.

SECTION 2.29. Subsection (a), Section 13.184, Water Code, is amended to read as follows:

(a) Unless the utility commission establishes alternate rate methodologies in accordance with Section 13.183(c), the utility commission may not prescribe any rate that will yield more than a fair return on the invested capital used and useful in rendering service to the public. The governing body of a municipality exercising its original jurisdiction over rates and services may use alternate ratemaking methodologies established by ordinance or by utility commission rule in accordance with Section 13.183(c). Unless the municipal regulatory authority uses alternate ratemaking methodologies established by ordinance or by utility commission rule in accordance with Section 13.183(c), it may not prescribe any rate that will yield more than a fair return on the invested capital used and useful in rendering service to the public.

SECTION 2.30. Subsections (d), (k), and (o), Section 13.187, Water Code, are amended to read as follows:

(d) Except as provided by Subsection (d-1), if the application or the statement of intent is not substantially complete or does not comply with the regulatory authority's rules, it may be rejected and the effective date of the rate change may be suspended until a properly completed application is accepted by the regulatory authority and a proper statement of intent is provided. The utility commission may also suspend the effective date of any rate change if the utility does not have a certificate of public convenience and necessity or a completed application for a certificate or to transfer a certificate pending before the utility commission or if the utility is delinquent in paying the assessment and any applicable penalties or interest required by Section 5.701(n) [~~of this code~~].

(k) If the regulatory authority receives at least the number of complaints from ratepayers required for the regulatory authority to set a hearing under Subsection (e), the regulatory authority may, pending the hearing and a decision, suspend the date the rate change would otherwise be effective. Except as provided by Subsection (d-1), the proposed rate may not be suspended for longer than:

- (1) 90 days by a local regulatory authority; or
- (2) 150 days by the utility commission.

(o) If a regulatory authority other than the utility commission establishes interim rates or an escrow account, the regulatory authority must make a final determination on the rates not later than the first anniversary of the effective date of the interim rates or escrowed rates or the rates are automatically approved as requested by the utility.

SECTION 2.31. Subsection (a), Section 13.188, Water Code, is amended to read as follows:

(a) Notwithstanding any other provision in this chapter, the utility commission by rule shall adopt a procedure allowing a utility to file with the utility commission an application to timely adjust the utility's rates to reflect an

increase or decrease in documented energy costs in a pass through clause. The utility commission, by rule, shall require the pass through of documented decreases in energy costs within a reasonable time. The pass through, whether a decrease or increase, shall be implemented on no later than an annual basis, unless the utility commission determines a special circumstance applies.

SECTION 2.32. Subsections (a) and (d), Section 13.241, Water Code, are amended to read as follows:

(a) In determining whether to grant or amend a certificate of public convenience and necessity, the utility commission shall ensure that the applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service.

(d) Before the utility commission grants a new certificate of convenience and necessity for an area which would require construction of a physically separate water or sewer system, the applicant must demonstrate to the utility commission that regionalization or consolidation with another retail public utility is not economically feasible.

SECTION 2.33. Subsection (a), Section 13.242, Water Code, is amended to read as follows:

(a) Unless otherwise specified, a utility, a utility operated by an affected county, or a water supply or sewer service corporation may not in any way render retail water or sewer utility service directly or indirectly to the public without first having obtained from the utility commission a certificate that the present or future public convenience and necessity will require that installation, operation, or extension, and except as otherwise provided by this subchapter, a retail public utility may not furnish, make available, render, or extend retail water or sewer utility service to any area to which retail water or sewer utility service is being lawfully furnished by another retail public utility without first having obtained a certificate of public convenience and necessity that includes the area in which the consuming facility is located.

SECTION 2.34. Section 13.244, Water Code, is amended to read as follows:

Sec. 13.244. APPLICATION; MAPS AND OTHER INFORMATION; EVIDENCE AND CONSENT. (a) To obtain a certificate of public convenience and necessity or an amendment to a certificate, a public utility or water supply or sewer service corporation shall submit to the utility commission an application for a certificate or for an amendment as provided by this section.

(b) Each public utility and water supply or sewer service corporation shall file with the utility commission a map or maps showing all its facilities and illustrating separately facilities for production, transmission, and distribution of its services, and each certificated retail public utility shall file with the utility commission a map or maps showing any facilities, customers, or area currently being served outside its certificated areas.

(c) Each applicant for a certificate or for an amendment shall file with the utility commission evidence required by the commission to show that the applicant has received the required consent, franchise, or permit of the proper municipality or other public authority.

(d) An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain:

(1) a description of the proposed service area by:

(A) a metes and bounds survey certified by a licensed state land surveyor or a registered professional land surveyor;

(B) the Texas State Plane Coordinate System;

(C) verifiable landmarks, including a road, creek, or railroad line;

or

(D) if a recorded plat of the area exists, lot and block number;

(2) a description of any requests for service in the proposed service area;

(3) a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area;

(4) a description of the sources of funding for all facilities;

(5) to the extent known, a description of current and projected land uses, including densities;

(6) a current financial statement of the applicant;

(7) according to the tax roll of the central appraisal district for each county in which the proposed service area is located, a list of the owners of each tract of land that is:

(A) at least 50 acres; and

(B) wholly or partially located within the proposed service area;

and

(8) any other item required by the utility commission.

SECTION 2.35. Subsections (b), (c), and (e), Section 13.245, Water Code, are amended to read as follows:

(b) Except as provided by Subsection (c), the utility commission may not grant to a retail public utility a certificate of public convenience and necessity for a service area within the boundaries or extraterritorial jurisdiction of a municipality without the consent of the municipality. The municipality may not unreasonably withhold the consent. As a condition of the consent, a municipality may require that all water and sewer facilities be designed and constructed in accordance with the municipality's standards for facilities.

(c) If a municipality has not consented under Subsection (b) before the 180th day after the date the municipality receives the retail public utility's application, the utility commission shall grant the certificate of public convenience and necessity without the consent of the municipality if the utility commission finds that the municipality:

(1) does not have the ability to provide service; or

(2) has failed to make a good faith effort to provide service on reasonable terms and conditions.

(e) If the utility commission makes a decision under Subsection (d) regarding the grant of a certificate of public convenience and necessity without the consent of the municipality, the municipality or the retail public utility may

appeal the decision to the appropriate state district court. The court shall hear the petition within 120 days after the date the petition is filed. On final disposition, the court may award reasonable fees to the prevailing party.

SECTION 2.36. Subsection (c), Section 13.2451, Water Code, is amended to read as follows:

(c) The utility commission, after notice to the municipality and an opportunity for a hearing, may decertify an area outside a municipality's extraterritorial jurisdiction if the municipality does not provide service to the area on or before the fifth anniversary of the date the certificate of public convenience and necessity was granted for the area. This subsection does not apply to a certificate of public convenience and necessity for an area:

(1) that was transferred to a municipality on approval of the utility commission; and

(2) in relation to which the municipality has spent public funds.

SECTION 2.37. Subsections (a), (a-1), (b), (c), (d), (f), (h), and (i), Section 13.246, Water Code, are amended to read as follows:

(a) If an application for a certificate of public convenience and necessity or for an amendment to a certificate is filed, the utility commission shall cause notice of the application to be given to affected parties and to each county and groundwater conservation district that is wholly or partly included in the area proposed to be certified. If requested, the utility commission shall fix a time and place for a hearing and give notice of the hearing. Any person affected by the application may intervene at the hearing.

(a-1) Except as otherwise provided by this subsection, in addition to the notice required by Subsection (a), the utility commission shall require notice to be mailed to each owner of a tract of land that is at least 25 acres and is wholly or partially included in the area proposed to be certified. Notice required under this subsection must be mailed by first class mail to the owner of the tract according to the most current tax appraisal rolls of the applicable central appraisal district at the time the utility commission received the application for the certificate or amendment. Good faith efforts to comply with the requirements of this subsection shall be considered adequate notice to landowners. Notice under this subsection is not required for a matter filed with the utility commission or the commission under:

(1) Section 13.248 or 13.255; or

(2) Chapter 65.

(b) The utility commission may grant applications and issue certificates and amendments to certificates only if the utility commission finds that a certificate or amendment is necessary for the service, accommodation, convenience, or safety of the public. The utility commission may issue a certificate or amendment as requested, or refuse to issue it, or issue it for the construction of only a portion of the contemplated system or facility or extension, or for the partial exercise only of the right or privilege and may impose special conditions necessary to ensure that continuous and adequate service is provided.

(c) Certificates of public convenience and necessity and amendments to certificates shall be granted by the utility commission on a nondiscriminatory basis after consideration by the utility commission of:

- (1) the adequacy of service currently provided to the requested area;
- (2) the need for additional service in the requested area, including whether any landowners, prospective landowners, tenants, or residents have requested service;
- (3) the effect of the granting of a certificate or of an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any retail public utility of the same kind already serving the proximate area;
- (4) the ability of the applicant to provide adequate service, including meeting the standards of the commission, taking into consideration the current and projected density and land use of the area;
- (5) the feasibility of obtaining service from an adjacent retail public utility;
- (6) the financial ability of the applicant to pay for the facilities necessary to provide continuous and adequate service and the financial stability of the applicant, including, if applicable, the adequacy of the applicant's debt-equity ratio;
- (7) environmental integrity;
- (8) the probable improvement of service or lowering of cost to consumers in that area resulting from the granting of the certificate or amendment; and
- (9) the effect on the land to be included in the certificated area.

(d) The utility commission may require an applicant for a certificate or for an amendment to provide a bond or other financial assurance in a form and amount specified by the utility commission to ensure that continuous and adequate utility service is provided.

(f) If two or more retail public utilities or water supply or sewer service corporations apply for a certificate of public convenience and necessity to provide water or sewer utility service to an uncertificated area located in an economically distressed area and otherwise meet the requirements for obtaining a new certificate, the utility commission shall grant the certificate to the retail public utility or water supply or sewer service corporation that is more capable financially, managerially, and technically of providing continuous and adequate service.

(h) Except as provided by Subsection (i), a landowner who owns a tract of land that is at least 25 acres and that is wholly or partially located within the proposed service area may elect to exclude some or all of the landowner's property from the proposed service area by providing written notice to the utility commission before the 30th day after the date the landowner receives notice of a new application for a certificate of public convenience and necessity or for an amendment to an existing certificate of public convenience and necessity. The landowner's election is effective without a further hearing or other process by the

utility commission. If a landowner makes an election under this subsection, the application shall be modified so that the electing landowner's property is not included in the proposed service area.

(i) A landowner is not entitled to make an election under Subsection (h) but is entitled to contest the inclusion of the landowner's property in the proposed service area at a hearing held by the utility commission regarding the application if the proposed service area is located within the boundaries or extraterritorial jurisdiction of a municipality with a population of more than 500,000 and the municipality or a utility owned by the municipality is the applicant.

SECTION 2.38. Subsection (a), Section 13.247, Water Code, is amended to read as follows:

(a) If an area is within the boundaries of a municipality, all retail public utilities certified or entitled to certification under this chapter to provide service or operate facilities in that area may continue and extend service in its area of public convenience and necessity within the area pursuant to the rights granted by its certificate and this chapter, unless the municipality exercises its power of eminent domain to acquire the property of the retail public utility under Subsection (d). Except as provided by Section 13.255, a municipally owned or operated utility may not provide retail water and sewer utility service within the area certificated to another retail public utility without first having obtained from the utility commission a certificate of public convenience and necessity that includes the areas to be served.

SECTION 2.39. Section 13.248, Water Code, is amended to read as follows:

Sec. 13.248. CONTRACTS VALID AND ENFORCEABLE. Contracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities, when approved by the utility commission or the executive director of the utility commission after public notice [~~and hearing~~], are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity.

SECTION 2.40. Subsections (b), (c), and (e), Section 13.250, Water Code, are amended to read as follows:

(b) Unless the utility commission issues a certificate that neither the present nor future convenience and necessity will be adversely affected, the holder of a certificate or a person who possesses facilities used to provide utility service shall not discontinue, reduce, or impair service to a certified service area or part of a certified service area except for:

(1) nonpayment of charges for services provided by the certificate holder or a person who possesses facilities used to provide utility service;

(2) nonpayment of charges for sewer service provided by another retail public utility under an agreement between the retail public utility and the certificate holder or a person who possesses facilities used to provide utility service or under a utility commission-ordered arrangement between the two service providers;

(3) nonuse; or

(4) other similar reasons in the usual course of business.

(c) Any discontinuance, reduction, or impairment of service, whether with or without approval of the utility commission, shall be in conformity with and subject to conditions, restrictions, and limitations that the utility commission prescribes.

(e) Not later than the 48th hour after the hour in which a utility files a bankruptcy petition, the utility shall report this fact to the utility commission and the commission in writing.

SECTION 2.41. Subsection (d), Section 13.2502, Water Code, is amended to read as follows:

(d) This section does not limit or extend the jurisdiction of the utility commission under Section 13.043(g).

SECTION 2.42. Section 13.251, Water Code, is amended to read as follows:

Sec. 13.251. SALE, ASSIGNMENT, OR LEASE OF CERTIFICATE. Except as provided by Section 13.255 [~~of this code~~], a utility or a water supply or sewer service corporation may not sell, assign, or lease a certificate of public convenience and necessity or any right obtained under a certificate unless the commission has determined that the purchaser, assignee, or lessee is capable of rendering adequate and continuous service to every consumer within the certified area, after considering the factors under Section 13.246(c) [~~of this code~~]. The sale, assignment, or lease shall be on the conditions prescribed by the utility commission.

SECTION 2.43. Section 13.252, Water Code, is amended to read as follows:

Sec. 13.252. INTERFERENCE WITH OTHER RETAIL PUBLIC UTILITY. If a retail public utility in constructing or extending a line, plant, or system interferes or attempts to interfere with the operation of a line, plant, or system of any other retail public utility, or furnishes, makes available, renders, or extends retail water or sewer utility service to any portion of the service area of another retail public utility that has been granted or is not required to possess a certificate of public convenience and necessity, the utility commission may issue an order prohibiting the construction, extension, or provision of service or prescribing terms and conditions for locating the line, plant, or system affected or for the provision of the service.

SECTION 2.44. Section 13.253, Water Code, is amended to read as follows:

Sec. 13.253. IMPROVEMENTS IN SERVICE; INTERCONNECTING SERVICE. (a) After notice and hearing, the utility commission or the commission may:

(1) order any retail public utility that is required by law to possess a certificate of public convenience and necessity or any retail public utility that possesses a certificate of public convenience and necessity and is located in an affected county as defined in Section 16.341 to:

(A) provide specified improvements in its service in a defined area if service in that area is inadequate or is substantially inferior to service in a comparable area and it is reasonable to require the retail public utility to provide the improved service; or

(B) develop, implement, and follow financial, managerial, and technical practices that are acceptable to the utility commission to ensure that continuous and adequate service is provided to any areas currently certificated to the retail public utility if the retail public utility has not provided continuous and adequate service to any of those areas and, for a utility, to provide financial assurance of the utility's ability to operate the system in accordance with applicable laws and rules, in the form of a bond or other financial assurance in a form and amount specified by the utility commission;

(2) order two or more public utilities or water supply or sewer service corporations to establish specified facilities for interconnecting service;

(3) order a public utility or water supply or sewer service corporation that has not demonstrated that it can provide continuous and adequate service from its drinking water source or sewer treatment facility to obtain service sufficient to meet its obligation to provide continuous and adequate service on at least a wholesale basis from another consenting utility service provider; or

(4) issue an emergency order, with or without a hearing, under Section 13.041.

(b) If the utility commission has reason to believe that improvements and repairs to a water or sewer service system are necessary to enable a retail public utility to provide continuous and adequate service in any portion of its service area and the retail public utility has provided financial assurance under Section 341.0355, Health and Safety Code, or under this chapter, the utility commission, after providing to the retail public utility notice and an opportunity to be heard by the commissioners at a [~~commission~~] meeting of the utility commission, may immediately order specified improvements and repairs to the water or sewer system, the costs of which may be paid by the bond or other financial assurance in an amount determined by the utility commission not to exceed the amount of the bond or financial assurance. The order requiring the improvements may be an emergency order if it is issued after the retail public utility has had an opportunity to be heard [~~by the commissioners~~] at a [~~commission~~] meeting of the utility commission. After notice and hearing, the utility commission may require a retail public utility to obligate additional money to replace the financial assurance used for the improvements.

SECTION 2.45. Section 13.254, Water Code, is amended to read as follows:

Sec. 13.254. REVOCATION OR AMENDMENT OF CERTIFICATE. (a) The utility commission at any time after notice and hearing may [~~on its own motion or on receipt of a petition described by Subsection (a-1);~~] revoke or amend any certificate of public convenience and necessity with the written consent of the certificate holder or if the utility commission [~~it~~] finds that:

(1) the certificate holder has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate;

(2) in an affected county as defined in Section 16.341, the cost of providing service by the certificate holder is so prohibitively expensive as to constitute denial of service, provided that, for commercial developments or for residential developments started after September 1, 1997, in an affected county as defined in Section 16.341, the fact that the cost of obtaining service from the currently certificated retail public utility makes the development economically unfeasible does not render such cost prohibitively expensive in the absence of other relevant factors;

(3) the certificate holder has agreed in writing to allow another retail public utility to provide service within its service area, except for an interim period, without amending its certificate; or

(4) the certificate holder has failed to file a cease and desist action pursuant to Section 13.252 within 180 days of the date that it became aware that another retail public utility was providing service within its service area, unless the certificate holder demonstrates good cause for its failure to file such action within the 180 days.

(a-1) As an alternative to decertification under Subsection (a), the owner of a tract of land that is at least 50 acres and that is not in a platted subdivision actually receiving water or sewer service may petition the utility commission under this subsection for expedited release of the area from a certificate of public convenience and necessity so that the area may receive service from another retail public utility. The petitioner shall deliver, via certified mail, a copy of the petition to the certificate holder, who may submit information to the utility commission to controvert information submitted by the petitioner. The petitioner must demonstrate that:

(1) a written request for service, other than a request for standard residential or commercial service, has been submitted to the certificate holder, identifying:

(A) the area for which service is sought;

(B) the timeframe within which service is needed for current and projected service demands in the area;

(C) the level and manner of service needed for current and projected service demands in the area; and

(D) any additional information requested by the certificate holder that is reasonably related to determination of the capacity or cost for providing the service;

(2) the certificate holder has been allowed at least 90 calendar days to review and respond to the written request and the information it contains;

(3) the certificate holder:

(A) has refused to provide the service;

(B) is not capable of providing the service on a continuous and adequate basis within the timeframe, at the level, or in the manner reasonably needed or requested by current and projected service demands in the area; or

(C) conditions the provision of service on the payment of costs not properly allocable directly to the petitioner's service request, as determined by the utility commission; and

(4) the alternate retail public utility from which the petitioner will be requesting service is capable of providing continuous and adequate service within the timeframe, at the level, and in the manner reasonably needed or requested by current and projected service demands in the area.

(a-2) A landowner is not entitled to make the election described in Subsection (a-1) or (a-5) but is entitled to contest under Subsection (a) the involuntary certification of its property in a hearing held by the utility commission if the landowner's property is located:

(1) within the boundaries of any municipality or the extraterritorial jurisdiction of a municipality with a population of more than 500,000 and the municipality or retail public utility owned by the municipality is the holder of the certificate; or

(2) in a platted subdivision actually receiving water or sewer service.

(a-3) Within 90 calendar days from the date the utility commission determines the petition filed pursuant to Subsection (a-1) to be administratively complete, the utility commission shall grant the petition unless the utility commission makes an express finding that the petitioner failed to satisfy the elements required in Subsection (a-1) and supports its finding with separate findings and conclusions for each element based solely on the information provided by the petitioner and the certificate holder. The utility commission may grant or deny a petition subject to terms and conditions specifically related to the service request of the petitioner and all relevant information submitted by the petitioner and the certificate holder. In addition, the utility commission may require an award of compensation as otherwise provided by this section.

(a-4) Chapter 2001, Government Code, does not apply to any petition filed under Subsection (a-1). The decision of the utility commission on the petition is final after any reconsideration authorized by the utility commission's rules and may not be appealed.

(a-5) As an alternative to decertification under Subsection (a) and expedited release under Subsection (a-1), the owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a certificate of public convenience and necessity and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,000 and less than 220,000.

(a-6) The utility commission shall grant a petition received under Subsection (a-5) not later than the 60th day after the date the landowner files the petition. The utility commission may not deny a petition received under Subsection (a-5) based on the fact that a certificate holder is a borrower under a federal loan program. The utility commission may require an award of

compensation by the petitioner to a decertified retail public utility that is the subject of a petition filed under Subsection (a-5) as otherwise provided by this section.

(b) Upon written request from the certificate holder, the utility commission [~~executive director~~] may cancel the certificate of a utility or water supply corporation authorized by rule to operate without a certificate of public convenience and necessity under Section 13.242(c).

(c) If the certificate of any retail public utility is revoked or amended, the utility commission may require one or more retail public utilities with their consent to provide service in the area in question. The order of the utility commission shall not be effective to transfer property.

(d) A retail public utility may not in any way render retail water or sewer service directly or indirectly to the public in an area that has been decertified under this section without providing compensation for any property that the utility commission determines is rendered useless or valueless to the decertified retail public utility as a result of the decertification.

(e) The determination of the monetary amount of compensation, if any, shall be determined at the time another retail public utility seeks to provide service in the previously decertified area and before service is actually provided. The utility commission shall ensure that the monetary amount of compensation is determined not later than the 90th calendar day after the date on which a retail public utility notifies the utility commission of its intent to provide service to the decertified area.

(f) The monetary amount shall be determined by a qualified individual or firm serving as independent appraiser agreed upon by the decertified retail public utility and the retail public utility seeking to serve the area. The determination of compensation by the independent appraiser shall be binding on the utility commission. The costs of the independent appraiser shall be borne by the retail public utility seeking to serve the area.

(g) For the purpose of implementing this section, the value of real property owned and utilized by the retail public utility for its facilities shall be determined according to the standards set forth in Chapter 21, Property Code, governing actions in eminent domain and the value of personal property shall be determined according to the factors in this subsection. The factors ensuring that the compensation to a retail public utility is just and adequate shall include: the amount of the retail public utility's debt allocable for service to the area in question; the value of the service facilities of the retail public utility located within the area in question; the amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the area in question; the amount of the retail public utility's contractual obligations allocable to the area in question; any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification; the impact on future revenues lost from existing customers; necessary and reasonable legal expenses and professional fees; and other relevant factors. The utility commission shall adopt rules governing the evaluation of these factors.

(g-1) If the retail public utilities cannot agree on an independent appraiser within 10 calendar days after the date on which the retail public utility notifies the utility commission of its intent to provide service to the decertified area, each retail public utility shall engage its own appraiser at its own expense, and each appraisal shall be submitted to the utility commission within 60 calendar days. After receiving the appraisals, the utility commission shall appoint a third appraiser who shall make a determination of the compensation within 30 days. The determination may not be less than the lower appraisal or more than the higher appraisal. Each retail public utility shall pay half the cost of the third appraisal.

SECTION 2.46. Subsections (a), (b), (c), (d), (e), (g-1), (k), (l), and (m), Section 13.255, Water Code, are amended to read as follows:

(a) In the event that an area is incorporated or annexed by a municipality, either before or after the effective date of this section, the municipality and a retail public utility that provides water or sewer service to all or part of the area pursuant to a certificate of convenience and necessity may agree in writing that all or part of the area may be served by a municipally owned utility, by a franchised utility, or by the retail public utility. In this section, the phrase "franchised utility" shall mean a retail public utility that has been granted a franchise by a municipality to provide water or sewer service inside municipal boundaries. The agreement may provide for single or dual certification of all or part of the area, for the purchase of facilities or property, and for such other or additional terms that the parties may agree on. If a franchised utility is to serve the area, the franchised utility shall also be a party to the agreement. The executed agreement shall be filed with the utility commission, and the utility commission, on receipt of the agreement, shall incorporate the terms of the agreement into the respective certificates of convenience and necessity of the parties to the agreement.

(b) If an agreement is not executed within 180 days after the municipality, in writing, notifies the retail public utility of its intent to provide service to the incorporated or annexed area, and if the municipality desires and intends to provide retail utility service to the area, the municipality, prior to providing service to the area, shall file an application with the utility commission to grant single certification to the municipally owned water or sewer utility or to a franchised utility. If an application for single certification is filed, the utility commission shall fix a time and place for a hearing and give notice of the hearing to the municipality and franchised utility, if any, and notice of the application and hearing to the retail public utility.

(c) The utility commission shall grant single certification to the municipality. The utility commission shall also determine whether single certification as requested by the municipality would result in property of a retail public utility being rendered useless or valueless to the retail public utility, and shall determine in its order the monetary amount that is adequate and just to compensate the retail public utility for such property. If the municipality in its application has requested the transfer of specified property of the retail public utility to the municipality or to a franchised utility, the utility commission shall

also determine in its order the adequate and just compensation to be paid for such property pursuant to the provisions of this section, including an award for damages to property remaining in the ownership of the retail public utility after single certification. The order of the utility commission shall not be effective to transfer property. A transfer of property may only be obtained under this section by a court judgment rendered pursuant to Subsection (d) or (e) ~~[of this section]~~. The grant of single certification by the utility commission shall go into effect on the date the municipality or franchised utility, as the case may be, pays adequate and just compensation pursuant to court order, or pays an amount into the registry of the court or to the retail public utility under Subsection (f). If the court judgment provides that the retail public utility is not entitled to any compensation, the grant of single certification shall go into effect when the court judgment becomes final. The municipality or franchised utility must provide to each customer of the retail public utility being acquired an individual written notice within 60 days after the effective date for the transfer specified in the court judgment. The notice must clearly advise the customer of the identity of the new service provider, the reason for the transfer, the rates to be charged by the new service provider, and the effective date of those rates.

(d) In the event the final order of the utility commission is not appealed within 30 days, the municipality may request the district court of Travis County to enter a judgment consistent with the order of the utility commission. In such event, the court shall render a judgment that:

(1) transfers to the municipally owned utility or franchised utility title to property to be transferred to the municipally owned utility or franchised utility as delineated by the utility commission's final order and property determined by the utility commission to be rendered useless or valueless by the granting of single certification; and

(2) orders payment to the retail public utility of adequate and just compensation for the property as determined by the utility commission in its final order.

(e) Any party that is aggrieved by a final order of the utility commission under this section may file an appeal with the district court of Travis County within 30 days after the order becomes final. The hearing in such an appeal before the district court shall be by trial de novo on all issues. After the hearing, if the court determines that the municipally owned utility or franchised utility is entitled to single certification under the provisions of this section, the court shall enter a judgment that:

(1) transfers to the municipally owned utility or franchised utility title to property requested by the municipality to be transferred to the municipally owned utility or franchised utility and located within the singly certificated area and property determined by the court or jury to be rendered useless or valueless by the granting of single certification; and

(2) orders payment in accordance with Subsection (g) ~~[of this section]~~ to the retail public utility of adequate and just compensation for the property transferred and for the property damaged as determined by the court or jury.

(g-1) The utility commission shall adopt rules governing the evaluation of the factors to be considered in determining the monetary compensation under Subsection (g). The utility commission by rule shall adopt procedures to ensure that the total compensation to be paid to a retail public utility under Subsection (g) is determined not later than the 90th calendar day after the date on which the utility commission determines that the municipality's application is administratively complete.

(k) The following conditions apply when a municipality or franchised utility makes an application to acquire the service area or facilities of a retail public utility described in Subsection (j)(2):

(1) the utility commission or court must determine that the service provided by the retail public utility is substandard or its rates are unreasonable in view of the reasonable expenses of the utility;

(2) if the municipality abandons its application, the court or the utility commission is authorized to award to the retail public utility its reasonable expenses related to the proceeding hereunder, including attorney fees; and

(3) unless otherwise agreed by the retail public utility, the municipality must take the entire utility property of the retail public utility in a proceeding hereunder.

(l) For an area incorporated by a municipality, the compensation provided under Subsection (g) shall be determined by a qualified individual or firm to serve as independent appraiser, who shall be selected by the affected retail public utility, and the costs of the appraiser shall be paid by the municipality. For an area annexed by a municipality, the compensation provided under Subsection (g) shall be determined by a qualified individual or firm to which the municipality and the retail public utility agree to serve as independent appraiser. If the retail public utility and the municipality are unable to agree on a single individual or firm to serve as the independent appraiser before the 11th day after the date the retail public utility or municipality notifies the other party of the impasse, the retail public utility and municipality each shall appoint a qualified individual or firm to serve as independent appraiser. On or before the 10th business day after the date of their appointment, the independent appraisers shall meet to reach an agreed determination of the amount of compensation. If the appraisers are unable to agree on a determination before the 16th business day after the date of their first meeting under this subsection, the retail public utility or municipality may petition the utility commission or a person the utility commission designates for the purpose to appoint a third qualified independent appraiser to reconcile the appraisals of the two originally appointed appraisers. The determination of the third appraiser may not be less than the lesser or more than the greater of the two original appraisals. The costs of the independent appraisers for an annexed area shall be shared equally by the retail public utility and the municipality. The determination of compensation under this subsection is binding on the utility commission.

(m) The utility commission shall deny an application for single certification by a municipality that fails to demonstrate compliance with the commission's minimum requirements for public drinking water systems.

SECTION 2.47. Section 13.2551, Water Code, is amended to read as follows:

Sec. 13.2551. COMPLETION OF DECERTIFICATION. (a) As a condition to decertification or single certification under Section 13.254 or 13.255, and on request by an affected retail public utility, the utility commission may order:

(1) the retail public utility seeking to provide service to a decertified area to serve the entire service area of the retail public utility that is being decertified; and

(2) the transfer of the entire certificate of public convenience and necessity of a partially decertified retail public utility to the retail public utility seeking to provide service to the decertified area.

(b) The utility commission shall order service to the entire area under Subsection (a) if the utility commission finds that the decertified retail public utility will be unable to provide continuous and adequate service at an affordable cost to the remaining customers.

(c) The utility commission shall require the retail public utility seeking to provide service to the decertified area to provide continuous and adequate service to the remaining customers at a cost comparable to the cost of that service to its other customers and shall establish the terms under which the service must be provided. The terms may include:

(1) transferring debt and other contract obligations;

(2) transferring real and personal property;

(3) establishing interim service rates for affected customers during specified times; and

(4) other provisions necessary for the just and reasonable allocation of assets and liabilities.

(d) The retail public utility seeking decertification shall not charge the affected customers any transfer fee or other fee to obtain service other than the retail public utility's usual and customary rates for monthly service or the interim rates set by the utility commission, if applicable.

(e) The utility commission shall not order compensation to the decertificated retail utility if service to the entire service area is ordered under this section.

SECTION 2.48. Subsections (e), (i), (r), and (s), Section 13.257, Water Code, are amended to read as follows:

(e) The notice must be given to the prospective purchaser before the execution of a binding contract of purchase and sale. The notice may be given separately or as an addendum to or paragraph of the contract. If the seller fails to provide the notice required by this section, the purchaser may terminate the contract. If the seller provides the notice at or before the closing of the purchase and sale contract and the purchaser elects to close even though the notice was not timely provided before the execution of the contract, it is conclusively presumed that the purchaser has waived all rights to terminate the contract and recover damages or pursue other remedies or rights under this section. Notwithstanding any provision of this section to the contrary, a seller, title insurance company, real

estate broker, or examining attorney, or an agent, representative, or person acting on behalf of the seller, company, broker, or attorney, is not liable for damages under Subsection (m) or (n) or liable for any other damages to any person for:

(1) failing to provide the notice required by this section to a purchaser before the execution of a binding contract of purchase and sale or at or before the closing of the purchase and sale contract if:

(A) the utility service provider did not file the map of the certificated service area in the real property records of the county in which the service area is located and with the utility commission depicting the boundaries of the service area of the utility service provider as shown in the real property records of the county in which the service area is located; and

(B) the utility commission did not maintain an accurate map of the certificated service area of the utility service provider as required by this chapter; or

(2) unintentionally providing a notice required by this section that is incorrect under the circumstances before the execution of a binding contract of purchase and sale or at or before the closing of the purchase and sale contract.

(i) If the notice is given at closing as provided by Subsection (g), a purchaser, or the purchaser's heirs, successors, or assigns, may not maintain an action for damages or maintain an action against a seller, title insurance company, real estate broker, or lienholder, or any agent, representative, or person acting on behalf of the seller, company, broker, or lienholder, by reason of the seller's use of the information filed with the utility commission by the utility service provider or the seller's use of the map of the certificated service area of the utility service provider filed in the real property records to determine whether the property to be purchased is within the certificated service area of the utility service provider. An action may not be maintained against a title insurance company for the failure to disclose that the described real property is included within the certificated service area of a utility service provider if the utility service provider did not file in the real property records or with the utility commission the map of the certificated service area.

(r) A utility service provider shall:

(1) record in the real property records of each county in which the service area or a portion of the service area is located a certified copy of the map of the certificate of public convenience and necessity and of any amendment to the certificate as contained in the utility commission's records, and a boundary description of the service area by:

(A) a metes and bounds survey certified by a licensed state land surveyor or a registered professional land surveyor;

(B) the Texas State Plane Coordinate System;

(C) verifiable landmarks, including a road, creek, or railroad line;

or

(D) if a recorded plat of the area exists, lot and block number; and

(2) submit to the executive director of the utility commission evidence of the recording.

(s) Each county shall accept and file in its real property records a utility service provider's map presented to the county clerk under this section if the map meets filing requirements, does not exceed 11 inches by 17 inches in size, and is accompanied by the appropriate fee. The recording required by this section must be completed not later than the 31st day after the date a utility service provider receives a final order from the utility commission granting an application for a new certificate or for an amendment to a certificate that results in a change in the utility service provider's service area.

SECTION 2.49. Subsections (a) through (g), Section 13.301, Water Code, are amended to read as follows:

(a) A utility or a water supply or sewer service corporation, on or before the 120th day before the effective date of a sale, acquisition, lease, or rental of a water or sewer system that is required by law to possess a certificate of public convenience and necessity or the effective date of a merger or consolidation with such a utility or water supply or sewer service corporation, shall:

(1) file a written application with the utility commission; and

(2) unless public notice is waived by the executive director of the utility commission for good cause shown, give public notice of the action.

(b) The utility commission may require that the person purchasing or acquiring the water or sewer system demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas currently certificated to the person.

(c) If the person purchasing or acquiring the water or sewer system cannot demonstrate adequate financial capability, the utility commission may require that the person provide a bond or other financial assurance in a form and amount specified by the utility commission to ensure continuous and adequate utility service is provided.

(d) The utility commission shall, with or without a public hearing, investigate the sale, acquisition, lease, or rental to determine whether the transaction will serve the public interest.

(e) Before the expiration of the 120-day notification period, the executive director of the utility commission shall notify all known parties to the transaction and the Office of Public Utility Counsel whether ~~[of]~~ the executive director of the utility commission will ~~[director's decision whether to]~~ request that the utility commission hold a public hearing to determine if the transaction will serve the public interest. The executive director of the utility commission may request a hearing if:

(1) the application filed with the utility commission or the public notice was improper;

(2) the person purchasing or acquiring the water or sewer system has not demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the service area being acquired and to any areas currently certificated to the person;

(3) the person or an affiliated interest of the person purchasing or acquiring the water or sewer system has a history of:

(A) noncompliance with the requirements of the utility commission, the commission, or the [~~Texas~~] Department of State Health Services;
or

(B) continuing mismanagement or misuse of revenues as a utility service provider;

(4) the person purchasing or acquiring the water or sewer system cannot demonstrate the financial ability to provide the necessary capital investment to ensure the provision of continuous and adequate service to the customers of the water or sewer system; or

(5) there are concerns that the transaction may not serve the public interest, after the application of the considerations provided by Section 13.246(c) for determining whether to grant a certificate of convenience and necessity.

(f) Unless the executive director of the utility commission requests that a public hearing be held, the sale, acquisition, lease, or rental may be completed as proposed:

(1) at the end of the 120-day period; or

(2) at any time after the executive director of the utility commission notifies the utility or water supply or sewer service corporation that a hearing will not be requested.

(g) If a hearing is requested or if the utility or water supply or sewer service corporation fails to make the application as required or to provide public notice, the sale, acquisition, lease, or rental may not be completed unless the utility commission determines that the proposed transaction serves the public interest.

SECTION 2.50. Section 13.302, Water Code, is amended to read as follows:

Sec. 13.302. PURCHASE OF VOTING STOCK IN ANOTHER PUBLIC UTILITY: REPORT. (a) A utility may not purchase voting stock in another utility doing business in this state and a person may not acquire a controlling interest in a utility doing business in this state unless the person or utility files a written application with the utility commission not later than the 61st day before the date on which the transaction is to occur.

(b) The utility commission may require that a person acquiring a controlling interest in a utility demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas currently certificated to the person.

(c) If the person acquiring a controlling interest cannot demonstrate adequate financial capability, the utility commission may require that the person provide a bond or other financial assurance in a form and amount specified by the utility commission to ensure continuous and adequate utility service is provided.

(d) The executive director of the utility commission may request that the utility commission hold a public hearing on the transaction if the executive director of the utility commission believes that a criterion prescribed by Section 13.301(e) applies.

(e) Unless the executive director of the utility commission requests that a public hearing be held, the purchase or acquisition may be completed as proposed:

(1) at the end of the 60-day period; or

(2) at any time after the executive director of the utility commission notifies the person or utility that a hearing will not be requested.

(f) If a hearing is requested or if the person or utility fails to make the application to the utility commission as required, the purchase or acquisition may not be completed unless the utility commission determines that the proposed transaction serves the public interest. A purchase or acquisition that is not completed in accordance with the provisions of this section is void.

SECTION 2.51. Section 13.303, Water Code, is amended to read as follows:

Sec. 13.303. LOANS TO STOCKHOLDERS: REPORT. A utility may not loan money, stocks, bonds, notes, or other evidences of indebtedness to any corporation or person owning or holding directly or indirectly any stock of the utility unless the utility reports the transaction to the utility commission within 60 days after the date of the transaction.

SECTION 2.52. Section 13.304, Water Code, is amended to read as follows:

Sec. 13.304. FORECLOSURE REPORT. (a) A utility that receives notice that all or a portion of the utility's facilities or property used to provide utility service are being posted for foreclosure shall notify the utility commission and the commission in writing of that fact not later than the 10th day after the date on which the utility receives the notice.

(b) A financial institution that forecloses on a utility or on any part of the utility's facilities or property that are used to provide utility service is not required to provide the 120-day notice prescribed by Section 13.301, but shall provide written notice to the utility commission and the commission before the 30th day preceding the date on which the foreclosure is completed.

(c) The financial institution may operate the utility for an interim period prescribed by utility commission rule before transferring or otherwise obtaining a certificate of convenience and necessity. A financial institution that operates a utility during an interim period under this subsection is subject to each utility commission rule to which the utility was subject and in the same manner.

SECTION 2.53. Section 13.341, Water Code, is amended to read as follows:

Sec. 13.341. JURISDICTION OVER AFFILIATED INTERESTS. The utility commission has jurisdiction over affiliated interests having transactions with utilities under the jurisdiction of the utility commission to the extent of access to all accounts and records of those affiliated interests relating to such transactions, including but in no way limited to accounts and records of joint or general expenses, any portion of which may be applicable to those transactions.

SECTION 2.54. Section 13.342, Water Code, is amended to read as follows:

Sec. 13.342. DISCLOSURE OF SUBSTANTIAL INTEREST IN VOTING SECURITIES. The utility commission may require the disclosure of the identity and respective interests of every owner of any substantial interest in the voting securities of any utility or its affiliated interest. One percent or more is a substantial interest within the meaning of this section.

SECTION 2.55. Subsection (a), Section 13.343, Water Code, is amended to read as follows:

(a) The owner of a utility that supplies retail water service may not contract to purchase from an affiliated supplier wholesale water service for any of that owner's systems unless:

(1) the wholesale service is provided for not more than 90 days to remedy an emergency condition, as defined by utility commission or commission rule; or

(2) the executive director of the utility commission determines that the utility cannot obtain wholesale water service from another source at a lower cost than from the affiliate.

SECTION 2.56. Section 13.381, Water Code, is amended to read as follows:

Sec. 13.381. RIGHT TO JUDICIAL REVIEW; EVIDENCE. Any party to a proceeding before the utility commission or the commission is entitled to judicial review under the substantial evidence rule.

SECTION 2.57. Subsection (a), Section 13.382, Water Code, is amended to read as follows:

(a) Any party represented by counsel who alleges that existing rates are excessive or that rates prescribed by the utility commission are excessive and who is a prevailing party in proceedings for review of a utility commission order or decision may in the same action recover against the regulation fund reasonable fees for attorneys and expert witnesses and other costs incurred by him before the utility commission and the court. The amount of the attorney's fees shall be fixed by the court.

SECTION 2.58. Section 13.411, Water Code, is amended to read as follows:

Sec. 13.411. ACTION TO ENJOIN OR REQUIRE COMPLIANCE. (a) If the utility commission or the commission has reason to believe that any retail public utility or any other person or corporation is engaged in or is about to engage in any act in violation of this chapter or of any order or rule of the utility commission or the commission entered or adopted under this chapter or that any retail public utility or any other person or corporation is failing to comply with this chapter or with any rule or order, the attorney general on request of the utility commission or the commission, in addition to any other remedies provided in this chapter, shall bring an action in a court of competent jurisdiction in the name of and on behalf of the utility commission or the commission against the retail public utility or other person or corporation to enjoin the commencement or continuation of any act or to require compliance with this chapter or the rule or order.

(b) If the executive director of the utility commission or the executive director of the commission has reason to believe that the failure of the owner or operator of a water utility to properly operate, maintain, or provide adequate facilities presents an imminent threat to human health or safety, the executive director of the utility commission or the executive director of the commission shall immediately:

- (1) notify the utility's representative; and
- (2) initiate enforcement action consistent with:

(A) this subchapter; and

(B) procedural rules adopted by the utility commission or the commission.

SECTION 2.59. Section 13.4115, Water Code, is amended to read as follows:

Sec. 13.4115. ACTION TO REQUIRE ADJUSTMENT TO CONSUMER CHARGE; PENALTY. In regard to a customer complaint arising out of a charge made by a public utility, if the utility commission [~~the executive director~~] finds that the utility has failed to make the proper adjustment to the customer's bill after the conclusion of the complaint process established by the utility commission, the utility commission may issue an order requiring the utility to make the adjustment. Failure to comply with the order within 30 days of receiving the order is a violation for which the utility commission may impose an administrative penalty under Section 13.4151.

SECTION 2.60. Subsections (a), (f), and (g), Section 13.412, Water Code, are amended to read as follows:

(a) At the request of the utility commission or the commission, the attorney general shall bring suit for the appointment of a receiver to collect the assets and carry on the business of a water or sewer utility that:

(1) has abandoned operation of its facilities;

(2) informs the utility commission or the commission that the owner is abandoning the system;

(3) violates a final order of the utility commission or the commission;

or

(4) allows any property owned or controlled by it to be used in violation of a final order of the utility commission or the commission.

(f) For purposes of this section and Section 13.4132, abandonment may include but is not limited to:

(1) failure to pay a bill or obligation owed to a retail public utility or to an electric or gas utility with the result that the utility service provider has issued a notice of discontinuance of necessary services;

(2) failure to provide appropriate water or wastewater treatment so that a potential health hazard results;

(3) failure to adequately maintain facilities, resulting in potential health hazards, extended outages, or repeated service interruptions;

(4) failure to provide customers adequate notice of a health hazard or potential health hazard;

(5) failure to secure an alternative available water supply during an outage;

(6) displaying a pattern of hostility toward or repeatedly failing to respond to the utility commission or the commission or the utility's customers; and

(7) failure to provide the utility commission or the commission with adequate information on how to contact the utility for normal business and emergency purposes.

(g) Notwithstanding Section 64.021, Civil Practice and Remedies Code, a receiver appointed under this section may seek ~~[commission]~~ approval from the utility commission and the commission to acquire the water or sewer utility's facilities and transfer the utility's certificate of convenience and necessity. The receiver must apply in accordance with Subchapter H.

SECTION 2.61. Section 13.413, Water Code, is amended to read as follows:

Sec. 13.413. PAYMENT OF COSTS OF RECEIVERSHIP. The receiver may, subject to the approval of the court and after giving notice to all interested parties, sell or otherwise dispose of all or part of the real or personal property of a water or sewer utility against which a proceeding has been brought under this subchapter to pay the costs incurred in the operation of the receivership. The costs include:

(1) payment of fees to the receiver for his services;

(2) payment of fees to attorneys, accountants, engineers, or any other person or entity that provides goods or services necessary to the operation of the receivership; and

(3) payment of costs incurred in ensuring that any property owned or controlled by a water or sewer utility is not used in violation of a final order of the utility commission or the commission.

SECTION 2.62. Section 13.4131, Water Code, is amended to read as follows:

Sec. 13.4131. SUPERVISION OF CERTAIN UTILITIES. (a) The utility commission, after providing to the utility notice and an opportunity for a hearing, may place a utility under supervision for gross or continuing mismanagement, gross or continuing noncompliance with this chapter or a rule adopted under this chapter ~~[commission rules]~~, or noncompliance with an order issued under this chapter ~~[commission orders]~~.

(b) While supervising a utility, the utility commission may require the utility to abide by conditions and requirements prescribed by the utility commission, including:

(1) management requirements;

(2) additional reporting requirements;

(3) restrictions on hiring, salary or benefit increases, capital investment, borrowing, stock issuance or dividend declarations, and liquidation of assets; and

(4) a requirement that the utility place the utility's funds into an account in a financial institution approved by the utility commission and use of those funds shall be restricted to reasonable and necessary utility expenses.

(c) While supervising a utility, the utility commission may require that the utility obtain ~~[commission]~~ approval from the utility commission before taking any action that may be restricted under Subsection (b) ~~[of this section]~~. Any action or transaction which occurs without ~~[commission]~~ approval may be voided by the utility commission.

SECTION 2.63. Subsections (a) and (c), Section 13.4133, Water Code, are amended to read as follows:

(a) Notwithstanding the requirements of Section 13.187 ~~[of this code]~~, the utility commission may authorize an emergency rate increase for a utility for which a person has been appointed under Section 13.4132 ~~[of this code]~~ or for which a receiver has been appointed under Section 13.412 ~~[of this code]~~ if the increase is necessary to ensure the provision of continuous and adequate services to the utility's customers.

(c) The utility commission shall schedule a hearing to establish a final rate within 15 months after the date on which an emergency rate increase takes effect. The utility commission shall require the utility to provide notice of the hearing to each customer and to the Office of Public Utility Counsel. The additional revenues collected under an emergency rate increase are subject to refund if the utility commission finds that the rate increase was larger than necessary to ensure continuous and adequate service.

SECTION 2.64. Subsections (a) and (c), Section 13.414, Water Code, are amended to read as follows:

(a) Any retail public utility or affiliated interest that violates this chapter, fails to perform a duty imposed on it, or fails, neglects, or refuses to obey an order, rule, direction, or requirement of the utility commission or the commission or decree or judgment of a court is subject to a civil penalty of not less than \$100 nor more than \$5,000 for each violation.

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

SECTION 2.65. Subsections (a) through (k) and (m), Section 13.4151, Water Code, are amended to read as follows:

(a) If a person, affiliated interest, or entity subject to the jurisdiction of the utility commission or the commission violates this chapter or a rule or order adopted under this chapter, the utility commission or the commission, as applicable, may assess a penalty against that person, affiliated interest, or entity as provided by this section. The penalty may be in an amount not to exceed \$500 a day. Each day a violation continues may be considered a separate violation.

(b) In determining the amount of the penalty, the utility commission or the commission shall consider:

(1) the nature, circumstances, extent, duration, and gravity of the prohibited acts or omissions;

(2) with respect to the alleged violator:

(A) the history and extent of previous violations;

(B) the degree of culpability, including whether the violation was attributable to mechanical or electrical failures and whether the violation could have been reasonably anticipated and avoided;

(C) the demonstrated good faith, including actions taken by the person, affiliated interest, or entity to correct the cause of the violation;

(D) any economic benefit gained through the violation; and

(E) the amount necessary to deter future violations; and

(3) any other matters that justice requires.

(c) If, after examination of a possible violation and the facts surrounding that possible violation, the executive director of the utility commission or the executive director of the commission concludes that a violation has occurred, the executive director of the utility commission or the executive director of the commission may issue a preliminary report stating the facts on which that conclusion is based, recommending that a penalty under this section be imposed on the person, affiliated interest, or retail public utility charged, and recommending the amount of that proposed penalty. The executive director of the utility commission or the executive director of the commission shall base the recommended amount of the proposed penalty on the factors provided by Subsection (b) [of this section], and shall analyze each factor for the benefit of the agency [commission].

(d) Not later than the 10th day after the date on which the report is issued, the executive director of the utility commission or the executive director of the commission shall give written notice of the report to the person, affiliated interest, or retail public utility charged with the violation. The notice shall include a brief summary of the charges, a statement of the amount of the penalty recommended, and a statement of the right of the person, affiliated interest, or retail public utility charged to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(e) Not later than the 20th day after the date on which notice is received, the person, affiliated interest, or retail public utility charged may give the agency [commission] written consent to the [executive director's] report described by Subsection (c), including the recommended penalty, or may make a written request for a hearing.

(f) If the person, affiliated interest, or retail public utility charged with the violation consents to the penalty recommended in the report described by Subsection (c) [by the executive director] or fails to timely respond to the notice, the utility commission or the commission by order shall assess that penalty or order a hearing to be held on the findings and recommendations in the [executive director's] report. If the utility commission or the commission assesses the penalty recommended by the report, the utility commission or the commission shall give written notice to the person, affiliated interest, or retail public utility charged of its decision.

(g) If the person, affiliated interest, or retail public utility charged requests or the utility commission or the commission orders a hearing, the agency [commission] shall call a hearing and give notice of the hearing. As a result of the hearing, the agency [commission] by order may find that a violation has occurred

and may assess a civil penalty, may find that a violation has occurred but that no penalty should be assessed, or may find that no violation has occurred. All proceedings under this subsection are subject to Chapter 2001, Government Code. In making any penalty decision, the agency [~~commission~~] shall analyze each of the factors provided by Subsection (b) [~~of this section~~].

(h) The utility commission or the commission shall give notice of its decision to the person, affiliated interest, or retail public utility charged, and if the agency [~~commission~~] finds that a violation has occurred and has assessed a penalty, the agency [~~commission~~] shall give written notice to the person, affiliated interest, or retail public utility charged of its findings, of the amount of the penalty, and of the person's, affiliated interest's, or retail public utility's right to judicial review of the agency's [~~commission's~~] order. If the agency [~~commission~~] is required to give notice of a penalty under this subsection or Subsection (f) [~~of this section~~], the agency [~~commission~~] shall file notice of the agency's [~~its~~] decision in the Texas Register not later than the 10th day after the date on which the decision is adopted.

(i) Within the 30-day period immediately following the day on which the agency's [~~commission's~~] order is final, as provided by Subchapter F, Chapter 2001, Government Code, the person, affiliated interest, or retail public utility charged with the penalty shall:

- (1) pay the penalty in full; or
- (2) if the person, affiliated interest, or retail public utility seeks judicial review of the fact of the violation, the amount of the penalty, or both:
 - (A) forward the amount of the penalty to the agency [~~commission~~] for placement in an escrow account; or
 - (B) post with the agency [~~commission~~] a supersedeas bond in a form approved by the agency [~~commission~~] for the amount of the penalty to be effective until all judicial review of the order or decision is final.

(j) Failure to forward the money to or to post the bond with the agency [~~commission~~] within the time provided by Subsection (i) [~~of this section~~] constitutes a waiver of all legal rights to judicial review. If the person, affiliated interest, or retail public utility charged fails to forward the money or post the bond as provided by Subsection (i) [~~of this section~~], the agency [~~commission~~] or the executive director of the agency may forward the matter to the attorney general for enforcement.

(k) Judicial review of the order or decision of the agency [~~commission~~] assessing the penalty shall be under the substantial evidence rule and may be instituted by filing a petition with a district court in Travis County, as provided by Subchapter G, Chapter 2001, Government Code.

(m) Notwithstanding any other provision of law, the agency [~~commission~~] may compromise, modify, extend the time for payment of, or remit, with or without condition, any penalty imposed under this section.

SECTION 2.66. Section 13.417, Water Code, is amended to read as follows:

Sec. 13.417. CONTEMPT PROCEEDINGS. If any person or retail public utility fails to comply with any lawful order of the utility commission or the commission or with any subpoena or subpoena duces tecum or if any witness refuses to testify about any matter on which he may be lawfully interrogated, the utility commission or the commission may apply to any court of competent jurisdiction to compel obedience by proceedings for contempt.

SECTION 2.67. Section 13.418, Water Code, is amended to read as follows:

Sec. 13.418. DISPOSITION OF FINES AND PENALTIES; WATER UTILITY IMPROVEMENT ACCOUNT. (a) Fines and penalties collected under this chapter from a retail public utility that is not a public utility in other than criminal proceedings shall be ~~paid to the commission and~~ deposited in the general revenue fund.

(b) Fines and penalties collected from a public utility under this chapter in other than criminal proceedings shall be ~~paid to the commission and~~ deposited in the water utility improvement account as provided by Section 341.0485, Health and Safety Code.

SECTION 2.68. Subdivision (7), Section 13.501, Water Code, is amended to read as follows:

(7) "Multiple use facility" means commercial or industrial parks, office complexes, marinas, and others specifically identified in utility commission rules with five or more units.

SECTION 2.69. Subsection (e), Section 13.502, Water Code, is amended to read as follows:

(e) An owner of an apartment house, manufactured home rental community, or multiple use facility or a manager of a condominium may not change from submetered billing to allocated billing unless:

(1) the executive director of the utility commission approves of the change in writing after a demonstration of good cause, including meter reading or billing problems that could not feasibly be corrected or equipment failures; and

(2) the property owner meets rental agreement requirements established by the utility commission.

SECTION 2.70. Subsections (a), (b), and (e), Section 13.503, Water Code, are amended to read as follows:

(a) The utility commission shall encourage submetering of individual rental or dwelling units by master meter operators or building owners to enhance the conservation of water resources.

(b) Notwithstanding any other law, the utility commission shall adopt rules and standards under which an owner, operator, or manager of an apartment house, manufactured home rental community, or multiple use facility that is not individually metered for water for each rental or dwelling unit may install submetering equipment for each individual rental or dwelling unit for the purpose of fairly allocating the cost of each individual rental or dwelling unit's water consumption, including wastewater charges based on water consumption. In addition to other appropriate safeguards for the tenant, the rules shall require that, except as provided by this section, an apartment house owner, manufactured

home rental community owner, multiple use facility owner, or condominium manager may not impose on the tenant any extra charges, over and above the cost per gallon and any other applicable taxes and surcharges that are charged by the retail public utility to the owner or manager, and that the rental unit or apartment house owner or manager shall maintain adequate records regarding submetering and make the records available for inspection by the tenant during reasonable business hours. The rules shall allow an owner or manager to charge a tenant a fee for late payment of a submetered water bill if the amount of the fee does not exceed five percent of the bill paid late. All submetering equipment is subject to the rules and standards established by the utility commission for accuracy, testing, and record keeping of meters installed by utilities and to the meter-testing requirements of Section 13.140 ~~[of this code]~~.

(e) The utility commission may authorize a building owner to use submetering equipment that relies on integrated radio based meter reading systems and remote registration in a building plumbing system using submeters that comply with nationally recognized plumbing standards and are as accurate as utility water meters in single application conditions.

SECTION 2.71. Section 13.5031, Water Code, is amended to read as follows:

Sec. 13.5031. NONSUBMETERING RULES. Notwithstanding any other law, the utility commission shall adopt rules and standards governing billing systems or methods used by manufactured home rental community owners, apartment house owners, condominium managers, or owners of other multiple use facilities for prorating or allocating among tenants nonsubmetered master metered utility service costs. In addition to other appropriate safeguards for the tenant, those rules shall require that:

(1) the rental agreement contain a clear written description of the method of calculation of the allocation of nonsubmetered master metered utilities for the manufactured home rental community, apartment house, or multiple use facility;

(2) the rental agreement contain a statement of the average manufactured home, apartment, or multiple use facility unit monthly bill for all units for any allocation of those utilities for the previous calendar year;

(3) except as provided by this section, an owner or condominium manager may not impose additional charges on a tenant in excess of the actual charges imposed on the owner or condominium manager for utility consumption by the manufactured home rental community, apartment house, or multiple use facility;

(4) the owner or condominium manager shall maintain adequate records regarding the utility consumption of the manufactured home rental community, apartment house, or multiple use facility, the charges assessed by the retail public utility, and the allocation of the utility costs to the tenants;

(5) the owner or condominium manager shall maintain all necessary records concerning utility allocations, including the retail public utility's bills, and shall make the records available for inspection by the tenants during normal business hours; and

(6) the owner or condominium manager may charge a tenant a fee for late payment of an allocated water bill if the amount of the fee does not exceed five percent of the bill paid late.

SECTION 2.72. Section 13.505, Water Code, is amended to read as follows:

Sec. 13.505. ENFORCEMENT. In addition to the enforcement provisions contained in Subchapter K [~~of this chapter~~], if an apartment house owner, condominium manager, manufactured home rental community owner, or other multiple use facility owner violates a rule of the utility commission regarding submetering of utility service consumed exclusively within the tenant's dwelling unit or multiple use facility unit or nonsubmetered master metered utility costs, the tenant may recover three times the amount of any overcharge, a civil penalty equal to one month's rent, reasonable attorney's fees, and court costs from the owner or condominium manager. However, an owner of an apartment house, manufactured home rental community, or other multiple use facility or condominium manager is not liable for a civil penalty if the owner or condominium manager proves the violation was a good faith, unintentional mistake.

SECTION 2.73. Section 13.512, Water Code, is amended to read as follows:

Sec. 13.512. AUTHORITY TO ENTER INTO PRIVATIZATION CONTRACTS. Any eligible city is authorized to enter into privatization contracts if such action is recommended by the board of utility trustees and authorized by the governing body of the eligible city pursuant to an ordinance. Any privatization contract entered into prior to the effective date of this Act is validated, ratified, and approved. Each eligible city shall file a copy of its privatization contract with the utility commission, for information purposes only, within 60 days of execution or the effective date of this Act, whichever is later.

SECTION 2.74. Section 13.513, Water Code, is amended to read as follows:

Sec. 13.513. ELECTION BY ELIGIBLE CITY TO EXEMPT SERVICE PROVIDER FROM UTILITY COMMISSION JURISDICTION. A service provider shall not constitute a "water and sewer utility," a "public utility," a "utility," or a "retail public utility" within the meaning of this chapter [~~Chapter 13~~] as a result of entering into or performing a privatization contract, if the governing body of the eligible city shall so elect by ordinance and provide notice thereof in writing to the utility commission; provided, however, this provision shall not affect the application of this chapter [~~Chapter 13~~] to an eligible city itself. Notwithstanding anything contained in this section, any service provider who seeks to extend or render sewer service to any person or municipality other than, or in addition to, an eligible city may be a "public utility" for the purposes of this chapter [~~Chapter 13~~] with respect to such other person or municipality.

SECTION 2.75. Subsection (a), Section 5.013, Water Code, is amended to read as follows:

(a) The commission has general jurisdiction over:

(1) water and water rights including the issuance of water rights permits, water rights adjudication, cancellation of water rights, and enforcement of water rights;

(2) continuing supervision over districts created under Article III, Sections 52(b)(1) and (2), and Article XVI, Section 59, of the Texas Constitution;

(3) the state's water quality program including issuance of permits, enforcement of water quality rules, standards, orders, and permits, and water quality planning;

(4) the determination of the feasibility of certain federal projects;

(5) the adoption and enforcement of rules and performance of other acts relating to the safe construction, maintenance, and removal of dams;

(6) conduct of the state's hazardous spill prevention and control program;

(7) the administration of the state's program relating to inactive hazardous substance, pollutant, and contaminant disposal facilities;

(8) the administration of a portion of the state's injection well program;

(9) the administration of the state's programs involving underground water and water wells and drilled and mined shafts;

(10) the state's responsibilities relating to regional waste disposal;

(11) the responsibilities assigned to the commission by Chapters 361, 363, 382, and 401, Health and Safety Code; and

(12) ~~administration of the state's water rate program under Chapter 13 of this code; and~~

~~(13)~~ any other areas assigned to the commission by this code and other laws of this state.

SECTION 2.76. (a) On June 1, 2012, the following are transferred from the Texas Commission on Environmental Quality to the Public Utility Commission of Texas:

(1) the powers, duties, functions, programs, and activities of the Texas Commission on Environmental Quality relating to the economic regulation of water and sewer utilities, including the issuance and transfer of certificates of convenience and necessity, the determination of rates, and the administration of hearings and proceedings involving those matters, under Chapter 13, Water Code, as provided by this article;

(2) any obligations and contracts of the Texas Commission on Environmental Quality that are directly related to implementing a power, duty, function, program, or activity transferred under this article; and

(3) all property and records in the custody of the Texas Commission on Environmental Quality that are related to a power, duty, function, program, or activity transferred under this article and all funds appropriated by the legislature for that power, duty, function, program, or activity.

(b) The Texas Commission on Environmental Quality and the Public Utility Commission of Texas shall enter into a memorandum of understanding that:

(1) identifies in detail the applicable powers and duties that are transferred by this article;

(2) establishes a plan for the identification and transfer of the records, personnel, property, and unspent appropriations of the Texas Commission on Environmental Quality that are used for purposes of the commission's powers and duties directly related to the regulation of water and sewer utilities under Chapter 13, Water Code, as amended by this article; and

(3) establishes a plan for the transfer of all pending applications, hearings, rulemaking proceedings, and orders relating to the economic regulation of water and sewer utilities under Chapter 13, Water Code, as amended by this article, from the Texas Commission on Environmental Quality to the Public Utility Commission of Texas.

(c) The memorandum of understanding described by this section is not required to be adopted by rule under Section 5.104, Water Code.

(d) The executive directors of the Texas Commission on Environmental Quality and the Public Utility Commission of Texas may agree in the memorandum of understanding under this section to transfer to the Public Utility Commission of Texas any personnel of the Texas Commission on Environmental Quality whose functions predominantly involve powers, duties, obligations, functions, and activities related to the regulation of water and sewer utilities under Chapter 13, Water Code, as amended by this article.

(e) The Texas Commission on Environmental Quality and the Public Utility Commission of Texas shall appoint a transition team to accomplish the purposes of this section. The transition team shall establish guidelines on how the two agencies will cooperate regarding:

- (1) meeting federal drinking water standards;
- (2) maintaining adequate supplies of water;
- (3) meeting established design criteria for wastewater treatment plants;
- (4) demonstrating the economic feasibility of regionalization; and
- (5) serving the needs of economically distressed areas.

(f) A rule, form, policy, procedure, or decision of the Texas Commission on Environmental Quality related to a power, duty, function, program, or activity transferred under this article continues in effect as a rule, form, policy, procedure, or decision of the Public Utility Commission of Texas and remains in effect until amended or replaced by that agency.

(g) The memorandum required by this section must be completed by April 1, 2012.

(h) The Public Utility Commission of Texas and the Texas Commission on Environmental Quality shall adopt rules to implement the changes in law made by this article to Chapter 13, Water Code, not later than November 1, 2012.

SECTION 2.77. (a) The Public Utility Commission of Texas shall conduct a comparative analysis of the ratemaking authority of the commission before the effective date of this Act and the ratemaking authority of the commission after the transition described in Section 2.75 of this article, to identify potential for procedural standardization. The Public Utility Commission of Texas shall issue a report of the analysis, with recommendations regarding rate standardization, for consideration by the 83rd Legislature.

(b) The Public Utility Commission of Texas shall prepare a report describing staffing changes related to the transition described in Section 2.75 of this article, including reductions in staff that the commission may realize as a result of consolidated functions. The Public Utility Commission of Texas shall submit the report to the Legislative Budget Board and the governor with the legislative appropriations request for the 2014-2015 biennium.

SECTION 2.78. (a) On June 1, 2012, the following are transferred from the office of public interest counsel of the Texas Commission on Environmental Quality to the Office of Public Utility Counsel:

(1) the powers, duties, functions, programs, and activities of the office of public interest counsel of the Texas Commission on Environmental Quality relating to the representation of the public interest in matters related to the regulation of water and sewer utilities under Chapter 13, Water Code, as amended by this article;

(2) any obligations and contracts of the office of public interest counsel of the Texas Commission on Environmental Quality that are directly related to implementing a power, duty, function, program, or activity transferred under this article; and

(3) all property and records in the custody of the office of public interest counsel of the Texas Commission on Environmental Quality that are related to a power, duty, function, program, or activity transferred under this article and all funds appropriated by the legislature for that power, duty, function, program, or activity.

(b) The office of public interest counsel of the Texas Commission on Environmental Quality and the Office of Public Utility Counsel shall enter into a memorandum of understanding that:

(1) identifies in detail the applicable powers and duties that are transferred by this article; and

(2) establishes a plan for the identification and transfer of the records, personnel, property, and unspent appropriations of the Texas Commission on Environmental Quality that are used for purposes of the office of public interest counsel's powers and duties directly related to the representation of the public interest in matters relating to the regulation of water and sewer utilities under Chapter 13, Water Code, as amended by this article.

(c) The memorandum of understanding described by this section is not required to be adopted by rule under Section 5.104, Water Code.

(d) The office of public interest counsel of the Texas Commission on Environmental Quality and the Office of Public Utility Counsel may agree in the memorandum of understanding under this section to transfer to the Office of Public Utility Counsel any personnel of the office of public interest counsel whose functions predominantly involve powers, duties, obligations, functions, and activities related to the representation of the public interest in matters relating to the regulation of water and sewer utilities under Chapter 13, Water Code, as amended by this article.

(e) The office of public interest counsel of the Texas Commission on Environmental Quality and the Office of Public Utility Counsel shall appoint a transition team to accomplish the purposes of this section.

(f) A rule, form, policy, procedure, or decision of the office of public interest counsel of the Texas Commission on Environmental Quality related to a power, duty, function, program, or activity transferred under this article continues in effect as a rule, form, policy, procedure, or decision of the Office of Public Utility Counsel and remains in effect until amended or replaced by that agency.

(g) The memorandum required by this section must be completed by April 1, 2012.

(h) The Office of Public Utility Counsel and the office of public interest counsel of the Texas Commission on Environmental Quality shall adopt rules to implement the changes in law made by this article to Chapter 13, Water Code, not later than November 1, 2012.

ARTICLE 3. OTHER WATER AND SEWER DUTIES OF PUBLIC UTILITY COMMISSION OF TEXAS

SECTION 3.01. Section 11.002, Water Code, is amended by adding Subdivision (21) to read as follows:

(21) "Utility commission" means the Public Utility Commission of Texas.

SECTION 3.02. Section 11.041, Water Code, is amended to read as follows:

Sec. 11.041. DENIAL OF WATER: COMPLAINT. (a) Any person entitled to receive or use water from any canal, ditch, flume, lateral, dam, reservoir, or lake or from any conserved or stored supply may present to the utility commission a written petition showing:

(1) that the person [~~he~~] is entitled to receive or use the water;

(2) that the person [~~he~~] is willing and able to pay a just and reasonable price for the water;

(3) that the party owning or controlling the water supply has water not contracted to others and available for the petitioner's use; and

(4) that the party owning or controlling the water supply fails or refuses to supply the available water to the petitioner, or that the price or rental demanded for the available water is not reasonable and just or is discriminatory.

(b) If the petition is accompanied by a deposit of \$25, the executive director of the utility commission shall have a preliminary investigation of the complaint made and determine whether or not there are probable grounds for the complaint.

(c) If, after preliminary investigation, the executive director of the utility commission determines that probable grounds exist for the complaint, the utility commission shall enter an order setting a time and place for a hearing on the petition.

(d) The utility commission may require the complainant to make an additional deposit or execute a bond satisfactory to the utility commission in an amount fixed by the utility commission conditioned on the payment of all costs of the proceeding.

(e) At least 20 days before the date set for the hearing, the utility commission shall transmit by registered mail a certified copy of the petition and a certified copy of the hearing order to the person against whom the complaint is made.

(f) The utility commission shall hold a hearing on the complaint at the time and place stated in the order. It may hear evidence orally or by affidavit in support of or against the complaint, and it may hear arguments. The commission may

participate in the hearing for the purpose of presenting evidence on the availability of the water requested by the petitioner. On completion of the hearing, the utility commission shall render a written decision.

(g) If, after the preliminary investigation, the executive director of the utility commission determines that no probable grounds exist for the complaint, the executive director of the utility commission shall dismiss the complaint. The utility commission may either return the deposit or pay it into the State Treasury.

SECTION 3.03. Section 12.013, Water Code, is amended to read as follows:

Sec. 12.013. RATE-FIXING POWER. (a) The utility commission shall fix reasonable rates for the furnishing of raw or treated water for any purpose mentioned in Chapter 11 or 12 of this code.

(b) In this section, ~~[The term]~~ "political subdivision" ~~[when used in this section]~~ means incorporated cities, towns or villages, counties, river authorities, water districts, and other special purpose districts.

(c) The utility commission in reviewing and fixing reasonable rates for furnishing water under this section may use any reasonable basis for fixing rates as may be determined by the utility commission to be appropriate under the circumstances of the case being reviewed; provided, however, the utility commission may not fix a rate which a political subdivision may charge for furnishing water which is less than the amount required to meet the debt service and bond coverage requirements of that political subdivision's outstanding debt.

(d) The utility commission's jurisdiction under this section relating to incorporated cities, towns, or villages shall be limited to water furnished by such city, town, or village to another political subdivision on a wholesale basis.

(e) The utility commission may establish interim rates and compel continuing service during the pendency of any rate proceeding.

(f) The utility commission may order a refund or assess additional charges from the date a petition for rate review is received by the utility commission of the difference between the rate actually charged and the rate fixed by the utility commission, plus interest at the statutory rate.

~~[(g) No action or proceeding commenced prior to January 1, 1977, before the Texas Water Rights Commission shall be affected by the enactment of this section.~~

~~[(h) Nothing herein contained shall affect the jurisdiction of the Public Utility Commission.]~~

(9) Redesignate SECTIONS 12 and 13 of the bill as ARTICLE 4, name the ARTICLE "GENERAL PROVISIONS", and renumber the SECTIONS appropriately.

Amendment No. 7 was adopted.

LEAVE OF ABSENCE GRANTED

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

Villarreal on motion of Madden.

CSSB 635 - (consideration continued)

Amendment No. 8

Representative Aycock offered the following amendment to CSSB 635:

Amend **CSSB 635** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter B, Chapter 11, Water Code, is amended by adding Section 11.0392 to read as follows:

Sec. 11.0392. COMMISSION REVIEW OF CERTAIN RIVER AUTHORITY WATER MANAGEMENT PLANS. (a) In this section:

(1) "Authority" means a river authority to which this section applies under Subsection (b).

(2) "Firm water" means a supply of stored water that could be supplied without shortage during each year of a simulated repeat of the drought of record, while honoring all senior water rights. During a drought of record, the supply of water for firm water customers has a higher priority than that of interruptible water customers.

(3) "Interruptible water" means a stored supply of water for customers of an authority that must be curtailed before the authority curtails firm water supplies.

(b) This section applies only to a river authority whose water management plan consists of a reservoir operation plan for the operation of two water supply reservoirs and was:

(1) developed by an applicant for a permit under this chapter; and

(2) originally required by a court order adjudicating the water rights for those reservoirs.

(c) Before approving an authority's water management plan, the commission shall require that the plan:

(1) ensures that adequate firm water supplies are available to meet the existing and projected demands of firm water customers to the extent:

(A) provided by previously adjudicated water rights; and

(B) other supplies are not available to the authority to meet those firm water customer demands; and

(2) provides for curtailing water supplies under interruptible commitments before requesting that firm water customers institute voluntary drought contingency measures.

Amendment No. 8 - Point of Order

Representative D. Miller raised a point of order against further consideration of Amendment No. 8 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The chair overruled the point of order.

Amendment No. 8 failed of adoption by (Record 1393): 11 Yeas, 128 Nays, 4 Present, not voting.

Yeas — Alonzo; Aycock; Darby; Guillen; Hochberg; Jackson; Lavender; Patrick; Reynolds; Schwertner; Workman.

Nays — Aliseda; Allen; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; 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; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hernandez Luna; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Paxton; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Hartnett; Hilderbran; Taylor, L.(C).

Absent, Excused — Harless; Peña; Villarreal.

Absent — Alvarado; Branch; Callegari; Marquez.

STATEMENTS OF VOTE

When Record No. 1393 was taken, I was in the house but away from my desk. I would have voted no.

Alvarado

I was shown voting present, not voting on Record No. 1393. I intended to vote yes.

Hilderbran

When Record No. 1393 was taken, I was in the house but away from my desk. I would have voted no.

Marquez

Amendment No. 9

Representative Dutton offered the following amendment to **CSSB 635**:

Amend **CSSB 635** by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill appropriately:

SECTION _____. (a) Section 13.185(h), Water Code, is amended to read as follows:

(h) The regulatory authority may not include for ratemaking purposes:

- (1) legislative advocacy expenses, whether made directly or indirectly, including legislative advocacy expenses included in trade association dues;
- (2) costs of processing a refund or credit under Section 13.187 of this chapter;

(3) legal expenses, including court costs and attorney's, consultant, and expert witness fees, incurred by a water and sewer utility in a contested proceeding under Section 13.187 or an appeal of that proceeding, other than legal expenses described by Section 13.084; or

(4) [(3)] any expenditure found by the regulatory authority to be unreasonable, unnecessary, or not in the public interest, including executive salaries, advertising expenses, legal expenses, and civil penalties or fines.

(b) Section 13.185(h), Water Code, as amended by this section, applies only to a statement of intent for which a regulatory authority has not issued a final decision before the effective date of this section. A statement of intent for which a regulatory authority has issued a final decision before the effective date of this section is governed by the law in effect on the date that final decision was issued, and that law is continued in effect for that purpose.

(c) Notwithstanding any other provision of this Act, this section takes effect immediately if this Act 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 section takes effect September 1, 2011.

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. 8).

CSSB 635 - (consideration continued)

Amendment No. 9 was adopted.

CSSB 635, as amended, was passed to third reading by (Record 1394): 100 Yeas, 38 Nays, 2 Present, not voting.

Yeas — Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Driver; Dutton; Eissler; Elkins; Farias; Fletcher; Frullo; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Torres; Truitt; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Aliseda; Alonzo; Alvarado; Anchia; Burnam; Cain; Castro; Davis, Y.; Deshotel; Dukes; Flynn; Gallego; Giddings; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Hunter; Johnson; Landtroop; Laubenberg; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Naishtat; Paxton; Perry; Reynolds; Rodriguez; Strama; Taylor, V.; Thompson; Turner; Veasey.

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

Absent, Excused — Harless; Peña; Villarreal.

Absent — Coleman; Crownover; Eiland; Farrar; Harper-Brown; King, T.; White.

STATEMENT OF VOTE

When Record No. 1394 was taken, I was in the house but away from my desk. I would have voted yes.

White

(Speaker in the chair)

SB 542 - VOTE RECONSIDERED

Representative Walle moved to reconsider the vote by which **SB 542** was passed earlier today.

The motion to reconsider prevailed.

SB 542 ON THIRD READING (Fletcher - House Sponsor)

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

SB 542, A bill to be entitled An Act relating to the regulation of law enforcement officers by the Commission on Law Enforcement Officer Standards and Education.

SB 542 was read third time earlier today and was passed.

Amendment No. 1

Representative Walle offered the following amendment to **SB 542**:

Amend **SB 542** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Subchapter M, Chapter 1701, Occupations Code, is amended to read as follows:

SUBCHAPTER M. SCHOOL [VISITING] RESOURCE OFFICERS AND
[OFFICER IN PUBLIC] SCHOOL DISTRICT PEACE OFFICERS

SECTION _____. Subchapter M, Chapter 1701, Occupations Code, is amended by adding Section 1701.604 to read as follows:

Sec. 1701.604. EDUCATION AND TRAINING PROGRAM. (a) Except as provided by Subsection (b), this section applies only to:

(1) a school district peace officer commissioned under Section 37.081, Education Code; or

(2) a school resource officer, as defined by Section 1701.601.

(b) This section does not apply to a peace officer while the peace officer is assigned to a school-sponsored event at which formal classroom instruction is not offered.

(c) A peace officer may not serve as a school district peace officer for more than one calendar year unless the peace officer has completed a 16-hour or longer education and training program approved by the commission under this section, except as provided by Subsection (d), and has received a certificate under Subsection (e). A peace officer may not serve as a school resource officer for more than one calendar year unless the officer has completed a 16-hour or longer education and training program approved by the commission under this section, except as provided by Subsection (d), and has received a certificate under Subsection (e). This subsection applies only after the commission determines that regular and online education and training courses are available in the major regions of this state.

(d) A peace officer who has received comparable education and training through the Bexar County children's crisis intervention training program or the Texas School Safety Center at Texas State University is not required to complete the education and training program approved by the commission under this section to serve as a school district peace officer or school resource officer.

(e) The commission shall issue a professional achievement or proficiency certificate to a peace officer on successful completion of an education and training program:

(1) approved by the commission under this section; or

(2) described by Subsection (d).

(f) The commission shall appoint 12 members to a school resource curriculum committee to develop the curriculum for the education and training program under this section. The school resource curriculum committee shall be composed as follows:

(1) one representative of the Bexar County children's crisis intervention training program;

(2) one representative of the Texas School Safety Center at Texas State University;

(3) one representative of the commission;

(4) one representative of the Texas Municipal Police Association;

(5) one representative of the Texas Education Agency;

(6) one representative of a local mental health authority, as defined by Section 571.003, Health and Safety Code;

(7) a peace officer with certification in crisis intervention;

(8) a school district peace officer;

(9) one representative of an organization that advocates for juvenile justice;

(10) one representative of an organization that advocates for civil liberties;

(11) one representative of an organization representing parents of public school students; and

(12) one representative of the Texas School District Police Chiefs' Association.

(g) Members of the school resource curriculum committee serve terms of two years.

(h) The school resource curriculum committee shall develop the curriculum for the education and training program under this section based on the model curriculum used for the Bexar County children's crisis intervention training program and in accordance with Subsection (i). The curriculum must be approved by the commission. After developing the program, the committee may review and revise the curriculum for the program annually or as the committee determines necessary. Any revision must be approved by the commission. In carrying out its duties, the committee may use technology, including teleconferencing or videoconferencing, to eliminate travel expenses. Not later than December 1 of each even-numbered year, the commission shall review the committee's continuation and functions and make any recommendations to the legislature concerning statutory changes regarding the committee that the commission considers appropriate.

(i) The curriculum for the education and training program under this section must incorporate learning objectives regarding:

(1) child and adolescent development and psychology;

(2) positive behavioral interventions and supports, conflict resolution techniques, and restorative justice techniques;

(3) force usage limitations, including physical restraint, and de-escalation techniques;

(4) children with disabilities or special needs, including mental or behavioral health needs; and

(5) cultural competency.

(j) The education and training program under this section may be provided:

(1) as a collaborative model within a community that:

(A) involves local stakeholders; and

(B) incorporates didactic and experiential training using the best practice model of the Bexar County children's crisis intervention training program;

(2) by a school determined appropriate for operation under Section 1701.251; or

(3) as an online training program sponsored by an online training provider if the training provider also provides training under Section 1701.251.

(k) A school district may offer additional, commission-approved preparatory education or training to its school district peace officers and school resource officers.

(l) The superintendent of a school district that employs a peace officer or to which a school resource officer is assigned shall maintain on file the certification issued to the officer under Subsection (e).

(m) Notwithstanding Section 1701.351(a), the commission may not suspend the license of a peace officer solely because the peace officer fails to meet the requirements of this section.

SECTION ____ . Not later than March 31, 2012, the Commission on Law Enforcement Officer Standards and Education shall approve the curriculum for the education and training program as required by Section 1701.604, Occupations Code, as added by this Act.

SECTION _____. Section 1701.604, Occupations Code, as added by this Act, applies only to a school district peace officer or school resource officer who is serving or has been assigned, appointed, commissioned, or employed by a school district to serve in that capacity on or after March 31, 2012.

Amendment No. 1 was adopted.

SB 542, as amended, was passed by (Record 1395): 141 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; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; 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; Lucio; 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; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harless; Peña; Villarreal.

Absent — Crownover; Farias; Lyne; Sheffield; Taylor, L.

GENERAL STATE CALENDAR (consideration continued)

SB 472 ON SECOND READING (Giddings - House Sponsor)

SB 472, A bill to be entitled An Act relating to voting practices and elections of property owners' associations.

SB 472 was passed to third reading by (Record 1396): 103 Yeas, 40 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burnam; Button; Castro; Coleman; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hernandez Luna; Hilderbran;

Hopson; Howard, C.; Howard, D.; Isaac; Jackson; Johnson; Keffer; King, T.; Kleinschmidt; Laubenberg; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Patrick; Pickett; Pitts; Quintanilla; Raymond; Ritter; Rodriguez; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Burkett; Cain; Callegari; Carter; Chisum; Christian; Cook; Creighton; Eissler; Fletcher; Harper-Brown; Hochberg; Huberty; Hughes; Hunter; King, P.; King, S.; Kolkhorst; Kuempel; Landtroop; Larson; Lavender; Legler; Margo; Miller, D.; Miller, S.; Morrison; Nash; Parker; Paxton; Perry; Phillips; Price; Riddle; Schwertner; Simpson; Taylor, V.; Weber; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harless; Peña; Villarreal.

Absent — Deshotel; Hartnett; Reynolds.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1396. I intended to vote yes.

Callegari

I was shown voting yes on Record No. 1396. I intended to vote no.

Otto

I was shown voting no on Record No. 1396. I intended to vote yes.

Schwertner

(Peña now present)

SB 516 ON SECOND READING **(Fletcher - House Sponsor)** **RULES SUSPENDED**

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **SB 516**.

The motion prevailed by (Record 1397): 146 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; 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; 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; Lucio; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harless; Villarreal.

Absent — Burnam.

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

SB 516, A bill to be entitled An Act relating to the exemption from ad valorem taxation of all or part of the appraised value of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran.

SB 516 was read second time and was passed to third reading by (Record 1398): 146 Yeas, 0 Nays, 2 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; 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; 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; Lucio; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Harless; Villarreal.

STATEMENT OF VOTE

I was shown voting present, not voting on Record No. 1398. I intended to vote yes.

Carter

POSTPONED BUSINESS

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

SB 498 ON SECOND READING
(Phillips - House Sponsor)

SB 498, A bill to be entitled An Act relating to the trapping and transport of surplus white-tailed deer.

SB 498 was read second time earlier today, amendments were offered and disposed of, and **SB 498** was postponed until this time.

SB 498, as amended, was passed to third reading by (Record 1399): 133 Yeas, 11 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Bohac; Burnam; Cain; Coleman; Eiland; Hancock; Hilderbran; Hughes; King, S.; White; Zedler.

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

Absent, Excused — Harless; Villarreal.

Absent — Harper-Brown; Riddle.

GENERAL STATE CALENDAR
(consideration continued)

SB 975 ON SECOND READING
(Muñoz and Patrick - House Sponsors)

SB 975, A bill to be entitled An Act relating to the operation of dropout recovery programs by certain public junior colleges in partnership with school districts.

SB 975 was passed to third reading by (Record 1400): 94 Yeas, 50 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Brown; Burkett; Burnam; Callegari; Castro; Chisum; Coleman; Cook; Darby; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Larson; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Muñoz; Naishtat; Oliveira; Patrick; Peña; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Woolley.

Nays — Anderson, R.; Berman; Bonnen; Branch; Button; Cain; Christian; Craddick; Creighton; Crownover; Davis, J.; Elkins; Fletcher; Flynn; Frullo; Gooden; Hamilton; Hancock; Harper-Brown; Hartnett; Hilderbran; King, P.; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Madden; Morrison; Murphy; Nash; Orr; Otto; Parker; Paxton; Perry; Phillips; Price; Riddle; Sheets; Sheffield; Solomons; Taylor, L.; Taylor, V.; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Harless; Villarreal.

Absent — Bohac; Carter; Gallego.

STATEMENTS OF VOTE

When Record No. 1400 was taken, I was in the house but away from my desk. I would have voted no.

Carter

I was shown voting yes on Record No. 1400. I intended to vote no.

Truitt

REASON FOR VOTE

I intended to vote no because the program's estimated cost would be \$27.8 million in 2014, and we cannot afford such costs as a state.

Carter

SB 1130 ON SECOND READING (Kleinschmidt - House Sponsor)

SB 1130, A bill to be entitled An Act relating to the exception from required public disclosure of certain records of an appraisal district.

Amendment No. 1

Representative Garza offered the following amendment to **SB 1130**:

Amend **SB 1130** (senate committee printing) as follows:

Add the following appropriately numbered **SECTIONS** to the bill:

SECTION _____. Section 11.1826, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) For purposes of determining whether an organization has satisfied the requirements of Subsection (b) or (e) of this section in order to qualify for an exemption under Section 11.1825 or 11.182, respectively, an opinion included in an audit of the organization prepared by an independent auditor who is licensed by this state as a certified public accountant or a determination of tax-exempt status under Section 501(c), Internal Revenue Code of 1986, issued by the United States Internal Revenue Service is prima facie evidence of the facts stated in the opinion or determination.

SECTION _____. This Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

Amendment No. 1 was withdrawn.

SB 1130 was passed to third reading.

SB 1360 ON SECOND READING
(Hunter and Naishtat - House Sponsors)

SB 1360, A bill to be entitled An Act relating to continuing education for physicians and nurses regarding the treatment of tick-borne diseases.

SB 1360 was passed to third reading.

SB 1560 ON SECOND READING
(L. Taylor - House Sponsor)

SB 1560, A bill to be entitled An Act relating to liability of certain local emergency management or homeland security organizations.

SB 1560 was passed to third reading by (Record 1401): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; 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; Hancock; Hardcastle; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Harless; Villarreal.

Absent — Aycock; Branch; Burnam; Castro; Hamilton; Oliveira; Rodriguez.

SB 1617 ON SECOND READING

(Aliseda - House Sponsor)

SB 1617, A bill to be entitled An Act relating to the discretionary transfer from a juvenile court to a criminal court of certain alleged offenses arising out of a single criminal transaction.

SB 1617 was passed to third reading.

SB 1843 ON SECOND READING

(Frullo, Gallego, Hartnett, Christian, and Y. Davis - House Sponsors)

SB 1843, A bill to be entitled An Act relating to investigations of certain offenses involving the Internet-based sexual exploitation of a minor; creating the Internet crimes against children account to support those activities.

SB 1843 was passed to third reading.

POINT OF ORDER

Representative S. Miller raised a point of order against further consideration of the calendar under Rule 8, Section 13(c) of the House Rules on the grounds that the deadline for consideration of senate bills on second reading had passed.

The speaker sustained the point of order.

(Schwertner in the chair)

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. 33).

PROVIDING FOR RECESS

Representative Workman moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house recess until 10 a.m. today, Wednesday, May 25.

The motion prevailed.

RESOLUTIONS REFERRED TO COMMITTEES

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

RECESS

In accordance with a previous motion, the house, at 12:14 a.m. Wednesday, May 25, recessed until 10 a.m. today.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HR 2297 (By Reynolds), Commending Naomi Showers for her service as a participant in the Texas Legislative Internship Program.

To Rules and Resolutions.

HR 2298 (By Reynolds), Honoring Jazz Education Inc. on the occasion of the grand opening of the 40 Seasons of Jazz Photo Exhibition.

To Rules and Resolutions.

HR 2299 (By Reynolds), Honoring Stafford mayor Leonard Scarcella for his 42 years of service.

To Rules and Resolutions.

HR 2300 (By Reynolds), Commending Donald Bankston for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2301 (By Reynolds), Commending Emmanuel Barnes for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2302 (By Reynolds), Commending Evelyn Barnet for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2303 (By Reynolds), Commending Skip Belt for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2304 (By Reynolds), Commending Cynthia Bennett for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2305 (By Reynolds), Commending Jacqueline Booker for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2306 (By Reynolds), Commending Clifford Brown for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2307 (By Reynolds), Commending Shirley Connally for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2308 (By Reynolds), Commending Wintress Cornish for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2309 (By Reynolds), Commending Margaret Darby for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2310 (By Reynolds), Commending Wanda Davila for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2311 (By Reynolds), Commending Andrea Downey for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2312 (By Reynolds), Commending Iris Galvan for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2313 (By Reynolds), Commending Ted Garcia for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2314 (By Reynolds), Commending Cynthia Ginyard for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2315 (By Reynolds), Commending Alvin Gipson for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2316 (By Reynolds), Commending Dana "Bart" Gohr for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2317 (By Reynolds), Commending Rodney Griffin for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2318 (By Reynolds), Commending Debra Hill for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2319 (By Reynolds), Commending Dorothy James for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2320 (By Reynolds), Commending Barbara Jones for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2321 (By Reynolds), Commending Connie Meisgeier for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2322 (By Reynolds), Commending Doshie Murphy for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2323 (By Reynolds), Commending Rosemary Parker Hogue for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2324 (By Reynolds), Commending Lela Pickens for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2325 (By Reynolds), Commending Mary Ross for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2326 (By Reynolds), Commending James Scott for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2327 (By Reynolds), Commending Farhan Shamsi for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2328 (By Reynolds), Commending Constance Simpson for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2329 (By Reynolds), Commending Vivian Singleton for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2330 (By Reynolds), Commending Donna Thomas for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2331 (By Reynolds), Commending Rose Wall for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2332 (By Reynolds), Commending Janie Warstler for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2333 (By Reynolds), Commending Christine Washington for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2334 (By Reynolds), Commending Gerri Wells for serving as a Democratic Party precinct chair in Fort Bend County.

To Rules and Resolutions.

HR 2335 (By Anchia), Honoring the Reverend Albert K. Haynes, Sr., on his 40th pastoral anniversary.

To Rules and Resolutions.

HR 2336 (By L. Taylor), Honoring Jenny Rebecca Sykes for her service to the Republican Party of Texas.

To Rules and Resolutions.

HR 2337 (By Riddle), Honoring Michael Christopher Riddle, Jr., on his graduation from The University of Texas Medical Branch at Galveston.

To Rules and Resolutions.

HR 2338 (By Peña), Commending Maricela De Leon for her service in the office of State Representative Aaron Pena.

To Rules and Resolutions.

HR 2339 (By Peña), In memory of U.S. Marine Lance Corporal Derek Hernandez of Edinburg.

To Rules and Resolutions.

HR 2340 (By Madden), Commending Sheryl Mills for her service to the Collin County Republican Party on the occasion of her retirement as its executive director.

To Rules and Resolutions.

HR 2341 (By Torres), In memory of Humberto Lozano Lopez.

To Rules and Resolutions.

HR 2342 (By Peña), Honoring the Garcia family of Rio Grande City.

To Rules and Resolutions.

HR 2344 (By Reynolds), Honoring Stafford City Council member Ken Mathew for his service.

To Rules and Resolutions.

HR 2345 (By Reynolds), Honoring Stafford City Council member Wen Guerra for his service.

To Rules and Resolutions.

HR 2346 (By Reynolds), Honoring Stafford City Council member and mayor pro tem Felecia Evans-Smith.

To Rules and Resolutions.

HR 2347 (By Reynolds), Honoring Stafford City Council member Robert Sorbet for his service.

To Rules and Resolutions.

HR 2348 (By Reynolds), Honoring Stafford City Council member Cecil Willis for his service.

To Rules and Resolutions.

HR 2349 (By Reynolds), Honoring Stafford City Council member Fred Woolridge for his service.

To Rules and Resolutions.

HR 2350 (By Burnam), Honoring Mayra Mendez as a participant in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

HR 2351 (By Sheffield), Recognizing June 9, 2011, as Food First Day.

To Rules and Resolutions.

HR 2352 (By Sheffield), Congratulating George and Frances Svatek of Temple on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2353 (By Sheffield), In memory of Mamie Sue Moon Zabcik.

To Rules and Resolutions.

HR 2354 (By Sheffield), Commending Lieutenant General Robert W. Cone on his command of III Corps and Fort Hood and congratulating him on his promotion to the rank of four-star general.

To Rules and Resolutions.

HR 2355 (By Strama), In memory of U.S. Army Sergeant Mario Rodriguez, Jr.

To Rules and Resolutions.

HR 2356 (By Strama), Congratulating Bobby Spisak on his 2011 graduation from the Texas School for the Deaf.

To Rules and Resolutions.

HR 2357 (By Hunter), In memory of newspaper publisher and philanthropist Edward H. Harte.

To Rules and Resolutions.

HR 2358 (By Elkins), Congratulating Ashley Williams on placing second at the African American National Spelling Bee Championships.

To Rules and Resolutions.

HR 2359 (By Elkins), Congratulating Niaha Dyson on placing third at the African American National Spelling Bee Championships.

To Rules and Resolutions.

HR 2360 (By Elkins), Congratulating Mary Bello on winning the African American National Spelling Bee Championships.

To Rules and Resolutions.

HR 2361 (By Raymond), In memory of Maria Hermelinda Saenz Perez of Laredo.

To Rules and Resolutions.

HR 2362 (By Larson), In memory of Louis Herbert Stumberg.

To Rules and Resolutions.

HR 2363 (By Naishtat), In memory of Margaret Johnson Herman of Austin.

To Rules and Resolutions.

HR 2364 (By Branch), Honoring Wade Emmert on his election as chair of the Dallas County Republican Party.

To Rules and Resolutions.

HR 2365 (By Lozano), In memory of Fernando "Freddy" Ramirez of Raymondville.

To Rules and Resolutions.

HR 2366 (By Kleinschmidt), In memory of Bastrop County commissioner Lee Edward Dildy of Elgin.

To Rules and Resolutions.

HR 2367 (By Elkins), Commending Robert L. Garner, Jr., founder of the African American National Spelling Bee Championships, Inc.

To Rules and Resolutions.

HR 2368 (By Woolley), Congratulating LaKeshia Hammonds of the Memorial Villages Police Department on being named a 2011 Telecommunicator of the Year by the Commission on State Emergency Communications.

To Rules and Resolutions.

HR 2369 (By Woolley), In memory of Charles Richard Bergstrom III.

To Rules and Resolutions.

HR 2370 (By Woolley), Congratulating Anne Marie Kight of Houston on her graduation from Memorial High School.

To Rules and Resolutions.

HR 2371 (By Woolley), Congratulating Courtney Corinne Wood of Houston on her graduation from Memorial High School.

To Rules and Resolutions.

HR 2372 (By Madden), Congratulating Robert Michel Delcambre of Richardson on achieving the rank of Eagle Scout.

To Rules and Resolutions.

HR 2373 (By Martinez Fischer), Commending chef Chris Carlson for his contributions to the success of the Sandbar Fish House and Market in San Antonio.

To Rules and Resolutions.

HR 2374 (By Gutierrez), Congratulating Velma Sue De Leon on being elected president of the Texas Funeral Directors Association.

To Rules and Resolutions.

HR 2375 (By Quintanilla), Congratulating Jesse Guerra on winning the UIL 2A state singles tennis championship.

To Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 36

HB 8, HB 91, HB 159, HB 240, HB 252, HB 350, HB 417, HB 441, HB 442, HB 499, HB 675, HB 886, HB 1057, HB 1075, HB 1127, HB 1137, HB 1469, HB 1573, HB 1814, HB 1899, HB 2080, HB 2118, HB 2383, HB 2417, HB 2476, HB 2488, HB 2507, HB 2518, HB 2609, HB 2716, HB 2902, HB 2907, HB 2959, HB 2973, HB 3342, HB 3372, HB 3510, HB 3531, HB 3803

Senate List No. 33

SB 32, SB 54, SB 61, SB 77, SB 86, SB 116, SB 141, SB 149, SB 150, SB 162, SB 187, SB 189, SB 192, SB 193, SB 226, SB 260, SB 290, SB 335, SB 482, SB 494, SB 496, SB 512, SB 519, SB 530, SB 544, SB 626, SB 639, SB 690, SB 743, SB 796, SB 811, SB 851, SB 855, SB 867, SB 886, SB 899, SB 957, SB 1002, SB 1043, SB 1103, SB 1159, SB 1228, SB 1292, SB 1361, SB 1404, SB 1421, SB 1431, SB 1610, SB 1613, SB 1638, SB 1662, SB 1698, SB 1751, SB 1887, SB 1907, SB 1914, SB 1927, SCR 11, SCR 16, SJR 16

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 24, 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:

HB 1720 Davis, John SPONSOR: Patrick
Relating to improving health care provider accountability and efficiency under the child health plan and Medicaid programs.
(Amended)

HB 3275 Coleman SPONSOR: Ellis
Relating to the operation and governance of tax increment financing reinvestment zones.
(Amended)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Tuesday, May 24, 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 174 Jackson, Jim SPONSOR: Duncan
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.
(Committee Substitute)

HB 308 Menendez SPONSOR: Watson
Relating to life preserving devices on recreational vessels.
(Committee Substitute)

HB 343 Fletcher SPONSOR: Huffman
Relating to the reporting and recording of a motor vehicle accident involving an official vehicle driven by a peace officer, firefighter, or an emergency medical services employee in the course of official duties.

HB 360 Jackson, Jim SPONSOR: Duncan
Relating to ballot language for a proposition to approve the imposition, increase, or reduction of a tax or the issuance of bonds.
(Committee Substitute)

HB 412 Aycock SPONSOR: Hegar
Relating to the requirement that certain impaired veterinarians participate in a peer assistance program.

HB 528 Solomons SPONSOR: Van de Putte
Relating to the provision of pharmaceutical services through informal and voluntary networks in the workers' compensation system; providing an administrative violation.

HB 577 McClendon SPONSOR: Deuell
Relating to emergency prehospital care provided by emergency services personnel.

HB 588 Guillen SPONSOR: Whitmire
Relating to surcharges under the Driver Responsibility Program.

HB 630 Pickett SPONSOR: Nichols
Relating to the environmental review process for transportation projects.

(Committee Substitute)

HB 654 Solomons SPONSOR: Shapiro
Relating to a report regarding the municipality or county of origin of certain tax revenue collected by the comptroller.

HB 692 Farias SPONSOR: Van de Putte
Relating to high school graduation requirements for a student who is unable to participate in physical activity due to disability or illness.

HB 787 Kuempel SPONSOR: Wentworth
Relating to abandoned, wrecked, dismantled, discarded, and inoperable aircraft and vessels.

HB 788 Kuempel SPONSOR: Wentworth
Relating to the establishment and use of a private family cemetery by certain organizations in certain counties.

(Committee Substitute)

HB 805 Callegari SPONSOR: Hegar
Relating to the requirement that certain water service providers ensure emergency operations during an extended power outage.

(Committee Substitute)

HB 990 Rodriguez, Eddie SPONSOR: Watson
Relating to certain homestead preservation reinvestment zones.

HB 1040 Gallego SPONSOR: Uresti
Relating to the validation of the creation of, and certain acts related to, a venue project, and the dissolution of certain venue districts.

(Committee Substitute)

HB 1048 Cain SPONSOR: Eltife
Relating to the terms of the 102nd District Court in Red River County.

HB 1060 Kleinschmidt SPONSOR: Hegar
Relating to the de-annexation of land in Bastrop County by the Barton Springs-Edwards Aquifer Conservation District.

HB 1070 Scott SPONSOR: Hinojosa
Relating to the taking of a defendant's bail bond by county jailers.

HB 1116 Harper-Brown SPONSOR: Shapiro
Relating to prohibiting the sale and use of certain radar interference devices; creating an offense.

HB 1144 Cain SPONSOR: Deuell
Relating to the Hopkins County Hospital District.

HB 1148 Smith, Wayne SPONSOR: Hinojosa
Relating to an exemption for certain disabled veterans from the payment of a fee for the issuance of a personal identification certificate.

HB 1163 Keffer SPONSOR: Hegar
Relating to tuition and fee exemptions at public institutions of higher education for certain peace officers and firefighters.

HB 1226 Dutton SPONSOR: Ellis

Relating to the eligibility of certain persons who have received deferred adjudication to vote.

HB 1235 Schwertner SPONSOR: Ogden
Relating to the transfer of certain state property from the Texas Department of Transportation to the Parks and Wildlife Department.

HB 1274 Pena SPONSOR: Wentworth
Relating to an exemption from the payment of a toll for unmarked military vehicles conducting or training for emergency operations.

HB 1301 Guillen SPONSOR: Eltife
Relating to making a voluntary contribution to the Parks and Wildlife Department when registering a motor vehicle or renewing a motor vehicle registration.
(Committee Substitute)

HB 1305 Bonnen SPONSOR: Huffman
Relating to the issuance of oversize or overweight vehicle permits by certain port authorities.

HB 1341 Walle SPONSOR: Zaffirini
Relating to the manner of payment of tuition and mandatory fees at public institutions of higher education.

HB 1456 Orr SPONSOR: Deuell
Relating to the waiver and release of a mechanic's, contractor's, or materialman's lien or payment bond claim and to the creation of a mechanic's, contractor's, or materialman's lien for certain landscaping.

HB 1486 Gutierrez SPONSOR: Wentworth
Relating to signs posted under the memorial sign program for victims of certain vehicle accidents.

HB 1499 Larson SPONSOR: Wentworth
Relating to the designation of the Scenic Loop Road–Boerne Stage Road–Toutant Beaugard Road Historic Corridor.

HB 1504 Munoz, Jr. SPONSOR: Hinojosa
Relating to statutory references to the common electronic infrastructure project formerly known as TexasOnline.
(Committee Substitute)

HB 1523 Phillips SPONSOR: Watson
Relating to the offense of transporting household goods without registration; providing a penalty.

HB 1593 Isaac SPONSOR: Huffman
Relating to the inclusion of a candidate's e-mail address on an official application for a place on the ballot.

HB 1608 Strama SPONSOR: Watson
Relating to participation in and contributions to the state employee charitable campaign by retired state employees.

HB 1658 Davis, Yvonne SPONSOR: Whitmire
Relating to the refund of a cash bond to a defendant in a criminal case.
(Committee Substitute)

- HB 1907** Madden SPONSOR: Whitmire
Relating to notification requirements concerning offenses committed by students and school district discretion over admission or placement of certain students. (Committee Substitute)
- HB 1959** Thompson SPONSOR: Carona
Relating to appeal of the certification of an area's wet or dry status.
- HB 1981** Smith, Wayne SPONSOR: Gallegos
Relating to measuring, monitoring, and reporting emissions. (Committee Substitute)
- HB 2015** Thompson SPONSOR: Van de Putte
Relating to certain conduct indicating a need for supervision and the sealing of records related to that conduct. (Committee Substitute)
- HB 2038** Price SPONSOR: Deuell
Relating to prevention, treatment, and oversight of concussions affecting public school students participating in interscholastic athletics.
- HB 2077** Rodriguez, Eddie SPONSOR: Deuell
Relating to a pilot program under the loanstar revolving loan program to promote the use of energy efficiency measures and renewable energy technology by certain nonprofit organizations.
- HB 2103** Jackson, Jim SPONSOR: Carona
Relating to the consideration of a letter of credit issued by a federal home loan bank as an eligible security for collateral to secure public funds.
- HB 2109** Truitt SPONSOR: Uresti
Relating to agency action concerning assisted living facilities, including regulation of inappropriate placement of residents at facilities; providing a penalty.
- HB 2120** Miller, Doug SPONSOR: Duncan
Relating to the composition of the board of trustees of the Teacher Retirement System of Texas.
- HB 2127** Geren SPONSOR: Harris
Relating to the municipal regulation of the discharge of firearms and certain other weapons in certain counties.
- HB 2132** Reynolds SPONSOR: Hegar
Relating to the creation of magistrates in certain counties.
- HB 2139** Guillen SPONSOR: Zaffirini
Relating to the establishment of an Adopt-A-Library program and state employee charitable contributions to the program.
- HB 2172** Torres SPONSOR: Van de Putte
Relating to the eligibility of certain children under group life insurance policies. (Committee Substitute)
- HB 2195** Hartnett SPONSOR: Carona
Relating to requirements for certain arrangements or agreements of certain regional transportation authorities.

- HB 2223** Davis, Yvonne SPONSOR: Carona
Relating to the contracts of certain regional transportation authorities that are required to be competitively bid.
- HB 2280** Eiland SPONSOR: Jackson
Relating to the composition of the permanent advisory committee to advise the Texas Commission on Environmental Quality regarding the implementation of the ad valorem tax exemption for pollution control property.
- HB 2292** Hunter SPONSOR: Van de Putte
Relating to payment of claims to pharmacies and pharmacists.
- HB 2313** Coleman SPONSOR: Wentworth
Relating to certain notice requirements for municipalities and counties under the open meetings law.
(Committee Substitute)
- HB 2325** McClendon SPONSOR: Wentworth
Relating to the competitive bidding and notice requirements for contracts of certain mass transportation authorities.
- HB 2330** King, Phil SPONSOR: Estes
Relating to the statutory county courts in Wise County.
(Committee Substitute)
- HB 2359** Hopson SPONSOR: Williams
Relating to direct campaign expenditures.
- HB 2382** Murphy SPONSOR: Estes
Relating to notice required upon nonrenewal of property and casualty insurance policies.
- HB 2422** Thompson SPONSOR: Harris
Relating to the procedure for providing a copy of the final decree of dissolution of a marriage to a party who waived service of process.
- HB 2469** Phillips SPONSOR: Estes
Relating to a memorial sign program for victims of motorcycle accidents.
(Committee Substitute)
- HB 2471** Phillips SPONSOR: Deuell
Relating to limiting the civil liability of certain persons who obtain or provide medical care and treatment for certain animals.
- HB 2477** Harless SPONSOR: Ellis
Relating to provision of bilingual election materials.
(Committee Substitute)
- HB 2510** Lavender SPONSOR: Eltife
Relating to exempting the intrastate manufacture of certain incandescent light bulbs from federal regulation.
- HB 2579** Davis, John SPONSOR: Deuell
Relating to relief for certain employers from penalties and sanctions under the Texas Unemployment Compensation Act.
- HB 2610** Guillen SPONSOR: Deuell

Relating to facilitating access to certain public assistance benefits programs and health care providers and services through a community-based navigator program and through promotoras and community health workers.

HB 2619 Callegari SPONSOR: Whitmire
Relating to emergency preparedness information about water facilities.

HB 2632 Driver SPONSOR: Wentworth
Relating to access to the criminal history record information of certain persons by the Texas Facilities Commission.

HB 2636 Kolkhorst SPONSOR: Nelson
Relating to a council to study neonatal intensive care units.
(Committee Substitute)

HB 2703 Truitt SPONSOR: Uresti
Relating to the regulation of orthotists and prosthetists.

HB 2717 Darby SPONSOR: Carona
Relating to the duties and responsibilities of certain county officials and the functions of county government.
(Committee Substitute)

HB 2758 Pena SPONSOR: Zaffirini
Relating to mandatory emergency alert systems at institutions of higher education.

HB 2769 Frullo SPONSOR: Wentworth
Relating to the authority of the Texas Facilities Commission regarding gifts, grants, and donations.

HB 2826 Murphy SPONSOR: Huffman
Relating to the issuance of a certificate for a municipal setting designation.

HB 2869 Harper-Brown SPONSOR: Shapiro
Relating to the powers and duties of certain master mixed-use property owners' associations.
(Committee Substitute)

HB 2903 Zerwas SPONSOR: Deuell
Relating to the program of all-inclusive care for the elderly.
(Committee Substitute)

HB 2940 King, Tracy O. SPONSOR: Zaffirini
Relating to the form of death certificates and fetal death certificates.

HB 3002 Hughes SPONSOR: Eltife
Relating to certain conservation and reclamation districts exempted from filing a full audit.
(Committee Substitute)

HB 3017 Smithee SPONSOR: Duncan
Relating to the prohibited use of discretionary clauses in certain health maintenance organization and insurance contracts.

HB 3093 Lewis SPONSOR: Duncan

Relating to the amendment of certain reports of political contributions and expenditures.

HB 3167 Callegari SPONSOR: Carona
Relating to the abolishment of the state regulation of talent agencies and personnel services.

HB 3270 Veasey SPONSOR: Deuell
Relating to the list of candidates compiled by a state or county party chair for a primary election.

HB 3309 Rodriguez, Eddie SPONSOR: Nichols
Relating to the authority to set maximum weights for state highways, roads, and bridges.

HB 3311 Carter SPONSOR: Nelson
Relating to the duty of an attorney ad litem appointed for a child to meet with the child or individual with whom the child resides before each court hearing.

HB 3314 Carter SPONSOR: Nelson
Relating to a requirement that an attorney ad litem appointed for a child file a statement with the court regarding the attorney ad litem's meeting with the child or other specified person.

HB 3333 Pena SPONSOR: Hegar
Relating to the authority of the governor to order the disconnection of state computer networks from the Internet.
(Committee Substitute)

HB 3336 Coleman SPONSOR: Deuell
Relating to information regarding pertussis for parents of newborn children.

HB 3337 Gonzales, Veronica SPONSOR: Hinojosa
Relating to the emergency medical services that give rise to an emergency medical services lien.

HB 3578 Gonzales, Larry SPONSOR: Zaffirini
Relating to clarification of the authorized uses for loans under public institution of higher education emergency loan programs.

HB 3579 Gonzales, Larry SPONSOR: Zaffirini
Relating to repayment assistance for certain physician education loans.

HB 3796 Gallego SPONSOR: Uresti
Relating to the composition of certain judicial districts.

HB 3808 King, Tracy O. SPONSOR: Uresti
Relating to fishing with certain archery equipment in certain counties.

HCR 24 Darby SPONSOR: Duncan
Designating Nymphaea Texas Dawn as the official State Waterlily of Texas.

HCR 130 Button SPONSOR: Carona
Designating the city of Richardson as the official International Business Capital of North Texas.

SB 1460 Harris
Relating to energy savings performance contracts.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, May 24, 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 90 Cook SPONSOR: Birdwell
Relating to eligibility to obtain a driver's license.
(Amended)

HB 149 Raymond SPONSOR: Zaffirini
Relating to the appointment of a parenting coordinator or parenting facilitator in a suit affecting the parent-child relationship.

HB 274 Creighton SPONSOR: Huffman
Relating to the reform of certain remedies and procedures in civil actions and family law matters.
(Committee Substitute)

HB 300 Kolkhorst SPONSOR: Nelson
Relating to the privacy of protected health information; providing administrative and civil penalties.
(Committee Substitute/Amended)

HB 326 Guillen SPONSOR: Zaffirini
Relating to the reporting requirements of a state agency that is undergoing review by the Sunset Advisory Commission.
(Committee Substitute)

HB 628 Callegari SPONSOR: Jackson
Relating to contracts by governmental entities and related professional services and to public works performance and payment bonds.
(Amended)

HB 968 Strama SPONSOR: Watson
Relating to expulsion from school or placement in a disciplinary alternative education program.
(Committee Substitute)

HB 1129 Kolkhorst SPONSOR: Hegar

Relating to a study by the attorney general of the effects on state law and authority of certain international and other agreements and bodies.

HB 1241 Zedler SPONSOR: Harris
Relating to surety bond requirements for reserve deputy constables.

HB 1768 Munoz, Jr. SPONSOR: Hinojosa
Relating to the regulation of roadside vendors and solicitors in certain counties.
(Committee Substitute)

HB 1788 Farias SPONSOR: Uresti
Relating to capturing reptiles and amphibians by nonlethal means; providing a penalty.
(Committee Substitute/Amended)

HB 1904 Sheffield SPONSOR: Estes
Relating to the deadlines for write-in candidates for the office of county or precinct chair of a political party.
(Committee Substitute)

HB 2006 Bonnen SPONSOR: Huffman
Relating to the release of a photograph of a police officer and access to records maintained by internal investigative divisions in certain municipalities.

HB 2284 Hardcastle SPONSOR: Deuell
Relating to the practice of architecture and engineering.
(Committee Substitute/Amended)

HB 2357 Pickett SPONSOR: Williams
Relating to motor vehicles; providing penalties.
(Committee Substitute/Amended)

HB 2367 Parker SPONSOR: Uresti
Relating to the creation of an advisory panel to study certain parental rights relating to possession of or access to the parent's child.
(Amended)

HB 2387 Menendez SPONSOR: Lucio
Relating to the selection, compensation, and duties of the general counsel to an appraisal district.

HB 2425 Thompson SPONSOR: Hegar
Relating to notice to the attorney general of challenges to the constitutionality of Texas statutes.

HB 2649 Allen SPONSOR: Ellis
Relating to the award of diligent participation credit to defendants confined in a state jail felony facility.

HB 3033 Naishtat SPONSOR: Watson
Relating to retirement under public retirement systems for employees of certain municipalities.
(Committee Substitute)

HB 3090 Creighton SPONSOR: Nichols
Relating to the frequency of water audits by certain retail public utilities.
(Committee Substitute)

HB 3133 Rodriguez, Eddie SPONSOR: Hinojosa
 Relating to the appraisal for ad valorem tax purposes of property on which housing is being or has been built or repaired for sale or rent to a low-income individual or family.
 (Committee Substitute/Amended)

HB 3352 Smith, Wayne SPONSOR: Gallegos
 Relating to the sale of park land owned by certain municipalities.

HB 3439 Raymond SPONSOR: Rodriguez
 Relating to missing children; providing a criminal penalty.

HB 3691 Gallego SPONSOR: Carona
 Relating to community supervision and corrections departments and community justice plans.
 (Committee Substitute)

HB 3815 Lewis SPONSOR: Seliger
 Relating to the authority of the Ector County Hospital District to employ and commission peace officers.

HB 3828 Hochberg SPONSOR: Gallegos
 Relating to the creation of the Gulfton Area Municipal Management District; providing authority to impose a tax, levy an assessment, and issue bonds.
 (Committee Substitute)

HB 3829 Anderson, Charles "Doc" SPONSOR: Birdwell
 Relating to gifts and donations to the McLennan County Juvenile Board.

HB 3831 Marquez SPONSOR: Rodriguez
 Relating to the creation of the Montecillo Municipal Management District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.
 (Amended)

HB 3836 Pitts SPONSOR: Birdwell
 Relating to the creation of the Windsor Hills Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

HB 3862 Smith, Wayne SPONSOR: Whitmire
 Relating to temporary directors and the continuation in existence of the Harris County Municipal Utility District No. 510.

Respectfully,
 Patsy Spaw
 Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
 SENATE CHAMBER
 Austin, Texas
 Tuesday, May 24, 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:

HB 736 Patrick, Diane SPONSOR: West
Relating to required online information regarding public institutions of higher education.

(Committee Substitute/Amended)

HB 1043 Christian SPONSOR: Lucio
Relating to creating an offense for engaging in certain conduct relating to cockfighting.

(Amended)

HB 1244 Castro SPONSOR: West
Relating to developmental education courses and the assessment of student readiness under the Texas Success Initiative for public institutions of higher education.

(Amended)

HB 1728 Keffer SPONSOR: Harris
Relating to energy savings performance contracts and energy efficiency planning.

(Amended)

HB 1781 Price SPONSOR: Nelson
Relating to obsolete or redundant reporting requirements applicable to state agencies.

(Committee Substitute/Amended)

HB 2449 Aliseda SPONSOR: Hegar
Relating to the illegal possession of another person's ballot to be voted by mail.

(Amended)

HB 2999 Lewis SPONSOR: Zaffirini
Relating to a fixed tuition rate program for certain students who transfer to a state university after completing an associate degree program.

(Committee Substitute)

HB 3145 Naishtat SPONSOR: Zaffirini
Relating to the regulation of chemical dependency counselors.

HB 3182 Ritter SPONSOR: Williams
Relating to the imposition of state taxes, including the sales and use, motor vehicle sales and use, and hotel occupancy tax, on certain oilfield portable units.

HB 3423 Lozano SPONSOR: Hinojosa
Relating to certain criminal offenses committed in relation to a federal special investigator; providing criminal penalties.

HB 3595 Chisum SPONSOR: Carona
Relating to energy efficiency goals and energy efficiency programs.

(Committee Substitute/Amended)

HB 3819 Crownover SPONSOR: Nelson

Relating to the creation of the Valencia Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.
(Committee Substitute)

HB 3821 Eiland SPONSOR: Huffman
Relating to temporary directors and the continuation in existence of the Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County.

HB 3823 Thompson SPONSOR: Ellis
Relating to the regulation of certain telecommunicators; providing penalties.

HB 3852 Pitts SPONSOR: Birdwell
Relating to the creation of the Midlothian Municipal Management District No. 2; providing authority to impose a tax, levy an assessment, and issue bonds.

HB 3859 Laubenberg SPONSOR: Deuell
Relating to the creation of the Club Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.
(Amended)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, May 24, 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:

HB 9 Branch SPONSOR: Zaffirini
Relating to student success-based funding for and reporting regarding public institutions of higher education.
(Committee Substitute/Amended)

HB 213 Rodriguez, Eddie SPONSOR: Lucio
Relating to certain loans secured by a lien on residential real property and to other transactions involving residential real property; providing civil penalties.
(Committee Substitute/Amended)

HB 963 Hartnett SPONSOR: Rodriguez
Relating to the costs associated with proceedings regarding cruelly treated animals.

HB 1400 Elkins SPONSOR: West

Relating to the boundaries and financing of public improvement districts designated by a municipality or county.
(Committee Substitute/Amended)

HB 2098 Davis, John SPONSOR: Uresti
Relating to the authority of physicians and physician assistants to form certain entities.

HB 2329 Zedler SPONSOR: Van de Putte
Relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons; providing penalties.
(Amended)

HB 2365 Eissler SPONSOR: Shapiro
Relating to certain responsibilities of education research centers and to a joint advisory board for education research centers.
(Amended)

HB 2466 Phillips SPONSOR: Carona
Relating to the licensing and operation of motor vehicles by minors.
(Amended)

HB 2472 Marquez SPONSOR: Rodriguez
Relating to the reporting of certain warrant or capias information to the national crime information center.

HB 2663 Chisum SPONSOR: Seliger
Relating to the effect of rules and standards adopted by the Railroad Commission of Texas relating to the liquefied petroleum gas industry on ordinances, orders, or rules adopted by political subdivisions relating to that industry.
(Committee Substitute)

HB 2761 Garza SPONSOR: West
Relating to meetings, elections, and records of certain property owners' associations.
(Committee Substitute/Amended)

HB 2792 Hunter SPONSOR: Hegar
Relating to the power of the Aransas County Navigation District to determine the amount of a check or bond necessary to purchase land from the district.

HB 2872 Orr SPONSOR: Davis
Relating to restrictions on the sale of certain motor vehicles at vehicle shows or exhibitions.

HB 3833 Phillips SPONSOR: Harris
Relating to the adoption of a uniform collaborative law Act in regard to family law matters.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 6MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Tuesday, May 24, 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:

SCR 58 Watson

Instructing the enrolling clerk of the senate to make corrections in S.B. No. 768.

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO
THE FOLLOWING MEASURES:**SB 768** (30 Yeas, 0 Nays)Respectfully,
Patsy Spaw
Secretary of the Senate**Message No. 7**MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Tuesday, May 24, 2011 - 7

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 3 Thompson SPONSOR: Huffman

Relating to the imposition of a sentence of life without parole on certain defendants who commit certain sexual offenses.

(Committee Substitute)

HB 6 Eissler SPONSOR: Shapiro

Relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools.

(Committee Substitute/Amended)

HB 890 Howard, Charlie SPONSOR: Davis
 Relating to certain custom vehicles and street rods.

HB 971 King, Phil SPONSOR: Fraser
 Relating to removal of the requirement that an electric utility designate a preferred route for a transmission line in an application for a certificate of convenience and necessity.
 (Amended)

HB 1103 Lucio III SPONSOR: Ellis
 Relating to the civil and criminal consequences of certain criminal offenses involving animal cruelty.
 (Committee Substitute/Amended)

HB 1517 Isaac SPONSOR: Hegar
 Relating to the disposition of fines for traffic violations collected by certain municipalities.
 (Amended)

HB 1541 McClendon SPONSOR: Wentworth
 Relating to the prevention of automobile burglary and theft.
 (Amended)

HB 1754 Gallego SPONSOR: Wentworth
 Relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.
 (Committee Substitute/Amended)

HB 2439 Gallego SPONSOR: Watson
 Relating to posting suggestions and ideas on cost-efficiency and certain budget documents on certain state agency websites.
 (Committee Substitute/Amended)

HB 3647 Turner SPONSOR: Ogden
 Relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.
 (Committee Substitute)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 156
 Senate Conferees: Huffman - Chair/Deuell/Duncan/Nelson/Uresti

SB 958
 Senate Conferees: Wentworth - Chair/Eltife/Hegar/Uresti/Watson

SB 1320
 Senate Conferees: Lucio - Chair/Carona/Eltife/Estes/Van de Putte

SB 1338
 Senate Conferees: Eltife - Chair/Hegar/Seliger/Uresti/Zaffirini

SB 1489

Senate Conferees: Whitmire - Chair/Harris/Hinojosa/Huffman/Shapiro

SB 1534

Senate Conferees: Shapiro - Chair/Eltife/Harris/Jackson/Zaffirini

SB 1816

Senate Conferees: Zaffirini - Chair/Carona/Fraser/Lucio/Rodriguez

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 1951

Senate Conferees: Hegar - Chair/Huffman/Nelson/Uresti/Williams

HB 2499

Senate Conferees: Nichols - Chair/Hegar/Hinojosa/Huffman/Whitmire

HB 2817

Senate Conferees: Duncan - Chair/Ellis/Jackson/Van de Putte/Williams

HB 3577

Senate Conferees: Zaffirini - Chair/Carona/Duncan/Eltife/Watson

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 201 (31 Yeas, 0 Nays)**SB 316** (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 8

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Tuesday, May 24, 2011 - 8

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 2770

Smith, Wayne

SPONSOR: Williams

Relating to the powers and duties of navigation districts, port authorities, and certain municipalities.

(Amended)

HB 3396

Hernandez Luna

SPONSOR: Patrick

Relating to the prosecution of and punishment for the offense of breach of computer security.

(Amended)

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 329 (29 Yeas, 2 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 23

Culture, Recreation, and Tourism - **HCR 156, HCR 165**

Licensing and Administrative Procedures - **SB 411, SB 923, SB 1399**

ENROLLED

May 23 - **HB 8, HB 91, HB 150, HB 240, HB 252, HB 350, HB 361, HB 441, HB 442, HB 499, HB 596, HB 707, HB 960, HB 969, HB 1057, HB 1075, HB 1110, HB 1120, HB 1127, HB 1137, HB 1215, HB 1379, HB 1395, HB 1481, HB 1525, HB 1614, HB 1666, HB 1682, HB 1771, HB 1814, HB 1830, HB 1866, HB 1899, HB 1906, HB 2080, HB 2118, HB 2286, HB 2295, HB 2366, HB 2370, HB 2383, HB 2417, HB 2418, HB 2518, HB 2519, HB 2582, HB 2690, HB 2716, HB 2742, HB 2809, HB 2825, HB 2937, HB 2978, HB 3146, HB 3174, HB 3307, HB 3465, HB 3506, HB 3531, HB 3573, HB 3803, HB 3818, HB 3857, HCR 151**

SENT TO THE GOVERNOR

May 23 - **HB 34, HB 114, HB 123, HB 253, HB 282, HB 345, HB 399, HB 413, HB 451, HB 533, HB 549, HB 627, HB 649, HB 824, HB 930, HB 942, HB 962, HB 1123, HB 1128, HB 1135, HB 1136, HB 1146, HB 1245, HB 1381, HB 1529, HB 1559, HB 1643, HB 1694, HB 1772, HB 1774, HB 1840, HB 1841, HB 1908, HB 1965, HB 1983, HB 2061, HB 2069, HB 2108, HB 2162, HB 2189, HB 2245, HB 2258, HB 2312, HB 2354, HB 2727, HB 2759, HB 2793, HB 2859, HB 2908, HB 2928, HB 3065, HB 3272, HB 3547, HB 3814, HCR 18, HCR 63, HCR 68, HCR 90, HCR 133, HCR 164**

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-FOURTH DAY (CONTINUED) — WEDNESDAY, MAY 25, 2011

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

The roll of the house was called and a quorum was announced present (Record 1402).

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; 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; 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; Lucio; 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 — Harless.

The invocation was offered by Reverend Estee Valendy, pastor, First United Methodist Church, Arlington, as follows:

Creator God, ruler of the universe, in you we find the way of peace and reconciliation and hope. We give you thanks for the privilege and freedom of selecting those who govern us. I pray this morning for these members who have been elected to the task of representing your people. Theirs is a large responsibility. The issues they face are complex and challenging. Guide them, O God, to see their decisions in the light of your purpose. Illuminate for them the ways of justice and compassion. Grant them insight to recognize the needs of those they represent and remove their suspicions and misunderstandings, that they may honor all people. In this final week of anxiety and stress, sustain and empower them to work swiftly and diligently to serve the common good.

As we prepare for the work of this day, we lift to you our state and its citizens. Look graciously, O Lord, upon this land. Where it is in pride, subdue it. Where it is in need, supply it. Where it is in error, rectify it. Where it is in default, restore it; and where it holds to that which is just and compassionate, support it.

The speaker recognized Representative Burkett 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 for today because of important business:

Harless on motion of Deshotel.

CAPITOL PHYSICIAN

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

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

REGULAR ORDER OF BUSINESS SUSPENDED

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

(Aliseda in the chair)

HR 1643 - PREVIOUSLY ADOPTED

(by Deshotel)

The chair laid out and had read the following previously adopted resolution:

HR 1643, Honoring the Texas Small Farmers and Ranchers Community Based Organization.

On motion of Representative Brown, the names of all the members of the house were added to **HR 1643** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Deshotel who introduced members of the Texas Small Farmers and Ranchers Community Based Organization.

HCR 153 - PREVIOUSLY ADOPTED

(by Dukes)

The chair laid out and had read the following previously adopted resolution:

HCR 153, Honoring the Austin Area Urban League.

On motion of Representatives D. Howard and Rodriguez, the names of all the members of the house were added to **HCR 153** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Naishtat who introduced representatives of the Austin Area Urban League.

HR 2424 - ADOPTED **(by S. Miller)**

Representative S. Miller moved to suspend all necessary rules to take up and consider at this time **HR 2424**.

The motion prevailed.

The following resolution was laid before the house:

HR 2424, Congratulating Eddy D. Edmondson on his retirement as president of the Texas Nursery & Landscape Association.

HR 2424 was read and was adopted.

On motion of Representative Hardcastle, the names of all the members of the house were added to **HR 2424** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative S. Miller who introduced Eddy D. Edmondson and members of his family and friends.

HR 2135 - ADOPTED **(by Rodriguez)**

Representative Rodriguez moved to suspend all necessary rules to take up and consider at this time **HR 2135**.

The motion prevailed.

The following resolution was laid before the house:

HR 2135, Congratulating Matthew Curtis on being named the 2011 Austinite of the Year at the Austin Under 40 Awards sponsored by the Young Women's Alliance and Young Men's Business League.

HR 2135 was read and was adopted.

On motion of Representative Workman, the names of all the members of the house were added to **HR 2135** as signers thereof.

INTRODUCTION OF GUEST

The chair recognized Representative Rodriguez who introduced Matthew Curtis.

HR 2406 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2406**, suspending the limitations on the conferees for **SB 321**.

HR 2163 - PREVIOUSLY ADOPTED**(by Brown)**

The chair laid out and had read the following previously adopted resolution:

HR 2163, Commemorating the 40th anniversary of the Texas Sea Grant College Program.

On motion of Representative Branch, the names of all the members of the house were added to **HR 2163** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Brown who introduced representatives of the Texas Sea Grant College Program.

HR 1955 - ADOPTED**(by Chisum, Craddick, Lewis, Gallego, and Perry)**

Representative Chisum moved to suspend all necessary rules to take up and consider at this time **HR 1955**.

The motion prevailed.

The following resolution was laid before the house:

HR 1955, Urging the United States Fish and Wildlife Service to withdraw its proposal to list the dunes sagebrush lizard under the Endangered Species Act of 1973.

HR 1955 was adopted.

On motion of Representative Chisum, the names of all the members of the house were added to **HR 1955** as signers thereof.

RESOLUTIONS ADOPTED

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 2423** and **HR 2432**.

The motion prevailed.

The following resolutions were laid before the house:

HR 2423 (by Dutton), Congratulating the honorees of the 2011 KEW Learning Academy Profiles of Prominence Awards Banquet.

HR 2432 (by Dutton), Congratulating Terena Tichelle Cloud on her graduation from Klein Collins High School.

The resolutions were adopted.

On motion of Representative Dutton, the names of all the members of the house were added to **HR 2423** and **HR 2432** as signers thereof.

HCR 166 - ADOPTED
(by Guillen)

Representative Guillen moved to suspend all necessary rules to take up and consider at this time **HCR 166**.

The motion prevailed.

The following resolution was laid before the house:

HCR 166, Commemorating the 10th anniversary of the death of John Austin Pena and the naming of the John Austin Pena Memorial Center in Edinburg.

HCR 166 was adopted.

HCR 167 - ADOPTED
(by Otto)

The following privileged resolution was laid before the house:

HCR 167

WHEREAS, **HB 2203** has been adopted by the senate and the house of representatives and is being prepared for enrollment; and

WHEREAS, The bill contains technical errors that should be corrected; now, therefore, be it

RESOLVED, by the 82nd Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following corrections:

(1) In SECTION 1 of the house engrossment (page 1, line 11), strike "three-year" and substitute "four-year [~~three-year~~"]".

(2) In SECTION 1 of the house engrossment (page 1, line 14), strike "one-year" and substitute "two-year".

(3) Between SECTIONS 3 and 4 of the house engrossment (page 3, between lines 19 and 20) insert the following and renumber subsequent SECTIONS of the bill accordingly:

SECTION 4. Section 2003.916, Government Code, is amended to read as follows:

Sec. 2003.916. EXPIRATION. This subchapter expires January 1, 2014 [~~2013~~].

HCR 167 was adopted by (Record 1403): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycok; 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; 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; Lucio; 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; Aliseda(C).

Absent, Excused — Harless.

SB 717 - HOUSE SPONSOR AUTHORIZED

On motion of Representative Kolkhorst, Representative Naishtat was authorized as a house sponsor to **SB 717**.

(Speaker pro tempore in the chair)

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, House List No. 37).

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR SECOND READING

The following bills were laid before the house, read second time, and passed to third reading, and the following resolutions were laid before the house on committee report and adopted (members registering votes are shown following the caption):

CSSB 40 (Callegari - House Sponsor), A bill to be entitled An Act relating to the composition and functions of the Texas Guaranteed Student Loan Corporation.

Amendment No. 1

Representative Callegari offered the following amendment to **CSSB 40**:

Amend **CSSB 40** (house committee printing), in SECTION 14 of the bill, by striking added Section 57.24(f), Education Code (page 12, lines 9 through 13).

Amendment No. 1 was adopted.

Amendment No. 2

Representative Callegari offered the following amendment to **CSSB 40**:

Amend **CSSB 40** (house committee printing) as follows:

(1) Strike SECTION 4 of the bill, amending Sections 57.13(a) and (b), Education Code (page 3, line 26, through page 4, line 16), and substitute the following:

SECTION 4. Section 57.13(b), Education Code, is amended to read as follows:

(b) The governor, with the advice and consent of the senate, shall appoint the [10] members of [tø] the board as follows:

(1) five members who must have knowledge of or experience in finance, including management of funds or business operations;

(2) one member who must be a student enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution; and

(3) five [four] members who must be members the faculty or administration of a [an eligible] postsecondary educational institution that is an eligible institution for purposes of the Higher Education Act of 1965, as amended[~~, as defined by Section 57.46~~].

(2) Strike SECTION 6 of the bill, amending Section 57.14, Education Code (page 5, lines 9 through 14), and substitute the following:

SECTION 6. Section 57.14, Education Code, is amended to read as follows:

Sec. 57.14. DIRECTORS' TERMS OF OFFICE. Members of the board ~~[appointed by the governor]~~ serve for terms of six years, with the terms of three or four members, as applicable, expiring on January 31 of each odd-numbered year.

(3) Strike SECTION 24 of the bill (page 17, line 21 through page 18, line 8), and substitute the following:

SECTION 24. Notwithstanding any other law, to comply with the requirements of Section 57.13, Education Code, as amended by this Act, and Section 30a, Article XVI, Texas Constitution, as soon as practicable on or after September 1, 2011, the governor shall appoint one additional member to the board of directors of the Texas Guaranteed Student Loan Corporation under Section 57.13(b)(3), Education Code, for a term to expire January 31, 2015.

Amendment No. 2 was adopted.

CSSB 49 (Guillen - House Sponsor), A bill to be entitled An Act relating to school district requirements regarding parental notification in connection with disciplinary alternative education programs. (Berman, Bonnen, Craddick, Flynn, Hamilton, Harper-Brown, Harless, P. King, Landtroop, Laubenberg, Madden, Parker, Paxton, Perry, Phillips, Sheets, Sheffield, Solomons, Truitt, Weber, Zedler, and Zerwas recorded voting no.)

SB 197 (Phillips - House Sponsor), A bill to be entitled An Act relating to the compulsory inspection of motor vehicles; providing penalties. (Berman, Bohac, Bonnen, Burkett, Cain, Carter, Craddick, Flynn, Harless, Harper-Brown, Hamilton, P. King, Landtroop, Laubenberg, Legler, Madden, Paxton, Perry, Sheets, Sheffield, Solomons, Parker, Truitt, Weber, Zedler, and Zerwas recorded voting no.)

Amendment No. 1

Representative Phillips offered the following amendment to **SB 197**:

Amend **SB 197** (house committee report) as follows:

(1) In SECTION 5 of the bill, after added Section 548.6015(b), Transportation Code, insert the following:

(c) A penalty imposed under this section is in lieu of a civil or administrative penalty imposed under another provision of this chapter for the same violation.

(2) In SECTION 6 of the bill, in added Section 548.6036(a), Transportation Code, after "subject to", add "an administrative or civil penalty or criminal".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Phillips offered the following amendment to **SB 197**:

Amend **SB 197** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) The Department of Public Safety and the Texas Department of Motor Vehicles shall conduct a study regarding the feasibility of and best practices for using an electronic motor vehicle inspection system to consolidate the inspection and registration of motor vehicles in this state.

(b) Not later than December 1, 2012, the Department of Public Safety and the Texas Department of Motor Vehicles shall report the results of the study conducted under this section to the standing committees in the senate and the house of representatives that have primary jurisdiction over transportation.

Amendment No. 2 was adopted.

SB 244 (Fletcher - House Sponsor), A bill to be entitled An Act relating to the continuing education requirements for certain peace officers.

CSSB 286 (Hartnett - House Sponsor), A bill to be entitled An Act relating to attorney's fees and other costs in guardianship proceedings. (Cain, Laubenberg, and Paxton recorded voting no.)

SB 348 was withdrawn.

SB 365 (Strama - House Sponsor), A bill to be entitled An Act relating to distributed generation of electric power.

SB 390 was withdrawn.

CSSB 391 (Eissler - House Sponsor), A bill to be entitled An Act relating to the provision of electronic samples of a textbook adopted by the State Board of Education.

SB 433 was withdrawn.

CSSB 462 (Veasey and Gallego - House Sponsors), A bill to be entitled An Act relating to the expunction of records and files relating to a person's arrest. (Berman, Bonnen, Flynn, Laubenberg, Paxton, Sheffield, and Zedler recorded voting no.)

Amendment No. 1

Representative Veasey offered the following amendment to **CSSB 462**:

Amend **CSSB 462** (house committee report) in SECTION 1 of the bill as follows:

(1) In amended Article 55.01(a)(2)(A), Code of Criminal Procedure (page 2, lines 1 and 2), strike "felony or misdemeanor offense arising out of the" and substitute "misdemeanor offense based on the person's arrest or charging the person with the commission of any felony offense arising out of the same".

(2) Strike added Articles 55.01(a)(2)(A)(i)(a)-(c), Code of Criminal Procedure (page 2, lines 6-14), and substitute the following:

(a) at least 180 days have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class C misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(b) at least one year has elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class B or A misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(c) at least three years have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a felony or if there was a felony charge arising out of the same transaction for which the person was arrested; or

Amendment No. 1 was adopted.

SB 475 (Fletcher - House Sponsor), A bill to be entitled An Act relating to the creation of the Harris County Municipal Utility District No. 524; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain. (Berman, Bonnen, Flynn, Madden, Sheffield, and Zedler recorded voting no.)

SB 623 was deferred until the end of today's local, consent, and resolutions calendar.

SB 631 was withdrawn.

SB 801 (Weber - House Sponsor), A bill to be entitled An Act relating to the authority of the seawall commission in Matagorda County to build and maintain recreational facilities near the seawall.

CSSB 841 (S. Miller, Hernandez Luna, and Gallego - House Sponsors), A bill to be entitled An Act relating to the prosecution of and punishment for the offense of breach of computer security.

CSSB 844 (Hunter, Gallego, Christian, Rodriguez, Zedler, et al. - House Sponsors), A bill to be entitled An Act relating to the offense of escape from custody by a person lawfully detained. (Lewis recorded voting no.)

SB 847 (J. Davis - House Sponsor), A bill to be entitled An Act relating to the authority of certain hospital districts to contract for the performance of administrative functions and services.

SB 937 (Naishtat - House Sponsor), A bill to be entitled An Act relating to priorities for restoration of electric service following an extended power outage.

SB 969 (Kolkhorst - House Sponsor), A bill to be entitled An Act relating to the establishment of the Public Health Funding and Policy Committee within the Department of State Health Services. (Cain, Landtroop, Paxton, Perry, and White recorded voting no.)

CSSB 1003 (W. Smith - House Sponsor), A bill to be entitled An Act relating to penalties for, and emergency orders suspending, the operation of a rock crusher or certain concrete plants without a current permit under the Texas Clean Air Act. (Bohac and Cain recorded voting no.)

SB 1042 (Jackson - House Sponsor), A bill to be entitled An Act relating to the eligibility of employees convicted of certain offenses to provide services under a contract with a public school.

SB 1055 (Madden and White - House Sponsors), A bill to be entitled An Act relating to reports concerning and the reporting of the use of certain funds by community supervision and corrections departments and to the preparation of commitment reduction plans by those departments.

SB 1058 (White - House Sponsor), A bill to be entitled An Act relating to the transfer of certain state property from the Department of Aging and Disability Services to the Angelina and Neches River Authority.

SB 1058 - HOUSE SPONSOR AUTHORIZED

On motion of Representative Ritter, Representative Beck was authorized as a house sponsor to **SB 1058**.

SB 1070 was withdrawn.

CSSB 1170 (Hamilton - House Sponsor), A bill to be entitled An Act relating to the regulation of barbers and cosmetologists. (Flynn, Madden, Landtroop, Laubenberg, Paxton, Perry, Sheets, Sheffield, White, and Zedler recorded voting no.)

Amendment No. 1

On behalf of Representative Kuempel, Representative Hamilton offered the following amendment to **CSSB 1170**:

Amend **CSSB 1170** (house committee printing) as follows:

(1) In SECTION 20 of the bill, in proposed Section 1602.303(b)(3)(B)(i), Occupations Code, strike "2,000" and substitute "2,800".

(2) In SECTION 20 of the bill, in proposed Section 1602.303(b)(3)(B)(i), Occupations Code, strike "municipality" and substitute "county".

(3) In SECTION 20 of the bill, in proposed Section 1602.303(b)(3)(B)(i), Occupations Code, strike "50,000" and substitute "100,000".

(4) In SECTION 20 of the bill, in proposed Section 1602.303(b)(3)(B)(ii), Occupations Code, strike "1,000" and substitute "1,800".

(5) In SECTION 20 of the bill, in proposed Section 1602.303(b)(3)(B)(ii), Occupations Code, strike "municipality with a population of 50,000 or less or in an unincorporated area of a county" and substitute "county with a population of 100,000 or less".

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

SECTION _____. To the extent of any conflict, the change in law made by this Act to Section 1602.303(b)(3)(B), Occupations Code, prevails over a change in law made by any other Act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment.

Amendment No. 1 was adopted.

SB 1200 (Fletcher, Riddle, and Coleman - House Sponsors), A bill to be entitled An Act relating to the venue for prosecution of misdemeanor cases in justice of the peace courts located in certain counties.

SB 1225 was withdrawn. (The objections were withdrawn later today, and **SB 1225** was passed to third reading.)

SB 1244 was deferred until the end of today's local, consent, and resolutions calendar.

SB 1290 (Hunter - House Sponsor), A bill to be entitled An Act relating to the creation of the Calhoun County Groundwater Conservation District; providing authority to issue bonds.

SB 1302 was withdrawn.

SB 1383 (Eissler - House Sponsor), A bill to be entitled An Act relating to an appraisal and professional development system for public school principals. (Berman, Bonnen, Cain, Flynn, Legler, Paxton, Sheffield, White, and Zedler recorded voting no.)

SB 1545 (Woolley - House Sponsor), A bill to be entitled An Act relating to the liability of a volunteer health care practitioner who conducts a physical examination or medical screening of a student athlete.

SB 1546 (Murphy - House Sponsor), A bill to be entitled An Act relating to the right to a new hearing before an appraisal review board following a failure to attend a hearing. (Beck recorded voting no.) (The vote was reconsidered later today, and **SB 1546**, as amended, was passed to third reading.)

Amendment No. 1

Representative Murphy offered the following amendment to **SB 1546**:

Amend **SB 1546** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 2003.912(b), (c), and (d), Government Code, are amended to read as follows:

(b) The determination:

(1) must include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal;

(2) must contain a brief analysis of the administrative law judge's rationale for and set out the key findings in support of the determination but is not required to contain a detailed discussion of the evidence admitted or the contentions of the parties;

(3) may include any remedy or relief a court may order under Chapter 42, Tax Code, in an appeal relating to the appraised or market value of property and, if Subsection (c) applies, shall include an award of reasonable attorney's fees in an amount that does not exceed the amount specified by [under] ~~Section 42.29, Tax Code; and~~

(4) shall specify whether the appraisal district or the property owner is required to pay the costs of the hearing and the amount of those costs.

(c) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the ~~[request for the]~~ hearing ~~[submitted by the property owner]~~ than the appraisal district's opinion of value as stated in the hearing [determined by the appraisal review board]:

(1) the office, on receipt of a copy of the determination, shall refund the property owner's filing fee;

(2) the appraisal district, on receipt of a copy of the determination, shall pay the costs of the appeal as specified in the determination; and

(3) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's determination.

(d) If the administrative law judge determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the ~~[property owner's request for a]~~ hearing than the appraisal district's opinion of value as stated in the hearing [determined by the appraisal review board]:

(1) the office, on receipt of a copy of the determination, shall retain the property owner's filing fee;

(2) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the administrative law judge's determination if the value as determined by the administrative law judge is less than the value as determined by the appraisal review board; and

(3) the property owner shall pay the difference between the costs of the appeal as specified in the determination and the property owner's filing fee.

SECTION _____. Section 42.29, Tax Code, is amended to read as follows:

Sec. 42.29. ATTORNEY'S FEES. (a) A property owner who prevails in an appeal to the court under Section 42.25 or 42.26 or in an appeal to the court of a determination of an appraisal review board on a motion filed under Section 25.25 shall ~~may~~ be awarded reasonable attorney's fees. The amount of the award may not exceed the greater of:

(1) \$15,000; or

(2) 20 percent of the total amount by which the property owner's tax liability is reduced as a result of the appeal.

(b) Notwithstanding Subsection (a), the amount of an award of attorney's fees may not exceed ~~the lesser of:~~

~~(1) \$100,000;~~

~~(2) the total amount by which the property owner's tax liability is reduced as a result of the appeal].~~

SECTION _____. The change in law made by this Act to Section 2003.912, Government Code, applies only to an appeal filed under Subchapter Z, Chapter 2003, Government Code, on or after the effective date of this Act. An appeal filed under Subchapter Z, Chapter 2003, Government Code, before the effective date of this Act is governed by the law in effect when the appeal was filed, and the former law is continued in effect for that purpose.

SECTION _____. The change in law made by this Act to Section 42.29, Tax Code, applies only to an appeal filed under Chapter 42, Tax Code, on or after the effective date of this Act. An appeal filed under Chapter 42, Tax Code, before the effective date of this Act is governed by the law in effect when the appeal was filed, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted. (The vote was reconsidered later today, and Amendment No. 1 was withdrawn.)

Amendment No. 2

Representative Villarreal offered the following amendment to **SB 1546**:

Amend **SB 1546** (house committee printing) in SECTION 1 of the bill, in amended Section 41.45 (e-1), Tax Code (page 1, line 8), by striking "under Section 1.111" and substituting "~~under Section 1.111~~".

Amendment No. 2 was adopted.

SB 1619 (Aycock - House Sponsor), A bill to be entitled An Act relating to participation of public high school students in college credit programs.

SB 1620 (Aycock - House Sponsor), A bill to be entitled An Act relating to substitution of certain career and technology courses for certain mathematics and science courses otherwise required under the recommended high school program. (Cain recorded voting no.)

Amendment No. 1

Representative Aycock offered the following amendment to **SB 1620**:

Amend **SB 1620** (house committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 28.027(b), Education Code (page 2, line 17), following the underlined period, insert:

The State Board of Education may only approve a course to substitute for a mathematics course taken after successful completion of Algebra I and geometry and after successful completion of or concurrently with Algebra II. The State Board of Education may only approve a course to substitute for a science course taken after successful completion of biology and chemistry and after successful completion of or concurrently with physics.

(2) In SECTION 2 of the bill, strike added Section 28.027(e), Education Code (page 3, line 23, through page 4, line 4).

(3) In SECTION 3 of the bill, strike amended Section 28.025(b-2), Education Code (page 4, lines 7 through 21), and substitute the following:

(b-2) In adopting rules under Subsection (b-1), the State Board of Education shall allow a student to comply with the curriculum requirements for a mathematics course under Subsection (b-1)(1) taken after the successful completion of Algebra I and geometry and either after the successful completion of or concurrently with [an] Algebra II [course] or a science course under Subsection (b-1)(1) taken after the successful completion of biology and chemistry and either after the successful completion of or concurrently with [a] physics [course] by successfully completing an advanced career and technical course designated by the State Board of Education as containing substantively similar and rigorous academic content. A student may use the option provided by this subsection for not more than two courses.

(4) In SECTION 4 of the bill, in added Section 61.0517(b), Education Code (page 5, lines 5 and 6), strike "ensure that academic credit for an applied STEM course is freely transferable among all" and substitute "work with institutions of higher education to ensure that credit for an applied STEM course may be applied to relevant degree programs offered by".

(5) In SECTION 4 of the bill, in added Section 61.0517(c), Education Code (page 5, line 9), strike "listing of courses approved" and substitute "review of courses considered for approval".

Amendment No. 1 was adopted.

SB 1695 was withdrawn.

SB 1702 was withdrawn.

SB 1788 (Huberty - House Sponsor), A bill to be entitled An Act relating to the development of a model individualized education program form by the Texas Education Agency. (Phillips recorded voting no.)

Amendment No. 1

Representatives Huberty, Turner, J. Davis, Bonnen, L. Taylor, Berman, Weber, Riddle, Thompson, and Brown offered the following amendment to **SB 1788**:

Amend **SB 1788** by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE _____. FISCAL MATTERS REGARDING FOUNDATION SCHOOL PROGRAM AND TAX INCREMENT FUND

SECTION _____.01. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2511 to read as follows:

Sec. 42.2511. FUNDING LEVELS BASED ON CERTAIN TAX INCREMENT FUND PAYMENTS. (a) This section applies only to a school district that:

(1) deposited taxes before May 1, 2011, in a tax increment fund created under Chapter 311, Tax Code, for a reinvestment zone plan; and

(2) received a notice from the commissioner of a reduction in state funding for the 2004-2005, 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years based on the deposit of taxes into the tax increment fund that were reported to the commissioner by the district but not on the form used by the agency to calculate entitlements under this chapter.

(b) Notwithstanding any other law, the state and local revenue a school district subject to this section is entitled to receive for the state fiscal biennium beginning September 1, 2011, is reduced by one-half of the reduction calculated by the commissioner due to the taxes deposited in the tax increment fund for the 2004-2005, 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years.

(c) This section expires September 1, 2013.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Rodriguez, Larson, Scott, Orr, Farias, and Harper-Brown offered the following amendment to **SB 1788**:

Amend **SB 1788** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.0111 to read as follows:

Sec. 29.0111. BEGINNING OF TRANSITION PLANNING. Appropriate state transition planning under the procedure adopted under Section 29.0111 must begin for a student not later than when the student reaches 14 years of age.

Amendment No. 2 was adopted.

SB 1796 (S. Miller - House Sponsor), A bill to be entitled An Act relating to the creation of the Texas Coordinating Council for Veterans Services.

Amendment No. 1

Representative S. Miller offered the following amendment to **SB 1796**:

Amend **SB 1796** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 434.153(3), Government Code (page 1, line 38), strike "and".

(2) In SECTION 1 of the bill, in added Section 434.153(4), Government Code (page 1, line 39), strike the period and substitute "; and".

(3) In SECTION 1 of the bill, in added Section 434.153, Government Code (page 1, between lines 39 and 40), insert the following:

(5) the State Bar of Texas.

Amendment No. 1 was adopted.

SB 1877 (Isaac - House Sponsor), A bill to be entitled An Act relating to the creation of the Oatman Hill Municipal Utility District; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain. (Carter and Kuempel recorded voting no.)

SB 1899 (Pitts - House Sponsor), A bill to be entitled An Act relating to compensation for services and reimbursement for expenses of a member of the board of directors of the Lake View Management and Development District.

SB 1913 (Rodriguez - House Sponsor), A bill to be entitled An Act relating to the creation of the Southeast Travis County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds. (Carter and V. Taylor recorded voting no.)

SB 1916 (Rodriguez - House Sponsor), A bill to be entitled An Act relating to the creation of the Southeast Travis County Municipal Utility District No. 4; providing authority to impose a tax and issue bonds. (Carter, Kuempel, and V. Taylor recorded voting no.)

SB 1920 (Eiland - House Sponsor), A bill to be entitled An Act relating to the powers of the Coastal Water Authority; affecting the authority to issue bonds. (Berman, Bonnen, Carter, Craddick, Flynn, Hamilton, Harless, Harper-Brown, P. King, Kuempel, Laubenberg, Madden, Parker, Paxton, Sheffield, Solomons, V. Taylor, Truitt, Weber, Zedler, and Zerwas recorded voting no.)

Amendment No. 1

Representative Eiland offered the following amendment to **SB 1920**:

Amend **SB 1920** as follows:

In SECTION 2 of the bill, on page 5, line 17, insert "state or federal" between "by" and "law".

Amendment No. 1 was adopted.

SB 1925 (Cain - House Sponsor), A bill to be entitled An Act relating to the designation of a portion of U.S. Highway 271 as the Sergeant Jay M. Hoskins Memorial Highway.

SB 1926 (Lucio - House Sponsor), A bill to be entitled An Act relating to the Colonel H. William "Bill" Card, Jr., Outpatient Clinic.

HCR 156 (by Raymond), Directing the Texas Historical Commission to work with the City of Austin to honor the memory of President John F. Kennedy with an official Texas Historical Marker at or near the site of the Austin Municipal Auditorium. (Landtroop and Perry recorded voting no.)

HCR 165 (by Guillen), Honoring the 2011 and 2012 Texas State Artist appointees.

SB 623 was withdrawn.

SB 1225 - OBJECTIONS WITHDRAWN

Objections were withdrawn to **SB 1225** which was previously withdrawn from the local, consent, and resolutions calendar.

SB 1225 (Isaac - House Sponsor), A bill to be entitled An Act relating to the disannexation of land in Caldwell County by the Gonzales County Underground Water Conservation District or the Plum Creek Conservation District.

SB 1225 was read second time and was passed to third reading. (Kuempel, Sheffield, and Zedler recorded voting no.)

SB 1244 was withdrawn.

ADJOURNMENT

At 12:37 p.m., the chair announced that the house would stand adjourned until 2 p.m. today.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 37

HB 33, HB 92, HB 109, HB 257, HB 260, HB 268, HB 378, HB 397, HB 530, HB 592, HB 826, HB 970, HB 1010, HB 1168, HB 1179, HB 1201, HB 1241, HB 1278, HB 1341, HB 1353, HB 1456, HB 1523, HB 1555, HB 1593, HB 1608, HB 1812, HB 1818, HB 1839, HB 1932, HB 1959, HB 2006, HB 2077, HB 2103, HB 2109, HB 2127, HB 2132, HB 2135, HB 2139, HB 2382, HB 2387, HB 2422, HB 2471, HB 2510, HB 2579, HB 2603, HB 2610, HB 2649, HB 2703, HB 2707, HB 2735, HB 2758, HB 2826, HB 2889, HB 2904, HB 2911, HB 2940, HB 2971, HB 3017, HB 3199, HB 3309, HB 3314, HB 3329, HB 3337, HB 3352, HB 3391, HB 3579, HB 3616, HB 3722, HB 3808, HB 3815, HB 3821, HB 3852, HCR 42, HCR 163, HJR 63, HJR 130

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-FIFTH DAY — WEDNESDAY, MAY 25, 2011

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

The roll of the house was called and a quorum was announced present (Record 1404).

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; 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; Lucio; 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.

SB 1546 - VOTE RECONSIDERED

Representative Murphy moved to reconsider the vote by which **SB 1546**, as amended, was passed to third reading earlier today.

The motion to reconsider prevailed.

SB 1546 ON SECOND READING

(Murphy - House Sponsor)

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

SB 1546, A bill to be entitled An Act relating to the right to a new hearing before an appraisal review board following a failure to attend a hearing.

SB 1546 was read second time earlier today and was passed to third reading, as amended.

Amendment No. 1 - Vote Reconsidered

Representative Murphy moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Amendment No. 1 was withdrawn.

SB 1546, as amended, was passed to third reading.

RULES SUSPENDED

Representative Thompson moved to suspend all necessary rules to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed.

MOTION FOR ONE RECORD VOTE

On motion of Representative Thompson and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR
THIRD READING**

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by the following record vote (members registering votes and the results of the vote are shown following bill number).

(Record 1405): 147 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley(C); Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent — Keffer; Torres.

STATEMENTS OF VOTE

When Record No. 1405 was taken, I was temporarily out of the house chamber. I would have voted yes.

Keffer

When Record No. 1405 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

SB 40

SB 49 (Berman, Bonnen, Craddick, Flynn, Hamilton, Harless, Harper-Brown, P. King, Landtroop, Laubenberg, Madden, Parker, Paxton, Perry, Phillips, Sheets, Sheffield, Solomons, Truitt, Weber, Zedler, and Zerwas - no) (125 - 22 - 1)

SB 197 (Berman, Bohac, Bonnen, Burkett, Cain, Carter, Craddick, Flynn, Harless, Harper-Brown, Hamilton, P. King, Landtroop, Laubenberg, Legler, Madden, Paxton, Perry, Sheets, Sheffield, Solomons, Parker, Truitt, Weber, Zedler, and Zerwas - no) (121 - 26 - 1)

SB 244

SB 286 (Cain, Laubenberg, and Paxton - no) (144 - 3 - 1)

SB 365

SB 391

SB 462 (Berman, Bonnen, Flynn, Laubenberg, Paxton, Sheffield, and Zedler - no) (140 - 7 - 1)

SB 475 (Berman, Bonnen, Flynn, Madden, Sheffield, and Zedler - no) (141 - 6 - 1)

SB 801

SB 841

SB 844 (Lewis - no) (146 - 1 - 1)

SB 847

SB 937

SB 969 (Cain, Landtroop, Paxton, Perry, and White - no) (142 - 5 - 1)

SB 1003 (Bohac and Cain - no) (145 - 2 - 1)

SB 1042

SB 1055**SB 1058**

SB 1170 (Flynn, Madden, Landtroop, Laubenberg, Paxton, Perry, Sheets, Sheffield, White, and Zedler - no) (137 - 10 - 1)

SB 1200**SB 1290**

SB 1383 (Berman, Bonnen, Cain, Flynn, Legler, Paxton, Sheffield, White, and Zedler - no) (138 - 9 - 1)

SB 1545

SB 1546 (Beck - no) (146 - 1 - 1)

SB 1619

SB 1620 (Cain - no) (146 - 1 - 1)

SB 1788 (Phillips - no) (146 - 1 - 1)

SB 1796

SB 1877 (Carter and Kuempel - no) (145 - 2 - 1)

SB 1899

SB 1913 (Carter and V. Taylor - no) (145 - 2 - 1)

SB 1916 (Carter, Kuempel, and V. Taylor - no) (144 - 3 - 1)

SB 1920 (Berman, Bonnen, Carter, Craddick, Flynn, Hamilton, Harless, Harper-Brown, P. King, Kuempel, Laubenberg, Madden, Parker, Paxton, Sheffield, Solomons, V. Taylor, Truitt, Weber, Zedler, and Zerwas - no) (126 - 21 - 1)

SB 1925**SB 1926**

SB 1225 (Kuempel, Sheffield, and Zedler - no) (144 - 3 - 1)

The following resolutions which were laid out on the previous legislative day on the local, consent, and resolutions calendar were adopted by the above referenced vote (Record 1405): 147 Yeas, 0 Nays, 1 Present, not voting (members registering votes and the results of the vote are shown following bill number).

HCR 156 (Landtroop and Perry - no) (145 - 2 - 1)

HCR 165

(Bonnen in the chair)

**MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING**

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

SB 8 ON THIRD READING
(Kolkhorst - House Sponsor)

SB 8, A bill to be entitled An Act relating to improving the quality and efficiency of health care.

Representative Kolkhorst moved to postpone consideration of **SB 8** until 4 p.m. today.

The motion prevailed.

SB 1588 ON THIRD READING
(Pitts - House Sponsor)

SB 1588, A bill to be entitled An Act relating to the creation and re-creation of funds and accounts, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

Amendment No. 1

Representative L. Taylor offered the following amendment to **SB 1588**:

Amend **SB 1588** (house committee report) to add SECTION ____ of the bill as follows and renumber the remaining sections accordingly:

SECTION ____ . CERTAIN OTHER FUNDS HELD OUTSIDE THE TREASURY. Each of the following funds, if created as a fund held outside the treasury by an Act of the 82nd Legislature, Regular Session, 2011, that becomes law, and revenue deposited to the credit of the funds are exempt from this Act:

The Department of Insurance examination local account created in the Texas Treasury Safekeeping Trust Company by **SB 1291** or similar legislation.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Alonzo offered the following amendment to **SB 1588**:

Amend **SB 1588** on third reading as follows:

(1) In the SECTION of the bill adding Section 2054.064, Government Code, at the end of added Subsection (e)(1), strike "and".

(2) In the SECTION of the bill adding Section 2054.064, Government Code, strike added Subsection (e)(2), and substitute the following:

(2) _____ percent to the credit of the optometry career program account in the general revenue fund to be used by the University of Houston for the purpose of establishing a summer optometry career program; and

(3) the remainder deposited to the credit of the general revenue fund.

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

SECTION ____ . Subchapter C, Chapter 111, Education Code, is amended by adding Section 111.43 to read as follows:

Sec. 111.43. OPTIONAL SUMMER OPTOMETRY CAREER PROGRAM. (a) The university may operate a summer program that prepares highly qualified, economically disadvantaged junior-level, senior-level, and postbaccalaureate students from any public or private institution of higher education for advanced studies and a career in the field of optometry.

Amendment No. 2 was adopted.

SB 1588, as amended, was passed by (Record 1406): 135 Yeas, 12 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; 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, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; 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; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Cain; Carter; Eiland; Frullo; Gonzales, L.; King, P.; Landtroop; Perry; Simpson; Taylor, V.; White; Zedler.

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

Absent — Lucio.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1406. I intended to vote yes.

P. King

I was shown voting yes on Record No. 1406. I intended to vote no.

Lyne

SB 875 ON THIRD READING (Hancock, W. Smith, and Chisum - House Sponsors)

SB 875, A bill to be entitled An Act relating to compliance with state and federal environmental permits as a defense to certain actions for nuisance or trespass.

Representative Hancock moved to postpone consideration of **SB 875** until 3 p.m. today.

The motion prevailed.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 738 ON THIRD READING
(Villarreal - House Sponsor)**

SB 738, A bill to be entitled An Act relating to a parental role in determining sanctions applied to a public school campus under certain circumstances.

Representative Dutton moved to postpone consideration of **SB 738** until 3 p.m. today.

The motion prevailed.

**SB 173 ON THIRD READING
(Dutton - House Sponsor)**

SB 173, A bill to be entitled An Act relating to civil remedy of violations of certain municipal health and safety ordinances.

SB 173 was passed by (Record 1407): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent — Callegari; Creighton; Garza; Miles; Peña; Sheffield.

SB 327 ON THIRD READING
(Garza - House Sponsor)

SB 327, A bill to be entitled An Act relating to including certain veterans service organizations as small businesses for the purpose of state contracting.

SB 327 was passed by (Record 1408): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; 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.; 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; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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 — Anderson, C.; Dutton.

STATEMENT OF VOTE

When Record No. 1408 was taken, I was in the house but away from my desk. I would have voted yes.

C. Anderson

SB 1434 ON THIRD READING
(Geren - House Sponsor)

SB 1434, A bill to be entitled An Act relating to certain low-income weatherization programs.

SB 1434 was passed by (Record 1409): 139 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; 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.; Kolkhorst; Kuempel; Landtroop; Larson; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Parker; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Laubenberg; Lavender; Miller, S.; Otto; Paxton; Price; Taylor, V.

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

Absent — Kleinschmidt; White.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1409. I intended to vote no.

Landtroop

I was shown voting yes on Record No. 1409. I intended to vote no.

Legler

I was shown voting yes on Record No. 1409. I intended to vote no.

Perry

When Record No. 1409 was taken, I was in the house but away from my desk. I would have voted no.

White

SB 1286 ON THIRD READING

(Rodriguez - House Sponsor)

SB 1286, A bill to be entitled An Act relating to the funding of retirement systems for firefighters in certain municipalities.

SB 1286 was passed by (Record 1410): 115 Yeas, 31 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Beck; Berman; Bohac; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lewis; Lozano; Lucio; Mallory Caraway; Margo;

Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Parker; Patrick; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Smith, W.; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Aycock; Branch; Carter; Creighton; Frullo; Gooden; Hancock; Hughes; Jackson; Landtroop; Laubenberg; Lavender; Legler; Lyne; Madden; Murphy; Orr; Paxton; Perry; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Taylor, V.; Weber; Woolley; Zedler.

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

Absent — Johnson.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1410. I intended to vote no.

Cook

SB 981 ON THIRD READING (Anchia and Gallego - House Sponsors)

SB 981, A bill to be entitled An Act relating to the regulation of distributed renewable generation of electricity.

Amendment No. 1

Representative Christian offered the following amendment to **SB 981**:

Amend **SB 981** (house committee printing) by adding the following new section, appropriately numbered, and renumbering subsequent sections accordingly:

SECTION ____ . Section 39.904(a), Utilities Code, is amended to read as follows:

(a) It is the intent of the legislature that by January 1, 2015, an additional 5,000 megawatts of generating capacity from renewable energy technologies will have been installed in this state. The cumulative installed renewable capacity in this state shall total 5,880 megawatts by January 1, 2015, and the commission shall establish a goal [target] of 10,000 megawatts of installed renewable capacity by January 1, 2025. The cumulative installed renewable capacity in this state shall total 2,280 megawatts by January 1, 2007, 3,272 megawatts by January 1, 2009, 4,264 megawatts by January 1, 2011, 5,256 megawatts by January 1, 2013, and 5,880 megawatts by January 1, 2015. Of the renewable energy technology generating capacity installed to meet the goal of this subsection after September 1, 2011 [2005], the commission shall establish a goal [target] of having at least 500 megawatts of capacity from a renewable energy technologies [technology] other than a source using wind energy.

Amendment No. 1 was withdrawn.

SB 981 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CHRISTIAN: Mr. Anchia, I offer this amendment because it's my understanding that there's some uncertainty at the PUC as to the legislature's intent regarding the state's goal for solar and other non-wind renewable energy. Is that an issue that needs to be addressed in this legislation?

REPRESENTATIVE ANCHIA: Representative Christian, I believe this body voted on that issue in 2005 with **SB 20** and further clarified the issue for the PUC in 2007. So, I believe the legislature's intent has been clear—that we want the PUC to develop a 500 megawatt nonrenewable energy rule.

CHRISTIAN: So there is no reason to consider attempting to amend this bill to clarify that issue with the PUC?

ANCHIA: That is correct. I do not believe that amendment is necessary. The PUC issued a proposed rule on this issue at the beginning of the legislative session, and I fully expect them to complete that rulemaking by developing a program from non-wind renewable as soon as practicable. So I believe the legislature's intent that the PUC complete this rulemaking is already clear.

REMARKS ORDERED PRINTED

Representative Christian moved to print remarks between Representative Anchia and Representative Christian.

The motion prevailed.

SB 981 was passed by (Record 1411): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; 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, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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.; 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 — Howard, C.; Smith, W.

REASONS FOR VOTE

I voted in favor of **SB 981** on final passage, but I respectfully disagree with the exchange between Representative Anchia and Representative Christian regarding Section 39.904, Public Utility Regulatory Act.

The current language in PURA Section 39.904(a), which specifies that the 500 MW non-wind "target" is not mandatory, is clear from the plain language of the provision. The only part of Section 39.904 that is mandatory is the 5,000 MW of renewable capacity, which is not limited to any renewable technology. This is reflected in the interim amounts by year that must be achieved. In contrast, both the 500 MW non-wind "target," and the 10,000 MW "target" are aspirational and not mandatory, as the language makes clear.

Keffer and Ritter

SB 158 ON THIRD READING (Fletcher and Gallego - House Sponsors)

SB 158, A bill to be entitled An Act relating to the fraudulent obtaining of a controlled substance from a practitioner; providing a penalty.

Amendment No. 1

Representative C. Anderson offered the following amendment to **SB 158**:

Amend **SB 158** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 48, Penal Code, is amended by adding Section 48.03 to read as follows:

Sec. 48.03. PROHIBITION RELATING TO SALE OR DELIVERY OF SALVIA DIVINORUM EXTRACT. (a) A person commits an offense if the person, with criminal negligence, sells, delivers, or causes to be sold or delivered an extract of salvia divinorum, Salvinorin A, or a product containing an extract of salvia divinorum or Salvinorin A to another person.

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

Amendment No. 1 was withdrawn.

Amendment No. 2

Representative C. Anderson offered the following amendment to **SB 158**:

Amend **SB 158** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 48, Penal Code, is amended by adding Section 48.03 to read as follows:

Sec. 48.03. PROHIBITION RELATING TO SALE OR DELIVERY OF SALVIA DIVINORUM EXTRACT. (a) A person commits an offense if the person, with criminal negligence, sells, delivers, or causes to be sold or delivered an extract of salvia divinorum, Salvinorin A, or a product containing an extract of salvia divinorum or Salvinorin A to another person.

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

Amendment No. 2 was adopted.

SB 158, as amended, was passed by (Record 1412): 145 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; 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; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; 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 — Lyne; Simpson.

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

Absent — Naishtat.

**SB 1120 ON THIRD READING
(Lewis - House Sponsor)**

SB 1120, A bill to be entitled An Act relating to the exemption from taxation of property of a local government corporation.

SB 1120 was passed by (Record 1413): 140 Yeas, 6 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; 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; 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; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lewis; Lozano; Lucio; 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; 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 — Carter; Frullo; Hughes; Landtroop; Laubenberg; Perry.

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

Absent — Flynn.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1413. I intended to vote no.

C. Anderson

SB 1393 ON THIRD READING (Keffer - House Sponsor)

SB 1393, A bill to be entitled An Act relating to the use of contracts by local governments to purchase electricity.

SB 1393 was passed by (Record 1414): 147 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; 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; Lucio; 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; 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 — Simpson.

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

SB 776 ON THIRD READING**(Guillen, Quintanilla, and Raymond - House Sponsors)****SB 776**, A bill to be entitled An Act relating to customs brokers.**SB 776** was passed by (Record 1415): 143 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; 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; Lucio; 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.; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Davis, S.; Taylor, V.

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

Absent — Cook; Driver; Thompson.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1415. I intended to vote no.

Carter

SB 293 ON THIRD READING**(J. Davis - House Sponsor)****SB 293**, A bill to be entitled An Act relating to telemedicine medical services, telehealth services, and home telemonitoring services provided to certain Medicaid recipients.**SB 293** was passed by (Record 1416): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; 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.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; 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 — King, T.; Ritter.

SB 981 - HOUSE SPONSOR AUTHORIZED

On motion of Representative Cook, Representative Coleman was authorized as a house sponsor to **SB 981**.

SB 1073 ON THIRD READING (T. King - House Sponsor)

SB 1073, A bill to be entitled An Act relating to rainwater harvesting systems that are connected to public water supply systems.

SB 1073 was passed by (Record 1417): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; 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, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; 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; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; 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 — Howard, C.; Miles; Rodriguez; Smith, W.

SB 1551 ON THIRD READING
(Raymond and Gallego - House Sponsors)

SB 1551, A bill to be entitled An Act relating to missing children; providing a criminal penalty.

SB 1551 was passed by (Record 1418): 143 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; 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.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; 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; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zerwas.

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

Absent — Callegari; Miles; Quintanilla; Turner.

STATEMENTS OF VOTE

When Record No. 1418 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

When Record No. 1418 was taken, I was in the house but away from my desk. I would have voted yes.

Turner

I was shown voting present, not voting on Record No. 1418. I intended to vote yes.

Zedler

SB 573 ON THIRD READING
(Creighton, Eissler, and Cook - House Sponsors)

SB 573, A bill to be entitled An Act relating to certificates of public convenience and necessity for water or sewer services.

Amendment No. 1

Representative T. King offered the following amendment to **SB 573**:

Amend **SB 573** (house committee printing) in SECTION 1 of the bill, in added Section 13.254(a-5), Water Code (page 3, line 4), between "220,000" and the period, by inserting ", and not in a county that has population of more than 45,500 and less than 47,500".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Phillips offered the following amendment to **SB 573**:

Amend **SB 573** on third reading as follows:

(1) In Section 13.254(a-3), Water Code, as amended on second reading by Amendment No. 2 by Callegari and Amendment No. 3 by Lucio III, strike "Except in a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to that county, if the certificate holder has never made service available through planning, design, construction of facilities, or contractual obligations to serve the area the petitioner seeks to have released, the commission is not required to find that the proposed alternative provider is capable of providing better service than the certificate holder, but only that the proposed alternative provider is capable of providing the requested service.".

(2) Add a new appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 13.254, Water Code, is amended by adding Subsections (a-8), (a-9), and (a-10) to read as follows:

(a-8) If a certificate holder has never made service available through planning, design, construction of facilities, or contractual obligations to serve the area a petitioner seeks to have released under Subsection (a-1), the commission is not required to find that the proposed alternative provider is capable of providing better service than the certificate holder, but only that the proposed alternative provider is capable of providing the requested service.

(a-9) Subsection (a-8) does not apply to a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to a county that borders the United Mexican States and the Gulf of Mexico.

(a-10) Subsection (a-8) does not apply to a county:

(1) with a population of more than 30,000 and less than 35,000 that borders the Red River; or

(2) a county with a population of more than 100,000 and less than 200,000 that borders a county described by Subdivision (1).

(3) Strike Section 13.245(c-4), Water Code, as added on second reading in Amendment No. 2 by Callegari and Amendment No. 3 by Lucio III, and substitute the following:

(c-4) Subsections (c-1), (c-2), and (c-3) do not apply to:

(1) a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county;

(2) a county with a population of more than 30,000 and less than 35,000 that borders the Red River; or

(3) a county with a population of more than 100,000 and less than 200,000 that borders a county described by Subdivision (2).

(4) In the recital to the SECTION of the bill that amends Section 13.2451, Water Code, as added on second reading by Amendment No. 2 by Callegari, strike "Sections 13.2451(a) and (b), Water Code are amended" and substitute "Section 13.2451, Water Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (b-2) to read as follows:".

(5) In Section 13.2451(b), Water Code, as amended on second reading by Amendment No. 2 by Callegari and Amendment No. 3 by Lucio III, strike "This subsection does not apply to:

(1) a transfer of a certificate as approved by the commission; or

(2) an extension of extraterritorial jurisdiction in a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county." and substitute "This subsection does not apply to a transfer of a certificate as approved by the commission."

(6) In Section 13.2451, Water Code, as amended on second reading by Amendment No. 2 by Callegari and Amendment No. 3 by Lucio III, insert the following:

(b-1) Subsection (b) does not apply to an extension of extraterritorial jurisdiction in a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county.

(b-2) Subsection (b) does not apply to an extension of extraterritorial jurisdiction in a county:

(1) with a population of more than 30,000 and less than 35,000 that borders the Red River; or

(2) with a population of more than 100,000 and less than 200,000 that borders a county described by Subdivision (1).

Amendment No. 2 was adopted.

Amendment No. 3

Representative Kuempel offered the following amendment to **SB 573**:

Amend **SB 573** on third reading as follows:

(1) In Section 13.254(a-3), Water Code, as amended on second reading by Amendment No. 2 by Callegari and Amendment No. 3 by Lucio III, strike "Except in a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to that county, if the certificate holder has never made service available through planning, design, construction of facilities, or contractual obligations to serve the area the petitioner seeks to have released, the

commission is not required to find that the proposed alternative provider is capable of providing better service than the certificate holder, but only that the proposed alternative provider is capable of providing the requested service."

(2) Add a new appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 13.254, Water Code, is amended by adding Subsections (a-8), (a-9), and (a-11) to read as follows:

(a-8) If a certificate holder has never made service available through planning, design, construction of facilities, or contractual obligations to serve the area a petitioner seeks to have released under Subsection (a-1), the commission is not required to find that the proposed alternative provider is capable of providing better service than the certificate holder, but only that the proposed alternative provider is capable of providing the requested service.

(a-9) Subsection (a-8) does not apply to a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to a county that borders the United Mexican States and the Gulf of Mexico.

(a-11) Subsection (a-8) does not apply to a county:

(1) with a population of 130,000 or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border; or

(2) a county with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

(3) In Section 13.245, Water Code, as amended on second reading in Amendment No. 2 by Callegari and Amendment No. 3 by Lucio III, insert the following:

(c-5) Subsections (c-1), (c-2), and (c-3) do not apply to:

(1) with a population of 130,000 or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border; or

(2) a county with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

(4) In the recital to the SECTION of the bill that amends Section 13.2451, Water Code, as added on second reading by Amendment No. 2 by Callegari, strike "Sections 13.2451(a) and (b), Water Code are amended" and substitute "Section 13.2451, Water Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (b-3) to read as follows:".

(5) In Section 13.2451(b), Water Code, as amended on second reading by Amendment No. 2 by Callegari and Amendment No. 3 by Lucio III, strike "This subsection does not apply to:

(1) a transfer of a certificate as approved by the commission; or

(2) an extension of extraterritorial jurisdiction in a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county." and substitute "This subsection does not apply to a transfer of a certificate as approved by the commission."

(6) In Section 13.2451, Water Code, as amended on second reading by Amendment No. 2 by Callegari and Amendment No. 3 by Lucio III, insert the following:

(b-1) Subsection (b) does not apply to an extension of extraterritorial jurisdiction in a county that borders the United Mexican States and the Gulf of Mexico or a county adjacent to such a county.

(b-3) Subsection (b) does not apply to an extension of extraterritorial jurisdiction in a county:

(1) with a population of 130,000 or more that is adjacent to a county with a population of 1.5 million or more that is within 200 miles of an international border; or

(2) a county with a population of more than 40,000 and less than 50,000 that contains a portion of the San Antonio River.

Amendment No. 3 was adopted.

SB 573, as amended, was passed by (Record 1419): 126 Yeas, 22 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Berman; Bohac; Branch; Brown; Burkett; Burnam; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Kolkhorst; Landtroop; Larson; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; 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; Raymond; Reynolds; Riddle; Ritter; Rodriguez; 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.

Nays — Aliseda; Beck; Button; Cain; Christian; Eiland; Gooden; Hughes; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Laubenberg; Lavender; Margo; Phillips; Price; Quintanilla; Schwertner; Sheets.

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

STATEMENTS OF VOTE

I was shown voting no on Record No. 1419. I intended to vote yes.

Button

I was shown voting yes on Record No. 1419. I intended to vote present, not voting.

Hilderbran

SB 1285 ON THIRD READING**(Strama - House Sponsor)**

SB 1285, A bill to be entitled An Act relating to contributions to the retirement systems for certain police officers in certain municipalities.

SB 1285 was passed by (Record 1420): 107 Yeas, 35 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Brown; Burkett; Button; Cain; Callegari; Castro; Chisum; Coleman; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hughes; Hunter; Isaac; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Naishtat; Oliveira; Parker; Patrick; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Workman; Zedler.

Nays — Aliseda; Anderson, R.; Bohac; Branch; Carter; Christian; Cook; Craddick; Flynn; Frullo; Geren; Hancock; Howard, C.; Jackson; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Murphy; Orr; Paxton; Perry; Phillips; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Taylor, V.; Weber; Woolley.

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

Absent — Burnam; Farrar; Gutierrez; Nash; Zerwas.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1420. I intended to vote no.

Harless

I was shown voting yes on Record No. 1420. I intended to vote present, not voting.

Hilderbran

SB 1048 ON THIRD READING**(J. Davis - House Sponsor)**

SB 1048, A bill to be entitled An Act relating to the creation of public and private facilities and infrastructure.

Amendment No. 1

Representative J. Davis offered the following amendment to **SB 1048**:

Amend **SB 1048** on third reading by striking the text of proposed Section 2267.0655, Government Code, as added on second reading by Amendment No. 8 by Dukes.

Amendment No. 1 was adopted.

SB 1048 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE J. DAVIS: This bill isn't intended to hold anyone hostage if parties disagree and/or provide a funding source for attorneys in those disagreements, but is merely intended to facilitate the development of some worthwhile projects.

REMARKS ORDERED PRINTED

Representative J. Davis moved to print his remarks on **SB 1048**.

The motion prevailed.

SB 1048, as amended, was passed by (Record 1421): 114 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Castro; Chisum; Coleman; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Lavender; Legler; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman.

Nays — Anderson, C.; Aycock; Bohac; Cain; Callegari; Carter; Christian; Craddick; Elkins; Flynn; Frullo; Gooden; Hancock; Hartnett; Huberty; Hughes; Kolkhorst; Landtroop; Laubenberg; Lewis; Madden; Miller, S.; Parker; Paxton; Perry; Simpson; Weber; Zedler.

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

Absent — Cook; Hardcastle; Johnson; Martinez; Miles; Zerwas.

STATEMENTS OF VOTE

When Record No. 1421 was taken, I was in the house but away from my desk. I would have voted no.

Cook

I was shown voting yes on Record No. 1421. I intended to vote no.

Harless

I was shown voting yes on Record No. 1421. I intended to vote no.

Isaac

I was shown voting yes on Record No. 1421. I intended to vote no.

Larson

I was shown voting yes on Record No. 1421. I intended to vote no.

Lavender

I was shown voting yes on Record No. 1421. I intended to vote no.

Sheffield

I was shown voting yes on Record No. 1421. I intended to vote no.

White

POSTPONED BUSINESS

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

SB 738 ON THIRD READING (Villarreal - House Sponsor)

SB 738, A bill to be entitled An Act relating to a parental role in determining sanctions applied to a public school campus under certain circumstances.

SB 738 was read third time earlier today and was postponed until this time.

SB 738 was passed by (Record 1422): 133 Yeas, 11 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; 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; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Woolley; Workman; Zedler; Zerwas.

Nays — Anderson, C.; Cain; Christian; Farias; Hilderbran; Larson; Miller, S.; Scott; Walle; Weber; White.

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

Absent — Elkins; Nash; Torres.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1422. I intended to vote no.

Darby

I was shown voting no on Record No. 1422. I intended to vote yes.

Cain

I was shown voting no on Record No. 1422. I intended to vote present, not voting.

Hilderbran

I was shown voting no on Record No. 1422. I intended to vote yes.

Larson

I was shown voting no on Record No. 1422. I intended to vote yes.

S. Miller

I was shown voting no on Record No. 1422. I intended to vote yes.

White

**GENERAL STATE CALENDAR
(consideration continued)**

**SB 81 ON THIRD READING
(Kolkhorst - House Sponsor)**

SB 81, A bill to be entitled An Act relating to food safety.

(Geren in the chair)

Amendment No. 1

Representative Kolkhorst offered the following amendment to **SB 81**:

Amend **SB 81** on third reading as follows:

(1) In Section 437.001(2-b)(A), Health and Safety Code, as added by the bill, strike "or a farmer's market".

(2) Add the following appropriately numbered SECTION:
SECTION _____. Chapter 437, Health and Safety Code, is amended by adding Sections 437.0193 and 437.0194 to read as follows:

Sec. 437.0193. LABELING REQUIREMENTS FOR COTTAGE FOOD PRODUCTION OPERATIONS. The executive commissioner shall adopt rules requiring a cottage food production operation to label all of the foods described in Section 437.001(2-b)(A) that the operation sells to consumers. The label must

include the name and address of the cottage food production operation and a statement that the food is not inspected by the department or a local food department.

Sec. 437.0194. SALES BY COTTAGE FOOD PRODUCTION OPERATIONS THROUGH THE INTERNET PROHIBITED. A cottage food production operation may not sell any of the foods described in Section 437.001(2-b)(A) through the Internet.

(3) Renumber the SECTIONS of the bill accordingly.

(Speaker in the chair)

Amendment No. 1 was adopted.

Amendment No. 2

Representative Rodriguez offered the following amendment to **SB 81**:

Amend **SB 81** (on third reading) by striking Subsection 437.0201 subdivision (2) as added by Amendment No. 2 by Rodriguez.

Amendment No. 2 was adopted.

SB 81, as amended, was passed by (Record 1423): 131 Yeas, 17 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hardcastle; 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; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; 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.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Cain; Carter; Christian; Creighton; Garza; Guillen; Hancock; Harless; Harper-Brown; Landtroop; Legler; Madden; Paxton; Phillips; Sheffield; Taylor, V.; White.

Present, not voting — Mr. Speaker(C).

Absent — Bonnen.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1423. I intended to vote no.

Weber

SB 1664 ON THIRD READING
(Truitt and Creighton - House Sponsors)

SB 1664, A bill to be entitled An Act relating to the powers and duties of and contributions to and benefits from the systems and programs administered by the Employees Retirement System of Texas.

SB 1664 was passed by (Record 1424): 145 Yeas, 3 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; 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.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; 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.

Nays — Berman; Carter; Legler.

Present, not voting — Mr. Speaker(C).

Absent — Huberty.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1424. I intended to vote no.

Flynn

When Record No. 1424 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

SB 1605 ON THIRD READING
(Lewis, Geren, and Cook - House Sponsors)

SB 1605, A bill to be entitled An Act relating to the Texas Low-Level Radioactive Waste Disposal Compact Commission.

SB 1605 was passed by (Record 1425): 137 Yeas, 7 Nays, 1 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Burnam; Farias; Gonzalez; Gutierrez; Reynolds; Simpson; Walle.

Present, not voting — Mr. Speaker(C).

Absent — Allen; Farrar; Hamilton; Martinez; Nash.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1425. I intended to vote no.

Anchia

I was shown voting yes on Record No. 1425. I intended to vote no.

Castro

I was shown voting yes on Record No. 1425. I intended to vote no.

Strama

SB 978 ON THIRD READING (V. Gonzales - House Sponsor)

SB 978, A bill to be entitled An Act relating to procedures for the dissolution of the Hidalgo County Water Improvement District No. 3.

SB 978 was passed by (Record 1426): 136 Yeas, 5 Nays, 3 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.;

Huberty; Hughes; Hunter; 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.; Muñoz; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Nays — Garza; Hardcastle; Morrison; Simpson; Weber.

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

Absent — Davis, Y.; Driver; Lucio; Nash; Riddle; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1426. I intended to vote present, not voting.

Hilderbran

I was shown voting yes on Record No. 1426. I intended to vote no.

T. King

SB 1810 ON THIRD READING (Truitt - House Sponsor)

SB 1810, A bill to be entitled An Act relating to the exemption of certain retirement accounts from access by creditors.

SB 1810 was passed by (Record 1427): 146 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; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; Lucio; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Creighton; Eiland; Villarreal.

SB 407 ON THIRD READING
(Craddick, Gallego, et al. - House Sponsors)

SB 407, A bill to be entitled An Act relating to the creation of the offense of electronic transmission of certain visual material depicting a minor and to certain educational programs concerning the prevention and awareness of that offense.

SB 407 was passed by (Record 1428): 145 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; 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; Lucio; Lyne; Madden; 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; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Burnam; Mallory Caraway; Torres; Villarreal.

STATEMENTS OF VOTE

When Record No. 1428 was taken, my vote failed to register. I would have voted yes.

Mallory Caraway

I was shown voting yes on Record No. 1428. I intended to vote no.

Marquez

When Record No. 1428 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

SB 100 ON THIRD READING**(V. Taylor - House Sponsor)**

SB 100, A bill to be entitled An Act relating to the adoption of voting procedures necessary to implement the federal Military and Overseas Voter Empowerment Act.

Amendment No. 1

Representatives Pickett and Pitts offered the following amendment to **SB 100**:

Amend **SB 100** on third reading, by striking the changes made by Floor Amendment No. 1 by Pickett in adding Section 41.001(e), Election Code, and amending Section 501.0211(a), Election Code, and substituting the following appropriately numbered SECTION and renumbering the existing sections as appropriate:

SECTION _____. Section 501.109, Election Code, is amended to read as follows:

Sec. 501.109. ELECTION IN [~~CERTAIN~~] MUNICIPALITIES. (a) This section applies only to an election to permit or prohibit the legal sale of alcoholic beverages of one or more of the various types and alcoholic contents in a municipality [~~that is located in more than one county~~].

(b) An election to which this section applies shall be conducted by the municipality instead of a county [~~the counties~~]. For the purposes of an election conducted under this section, a reference in this chapter to:

(1) the county is considered to refer to the municipality;

(2) the commissioners court is considered to refer to the governing body of the municipality;

(3) the county clerk or voter registrar is considered to refer to the secretary of the municipality or, if the municipality does not have a secretary, to the person performing the functions of a secretary of the municipality; and

(4) the county judge is considered to refer to the mayor of the municipality or, if the municipality does not have a mayor, to the presiding officer of the governing body of the municipality.

(c) The municipality shall pay the expense of the election.

(d) An action to contest the election under Section 501.155 may be brought in the district court of any county in which the municipality is located.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Burkett offered the following amendment to **SB 100**:

Amend **SB 100** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 86.014(a), Election Code, is amended to read as follows:

(a) A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after [may be obtained from the early voting clerk]:

(1) the date the ballot corresponding to the application is received by the authority conducting the election, if the ballot is returned to the authority [72 hours after the time a ballot is mailed to the voter]; or

(2) ~~[48 hours after the time a ballot is mailed to the voter if the mailing occurs on the fourth day before]~~ election day.

Amendment No. 2 was adopted.

SB 100, as amended, was passed by (Record 1429): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; Lucio; 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; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Christian.

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

Absent — Burnam; Phillips; Strama; Villarreal.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1429. I intended to vote yes.

Christian

When Record No. 1429 was taken, I was in the house but away from my desk. I would have voted yes.

Strama

SB 809 ON THIRD READING

(Giddings - House Sponsor)

SB 809, A bill to be entitled An Act relating to judicial review in district court of certain workers' compensation disputes.

SB 809 was passed by (Record 1430): 148 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; 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; Lucio; 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 — Callegari.

POSTPONED BUSINESS

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

SB 875 ON THIRD READING

(Hancock, W. Smith, and Chisum - House Sponsors)

SB 875, A bill to be entitled An Act relating to compliance with state and federal environmental permits as a defense to certain actions for nuisance or trespass.

SB 875 was read third time earlier today and was postponed until this time.

SB 875 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **SB 875** under Article III, Section 35 of the Texas Constitution on the grounds that the bill violates the one subject rule.

The speaker overruled the point of order.

Amendment No. 1

Representative Bonnen offered the following amendment to **SB 875**:

Amend **SB 875** on third reading in Section 93.003, Civil Practice and Remedies Code, as added by the second reading Bonnen amendment by adding Subsection (c) to that section to read as follows:

(c) Nothing in this section prohibits or affects an action for nuisance or trespass related to the production, use, release into the environment, or remediation of methyl tertiary butyl ether.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Bonnen, S. Davis, and Hartnett offered the following amendment to **SB 875**:

Amend **SB 875** on third reading in Section 93.003(b), Civil Practice and Remedies Code, as added by Amendment No. 2 by Bonnen, by striking "clear and convincing evidence" and substituting "a preponderance of the evidence".

Amendment No. 2 was adopted. (Bohac recorded voting no.)

Amendment No. 3

Representative Hartnett offered the following amendment to **SB 875**:

Amend the Bonnen Amendment No. 2 (second reading) to **SB 875** as follows:

On page 1, line 22, insert "specifically" between "was" and "authorized."

Amendment No. 3 was adopted.

Amendment No. 4

Representative Chisum offered the following amendment to **SB 875**:

Amend **SB 875** on third reading as follows:

SECTION 1 (b) by striking the word "related to" and add in place "solely based on"

Amendment No. 4 was adopted.

Amendment No. 5

Representative Eiland offered the following amendment to **SB 875**:

Amend **SB 875** on third reading as follows:

(1) Strike the SECTION of the bill that adds Section 93.003, Civil Practice and Remedies Code, and renumber remaining SECTIONS accordingly.

(2) In the SECTION of the bill containing transition provisions, strike Subsection (a), containing the transition provision for added Section 93.003, Civil Practice and Remedies Code, and re-designate remaining subsections of that SECTION accordingly.

Amendment No. 5 failed of adoption by (Record 1431): 82 Yeas, 63 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Carter; Castro; Coleman; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hardcastle; Hartnett; Hilderbran; Hochberg; Howard, D.; Hughes; Isaac; Johnson; Kuempel; Landtroop; Larson; Lavender; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Nash; Oliveira; Parker; Paxton; Peña; Pickett; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Sheets; Simpson; Smith, T.; Smithee; Solomons; Strama; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycocck; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Geren; Hamilton; Hancock; Harless; Harper-Brown; Hopson; Howard, C.; Huberty; Hunter; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Miller, D.; Miller, S.; Morrison; Murphy; Orr; Otto; Patrick; Perry; Phillips; Pitts; Riddle; Scott; Sheffield; Shelton; Smith, W.; Taylor, L.; Taylor, V.; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Bohac; Guillen; Hernandez Luna; King, T.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1431. I intended to vote no.

L. Gonzales

When Record No. 1431 was taken, my vote failed to register. I would have voted no.

Guillen

I was shown voting yes on Record No. 1431. I intended to vote no.

Zedler

Amendment No. 6

Representative Martinez Fischer offered the following amendment to **SB 875**:

Amend **SB 875** on third reading, in added Section 93.003, Civil Practice and Remedies Code, by adding the following new subsection:

(c) An affirmative defense under this section may not be asserted against this state, a political subdivision of this state, or any other governmental entity in this state.

Amendment No. 6 was adopted.

SB 875, as amended, was passed by (Record 1432): 78 Yeas, 65 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; Geren; Gonzales, L.; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hopson; Howard, C.; Huberty; Hunter; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Patrick; Paxton; Perry; Phillips; Pitts; Riddle; Ritter; Scott; Sheffield; Shelton; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Torres; Woolley; Workman; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Howard, D.; Hughes; Isaac; Johnson; King, S.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Parker; Peña; Pickett; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Sheets; Simpson; Smith, T.; Solomons; Strama; Thompson; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent — Guillen; Jackson; King, T.; Laubenberg; Lyne; Villarreal.

STATEMENTS OF VOTE

When Record No. 1432 was taken, my vote failed to register. I would have voted yes.

Guillen

I was shown voting no on Record No. 1432. I intended to vote yes.

Sheets

REASONS FOR VOTE

I supported the original Fraser/Hancock bill. However, Mr. Bonnen added an amendment, essentially a new bill, that was apparently purposefully never exposed to a public hearing. The Bonnen amendment basically gave immunity to a permit holder for damaging someone's property.

Eiland

I voted against **SB 875** on final passage because I wanted to remove the Bonnen amendment in conference. I supported the original **SB 875**.

Parker

I voted no, but only because of an amendment that raised questions which I do not believe had been adequately vetted, and because local county leaders were opposed to the amendment.

T. Smith

GENERAL STATE CALENDAR

(consideration continued)

SB 717 ON THIRD READING

(Truitt - House Sponsor)

SB 717, A bill to be entitled An Act relating to the purpose and duties of the Council on Children and Families.

SB 717 was passed by (Record 1433): 145 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; 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; 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; Lucio; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Coleman; Hernandez Luna; Hilderbran; Villarreal.

SB 460 ON THIRD READING

(Hunter - House Sponsor)

SB 460, A bill to be entitled An Act relating to regulation of the import, export, and management of mule deer; providing penalties.

SB 460 was passed by (Record 1434): 143 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; 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; 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.; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; 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; Workman; Zedler; Zerwas.

Nays — Kleinschmidt; Kolkhorst.

Present, not voting — Mr. Speaker(C).

Absent — Anderson, R.; Coleman; Morrison; Woolley.

STATEMENTS OF VOTE

When Record No. 1434 was taken, I was in the house but away from my desk. I would have voted yes.

R. Anderson

I was shown voting yes on Record No. 1434. I intended to vote present, not voting.

Hilderbran

SB 460 - STATEMENT OF LEGISLATIVE INTENT

The department may conduct research regarding mule deer habitat. It may include deer pen and holding facility sizes, fence heights and construction, habitat limitations, fawn and adult mule deer survival rates, capture and release statistics, and possible impacts to other indigenous wildlife in the region. The department may coordinate this program with current holders of scientific breeder permits, private landowners, universities in the region with experience in desert ecology, and any state wildlife management area. The department may issue a permit if a person is a participant in the research. The department may establish some rules.

Hunter

SB 766 ON THIRD READING (Isaac - House Sponsor)

SB 766, A bill to be entitled An Act relating to the liability of a sport shooting range and the regulation of firearms, ammunition, firearm supplies, and sport shooting ranges.

SB 766 was passed by (Record 1435): 145 Yeas, 1 Nays, 2 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; 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, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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.; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Howard, D.

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

Absent — Gonzales, L.; King, P.

STATEMENT OF VOTE

I was shown voting no on Record No. 1435. I intended to vote yes.

D. Howard

SB 76 ON THIRD READING (Morrison - House Sponsor)

SB 76, A bill to be entitled An Act relating to certain providers of subsidized child care.

SB 76 was passed by (Record 1436): 149 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; 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; Lucio; 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).

STATEMENT OF VOTE

I was shown voting yes on Record No. 1436. I intended to vote no.

Lyne

SB 364 ON THIRD READING (Brown - House Sponsor)

SB 364, A bill to be entitled An Act relating to statistical information on the prosecution of certain offenses relating to the operating of a motor vehicle while intoxicated.

SB 364 was passed by (Record 1437): 148 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; 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; 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; Lucio; 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 — Gutierrez.

SB 1009 ON THIRD READING (Sheffield - House Sponsor)

SB 1009, A bill to be entitled An Act relating to requiring public institutions of higher education to notify the federal Student and Exchange Visitor Information System (SEVIS) regarding the withdrawal or nonattendance of certain foreign students.

SB 1009 was passed by (Record 1438): 133 Yeas, 13 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; 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.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; 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; Lucio; Lyne; Madden; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Davis, Y.; Farias; Mallory Caraway; Marquez; Muñoz; Phillips; Quintanilla; Reynolds; Strama; Walle.

Present, not voting — Mr. Speaker(C).

Absent — Gutierrez; Hardcastle; Johnson.

STATEMENT OF VOTE

I was shown voting no on Record No. 1438. I intended to vote yes.

Phillips

**SB 635 ON THIRD READING
(Larson - House Sponsor)**

SB 635, A bill to be entitled An Act relating to the authority of the Texas Commission on Environmental Quality.

Amendment No. 1

Representative T. King offered the following amendment to **SB 635**:

Amend **SB 635** on third reading by striking:

(1) the section of the bill, as added by Floor Amendment No. 2 by Larson on second reading, that amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.0865; and

(2) the section of the bill, as added by Floor Amendment No. 2 by Larson on second reading, that reads:

The changes in law made by Section 361.0865, Health and Safety Code, as added by this Act, apply only to an application for the issuance, amendment, extension, or renewal of a permit that is received by the Texas Commission on Environmental Quality on or after the effective date of this Act. An application that is received before that date is governed by the law in effect at the time the application is received, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted.

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. 2).

SB 635 - (consideration continued)

Amendment No. 2

Representative Price offered the following amendment to **SB 635**:

Amend **SB 635** on third reading by striking the SECTION of the bill added by Amendment No. 9 by Dutton, amending Section 13.185(h), Water Code, and providing transition provisions for that Section.

Amendment No. 2 was adopted by (Record 1439): 104 Yeas, 43 Nays, 1 Present, not voting.

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

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Harless; Hochberg; Hughes; Johnson; Lozano; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Muñoz; Naishtat; Oliveira; Phillips; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent — Hernandez Luna; Lucio.

STATEMENT OF VOTE

I was shown voting no on Record No. 1439. I intended to vote yes.

Harless

Amendment No. 3

Representative Rodriguez offered the following amendment to **SB 635**:

Amend **SB 635** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 501, Health and Safety Code, is amended by adding Section 501.0234 to read as follows:

Sec. 5001.234. DENATONIUM BENZOATE ADDITIVE REQUIREMENT FOR CERTAIN PRODUCTS CONTAINING ETHYLENE GLYCOL. (a) This section applies to a product to be sold as antifreeze or engine coolant that:

(1) contains an ethylene glycol concentration greater than 10 percent by volume; and

(2) is manufactured after January 1, 2013.

(b) A manufacturer of a product described by Subsection (a) may not distribute the product for sale in this state unless the product includes denatonium benzoate in an amount of not less than 30 parts per million and not more than 50 parts per million by weight.

(c) A manufacturer of a product described by Subsection (a) shall:

(1) maintain a record of the trade name, scientific name, and active ingredients of the denatonium benzoate additive used to comply with Subsection (b); and

(2) on request, make the record available to the commission and the public.

(d) Subject to Subsection (e), a manufacturer, processor, distributor, recycler, or seller of a product described by Subsection (a) that includes denatonium benzoate in the concentrations required by Subsection (b) is not liable to any person for any personal injury, death, property damage, damage to the environment, including natural resources, or economic loss that results from the inclusion of denatonium benzoate in the product.

(e) The limitation on liability provided by Subsection (d) does not apply to the extent that the cause of the liability is unrelated to the inclusion of denatonium benzoate in a product described by Subsection (a).

(f) This section does not exempt a manufacturer of denatonium benzoate from liability under other law.

(g) A political subdivision of this state may not adopt or enforce an ordinance, regulation, or policy that is inconsistent with or more restrictive than this section.

(h) This section does not apply to the sale of:

(1) a motor vehicle that contains a product described by Subsection (a);

or

(2) a container sold at wholesale that contains 55 gallons or more of antifreeze or engine coolant.

(i) The Commission may adopt rules for the implementation.

(j) In this SECTION, "Commission" means the Texas Commission on Environmental Quality.

SECTION _____. A manufacturer is required to comply with Section 501.0234, Health and Safety Code, as added by this Act, only after January 1, 2013.

Amendment No. 3 was adopted by (Record 1440): 133 Yeas, 12 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burnam; Button; Cain; Carter; Castro; Chisum; Christian; Coleman; Cook; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; 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; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zerwas.

Nays — Bonnen; Callegari; Craddick; Dutton; Harper-Brown; Hughes; Legler; Miller, S.; Murphy; Nash; Phillips; Simpson.

Present, not voting — Mr. Speaker(C).

Absent — Aliseda; Burkett; Farias; Zedler.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1440. I intended to vote no.

P. King

I was shown voting yes on Record No. 1440. I intended to vote no.

Morrison

I was shown voting yes on Record No. 1440. I intended to vote no.

Weber

SB 635, as amended, was passed by (Record 1441): 125 Yeas, 23 Nays, 1 Present, not voting.

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

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

Nays — Alonzo; Anchia; Berman; Bonnen; Burnam; Davis, Y.; Dutton; Elkins; Flynn; Gallego; Hancock; Harless; Hochberg; Hughes; Landtroop; Mallory Caraway; Marquez; Paxton; Quintanilla; Reynolds; Strama; Taylor, V.; Truitt.

Present, not voting — Mr. Speaker(C).

Absent — Morrison.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1441. I intended to vote no.

D. Howard

I was shown voting yes on Record No. 1441. I intended to vote no.

Lucio

When Record No. 1441 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

I was shown voting yes on Record No. 1441. I intended to vote no.

Naishtat

I was shown voting yes on Record No. 1441. I intended to vote no.

Thompson

**SB 472 ON THIRD READING
(Giddings - House Sponsor)**

SB 472, A bill to be entitled An Act relating to voting practices and elections of property owners' associations.

Amendment No. 1

Representative Giddings offered the following amendment to **SB 472**:

Amend **SB 472** (house committee printing) by adding the following appropriately numbered SECTION and renumbering SECTIONS of the bill accordingly:

SECTION _____. Chapter 209, Property Code, is amended by adding Section 209.0041 to read as follows:

Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY INSTRUMENTS. (a) In this section, "development period" means a period stated in a declaration during which a declarant reserves:

(1) a right to facilitate the development, construction, and marketing of the subdivision; and

(2) a right to direct the size, shape, and composition of the subdivision.

(b) This section applies to a residential subdivision in which property owners are subject to mandatory membership in a property owners' association.

(c) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(d) This section does not apply to the amendment of a declaration during a development period.

(e) This section applies to a dedicatory instrument regardless of the date on which the dedicatory instrument was created.

(f) This section supersedes any contrary requirement in a dedicatory instrument.

(g) To the extent of any conflict with another provision of this title, this section prevails.

(h) Except as provided by this subsection, a declaration may be amended only by a vote of 67 percent of the total votes allocated to property owners in the property owners' association, in addition to any governmental approval required by law. If the declaration contains a lower percentage, the percentage in the declaration controls.

(i) A bylaw may not be amended to conflict with the declaration.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Otto offered the following amendment to **SB 472**:

Amend **SB 472** on third reading, in added Section 209.0058, Property Code, by adding the following new subsection:

(d) A person whose name is on the ballot may not access the signed ballots.

Amendment No. 2 was adopted.

LEAVE OF ABSENCE GRANTED

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

Anchia on motion of Thompson.

SB 472 - (consideration continued)

Amendment No. 3

Representative Bohac offered the following amendment to **SB 472**:

Amend **SB 472** (house committee printing) on third reading as follows:

(1) In SECTION 3 of the bill (page 4, line 21), between "SECTION 3." and "Section 209.0059", insert "Sections 202.004(d), (e), (f), and (g),".

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

SECTION ____ . Section 202.004, Property Code, is amended by adding Subsections (d), (e), (f), and (g) to read as follows:

(d) In evaluating an alleged or potential violation of a restrictive covenant, a property owners' association board shall make a reasonable accommodation with respect to a person with a disability that has been evidenced by a written report by a physician. In the absence of clear and convincing evidence that the

accommodation will create a substantial and imminent risk to public safety or require a substantial expenditure by the property owners' association for physical improvements, the board may not enforce a restrictive covenant in a manner that is inconsistent with the physician's report or that imposes an undue hardship on the person.

(e) A determination by the property owners' association board to not enforce a restrictive covenant under Subsection (d) may not be considered a waiver of the association's authority to enforce any dedicatory instrument provision in the future.

(f) A property owners' association board shall document the following information in the minutes of the board meeting and provide a copy of the minutes to a person subject to an enforcement of a restrictive covenant under circumstances described by Subsection (d):

(1) the specific facts and circumstances constituting a public safety risk or requiring a substantial expenditure under Subsection (d);

(2) the person subjected to the enforcement of the covenant; and

(3) the board members voting for and against the enforcement of the covenant.

(g) A determination made in violation of Subsection (d) or (f) is void and unenforceable.

Amendment No. 3 was adopted.

SB 472, as amended, was passed by (Record 1442): 76 Yeas, 69 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Bohac; Burnam; Castro; Chisum; Coleman; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Harper-Brown; Hernandez Luna; Hochberg; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Naishtat; Oliveira; Orr; Otto; Patrick; Phillips; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Shelton; Solomons; Taylor, L.; Thompson; Torres; Turner; Veasey; Vo; Walle; White; Woolley; Zedler.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Flynn; Frullo; Garza; Geren; Gooden; Hamilton; Hancock; Harless; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Miller, D.; Miller, S.; Murphy; Nash; Parker; Paxton; Peña; Perry; Pitts; Price; Ritter; Scott; Sheets; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee; Taylor, V.; Truitt; Weber; Workman; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia.

Absent — Eiland; Strama; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1442. I intended to vote no.

L. Gonzales

I was shown voting yes on Record No. 1442. I intended to vote no.

Harper-Brown

I was shown voting yes on Record No. 1442. I intended to vote no.

Hughes

I was shown voting yes on Record No. 1442. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1442. I intended to vote no.

Margo

I was shown voting yes on Record No. 1442. I intended to vote no.

Morrison

I was shown voting yes on Record No. 1442. I intended to vote no.

Phillips

I was shown voting yes on Record No. 1442. I intended to vote no.

Zedler

SB 516 ON THIRD READING (Fletcher - House Sponsor)

SB 516, A bill to be entitled An Act relating to the exemption from ad valorem taxation of all or part of the appraised value of the residence homestead of the surviving spouse of a 100 percent or totally disabled veteran.

Amendment No. 1

Representative McClendon offered the following amendment to **SB 516**:

Amend **SB 516** on third reading as follows:

(1) In the recital to SECTION 2 of the bill (page 1, line 11), strike "(c) and (d)" and substitute "(c), (d), and (e)".

(2) In SECTION 2 of the bill, following added Section 11.131(d), Tax Code (page 2, between lines 14 and 15), add the following:

(e) A surviving spouse who qualifies for an exemption under Subsection (c) or (d) must apply for an exemption under that subsection each year the surviving spouse claims entitlement to the exemption as required by Sections 11.43(a) and (b).

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

SECTION _____. Section 11.43(c), Tax Code, is amended to read as follows:

(c) An exemption provided by Section 11.13, 11.131(b) [~~11.131~~], 11.17, 11.18, 11.182, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(h), (j), or (j-1), 11.231, 11.254, 11.29, 11.30, or 11.31, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e), the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes. However, the chief appraiser may require a person allowed one of the exemptions in a prior year to file a new application to confirm the person's current qualification for the exemption by delivering a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the exemption.

Amendment No. 1 was adopted.

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 3).

SB 516 - (consideration continued)

SB 516, as amended, was passed by (Record 1443): 148 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; Lucio; 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 — Anchia.

SB 498 ON THIRD READING
(Phillips - House Sponsor)

SB 498, A bill to be entitled An Act relating to the trapping and transport of surplus white-tailed deer.

Amendment No. 1

Representative S. Miller offered the following amendment to **SB 498**:

Amend **SB 498** on third reading as follows:

(1) Strike the recital to SECTION 1 of the bill and substitute the following:
SECTION 1. Sections 43.0612(a)-(i) and (k), Parks and Wildlife Code, are amended to read as follows:

(2) Strike amended Section 43.0612(j), Parks and Wildlife Code.

Amendment No. 1 was adopted.

SB 498, as amended, was passed by (Record 1444): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; Lucio; 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; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia.

Absent — Allen; Burnam; Driver; Torres.

SB 975 ON THIRD READING
(Muñoz and Patrick - House Sponsors)

SB 975, A bill to be entitled An Act relating to the operation of dropout recovery programs by certain public junior colleges in partnership with school districts.

SB 975 was passed by (Record 1445): 100 Yeas, 45 Nays, 1 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Beck; Berman; Branch; Brown; Burnam; Castro; Chisum; Coleman; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; Kolkhorst; Kuempel; Larson; Lavender; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Patrick; Peña; Perry; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Shelton; Simpson; Smith, W.; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle.

Nays — Anderson, C.; Anderson, R.; Aycock; Bohac; Bonnen; Burkett; Button; Cain; Callegari; Carter; Christian; Cook; Craddock; Creighton; Darby; Elkins; Frullo; Hamilton; Hancock; Harper-Brown; King, P.; Kleinschmidt; Landtroop; Laubenberg; Legler; Madden; Miller, D.; Miller, S.; Morrison; Nash; Parker; Paxton; Phillips; Price; Sheets; Sheffield; Smith, T.; Smithee; Taylor, V.; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Anchia.

Absent — Allen; King, T.; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1445. I intended to vote no.

Harless

I was shown voting yes on Record No. 1445. I intended to vote no.

Orr

I was shown voting yes on Record No. 1445. I intended to vote no.

Truitt

**SB 1130 ON THIRD READING
(Kleinschmidt - House Sponsor)**

SB 1130, A bill to be entitled An Act relating to the exception from required public disclosure of certain records of an appraisal district.

Amendment No. 1

Representative Garza offered the following amendment to **SB 1130**:

Amend **SB 1130** on third reading as follows:

Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Section 11.1826, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) For purposes of determining whether an organization has satisfied the requirements of Subsection (b) or (e) of this section in order to qualify for an exemption under Section 11.1825 or 11.182, respectively, an opinion included in an audit of the organization prepared by an independent auditor who is licensed by this state as a certified public accountant or a determination of tax-exempt status under Section 501(c), Internal Revenue Code of 1986, issued by the United States Internal Revenue Service is prima facie evidence of the facts stated in the opinion or determination.

SECTION _____. This Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Flynn and Kleinschmidt offered the following amendment to **SB 1130**:

Amend **SB 1130** by inserting the following appropriately-numbered SECTION and renumbering any subsequent SECTIONS and updating any cross-references accordingly:

SECTION _____. Section 1151.204, Occupations Code, is amended to read as follows:

Sec. 1151.204. DISMISSAL OF COMPLAINTS [~~COMPLAINT RELATING TO APPRAISED VALUE~~]. (a) After investigation, the department may dismiss a complaint, in part or entirely, without conducting a hearing if:

[(+) the complaint [challenges only the appraised value of a property or another matter for which Title I, Tax Code, specifies a remedy and] does not credibly allege a violation of this chapter or the standards established by the commission for registrants under this chapter]; ~~and~~

[(2) the disagreement has not been resolved in the complainant's favor by an appraisal review board or court].

(b) After investigation, the department shall dismiss a complaint, in part or entirely, without conducting a hearing if:

(1) the complaint challenges:

(A) the imposition of or failure to waive penalties or interest under Sections 33.01 and 33.011, Tax Code;

(B) the appraised value of a property;

(C) the appraisal methodology;

(D) the grant or denial of an exemption from taxation; or

(E) any matter for which Title I, Tax Code, specifies a remedy, including an action that a property owner is entitled to protest before an appraisal review board under Section 41.41(a), Tax Code; and

(2) the subject matter of the complaint has not been finally resolved in the complainant's favor by an appraisal review board, a governing body, an arbitrator, a court, or the State Office of Administrative Hearings under Section 2003.901, Government Code.

(c) This section does not apply to:

(1) a matter referred to the department by the comptroller under Section 5.102, Tax Code, or a successor statute;

(2) a complaint concerning a registrant's failure to comply with the registration and certification requirements of this chapter; or

(3) a complaint concerning a newly appointed chief appraiser's failure to complete the training program described by Section 1151.164.

SECTION _____. The change in law made by this Act to Section 1151.204, Occupations Code, applies only to a complaint filed on or after the effective date of this Act. A complaint filed before that date is governed by the law in effect on the date the complaint was filed, and the former law is continued in effect for that purpose.

(L. Taylor in the chair)

Amendment No. 2 was adopted.

SB 1130, as amended, was passed by (Record 1446): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia.

Absent — Crownover; Naishtat.

STATEMENT OF VOTE

When Record No. 1446 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

SB 1360 ON THIRD READING
(Hunter and Naishtat - House Sponsors)

SB 1360, A bill to be entitled An Act relating to continuing education for physicians and nurses regarding the treatment of tick-borne diseases.

SB 1360 was passed by (Record 1447): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia.

Absent — Crownover; Jackson.

SB 1560 ON THIRD READING
(L. Taylor - House Sponsor)

SB 1560, A bill to be entitled An Act relating to liability of certain local emergency management or homeland security organizations.

SB 1560 was passed by (Record 1448): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg;

Lavender; Legler; Lewis; Lozano; Lucio; 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; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia.

Absent — Crownover; Isaac; Simpson.

SB 1617 ON THIRD READING
(Aliseda - House Sponsor)

SB 1617, A bill to be entitled An Act relating to the discretionary transfer from a juvenile court to a criminal court of certain alleged offenses arising out of a single criminal transaction.

SB 1617 was passed by (Record 1449): 142 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Farias; Gonzalez; Marquez; Walle.

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

Absent, Excused — Anchia.

Absent — Crownover.

SB 1843 ON THIRD READING**(Frullo, Gallego, Hartnett, Christian, and Y. Davis - House Sponsors)**

SB 1843, A bill to be entitled An Act relating to investigations of certain offenses involving the Internet-based sexual exploitation of a minor; creating the Internet crimes against children account to support those activities.

Representative Frullo moved to postpone consideration of **SB 1843** until 8 a.m. Tuesday, May 31.

The motion prevailed.

RESOLUTIONS CALENDAR

The chair laid before the house the following resolutions on committee report:

SCR 2**(Gallego - House Sponsor)**

SCR 2, Urging Congress to reauthorize the Water Resources Development Act of 2007, Section 5056, and to appropriate sufficient funds so that efforts to solve the salt problem in the Amistad International Reservoir can continue.

SCR 2 was adopted by (Record 1450): 123 Yeas, 20 Nays, 2 Present, not voting.

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

Nays — Anderson, C.; Berman; Cain; Carter; Flynn; Hancock; Hughes; Landtroop; Laubenberg; Lavender; Lyne; Murphy; Nash; Parker; Paxton; Perry; Simpson; White; Workman; Zedler.

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

Absent, Excused — Anchia.

Absent — Crownover; Elkins; Garza; Smith, T.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1450. I intended to vote no.

V. Taylor

HB 275 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the following conference committee report on **HB 275**:

Austin, Texas, May 23, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 275** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ogden
Patrick
Fraser
Duncan
Eltife

Pitts
Aycock
Darby
Morrison

On the part of the senate

On the part of the house

HB 275, A bill to be entitled An Act relating to making an appropriation of money from the economic stabilization fund for expenditure during the current state fiscal biennium.

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

SECTION 1. (a) The amount of \$3,198,661,120 is appropriated from the economic stabilization fund to the comptroller of public accounts for the purpose of depositing that amount to the credit of the general revenue fund as money available for use during the state fiscal year ending August 31, 2011, to make expenditures previously authorized by appropriations from general revenue for the state fiscal biennium ending August 31, 2011.

(b) This Act takes effect only if it receives a vote of three-fifths of the members present in each house of the legislature, as provided by Section 49-g(k), Article III, Texas Constitution, and is subject to certification by the comptroller of public accounts as provided by that subsection.

SECTION 2. This Act takes effect immediately.

Representative Pitts moved to adopt the conference committee report on **HB 275**.

The motion to adopt the conference committee report on **HB 275** prevailed by (Record 1451): 123 Yeas, 21 Nays, 2 Present, not voting.

Yeas — Aliseda; Alonzo; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; 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; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; 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; Margo; Martinez; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Thompson; Torres; Truitt; Turner; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alvarado; Burnam; Elkins; Farias; Gonzales, V.; Gonzalez; Gutierrez; Howard, D.; Lucio; Mallory Caraway; Marquez; Martinez Fischer; Paxton; Quintanilla; Simpson; Strama; Taylor, V.; Veasey; Villarreal; Walle.

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

Absent, Excused — Anchia.

Absent — Deshotel; Miles; Naishtat.

The chair stated that **HB 275** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

STATEMENT OF VOTE

When Record No. 1451 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

REASON FOR VOTE

Although I fully support using a far greater portion of the rainy day fund to fully fund education and to mitigate the impacts of the massive budget cuts, I am voting in favor of this bill since it was the only amount from the rainy day fund that I was able to vote on.

Lozano

POSTPONED BUSINESS

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

SB 8 ON THIRD READING **(Kolkhorst - House Sponsor)**

SB 8, A bill to be entitled An Act relating to improving the quality and efficiency of health care.

SB 8 was read third time earlier today and was postponed until this time.

Amendment No. 1

Representative Kolkhorst offered the following amendment to **SB 8**:

Amend **SB 8** on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering the subsequent ARTICLES of the bill accordingly:

ARTICLE ____ INTERSTATE HEALTH CARE COMPACT

SECTION ____ .01. Title 15, Insurance Code, is amended by adding Chapter 5002 to read as follows:

CHAPTER 5002. INTERSTATE HEALTH CARE COMPACT

Sec. 5002.001. EXECUTION OF COMPACT. This state enacts the Interstate Health Care Compact and enters into the compact with all other states legally joining in the compact in substantially the following form:

Whereas, the separation of powers, both between the branches of the Federal government and between Federal and State authority, is essential to the preservation of individual liberty;

Whereas, the Constitution creates a Federal government of limited and enumerated powers, and reserves to the States or to the people those powers not granted to the Federal government;

Whereas, the Federal government has enacted many laws that have preempted State laws with respect to Health Care, and placed increasing strain on State budgets, impairing other responsibilities such as education, infrastructure, and public safety;

Whereas, the Member States seek to protect individual liberty and personal control over Health Care decisions, and believe the best method to achieve these ends is by vesting regulatory authority over Health Care in the States;

Whereas, by acting in concert, the Member States may express and inspire confidence in the ability of each Member State to govern Health Care effectively; and

Whereas, the Member States recognize that consent of Congress may be more easily secured if the Member States collectively seek consent through an interstate compact;

NOW THEREFORE, the Member States hereto resolve, and by the adoption into law under their respective State Constitutions of this Health Care Compact, agree, as follows:

Sec. 1. Definitions. As used in this Compact, unless the context clearly indicates otherwise:

"Commission" means the Interstate Advisory Health Care Commission.

"Effective Date" means the date upon which this Compact shall become effective for purposes of the operation of State and Federal law in a Member State, which shall be the later of:

a) the date upon which this Compact shall be adopted under the laws of the Member State, and

b) the date upon which this Compact receives the consent of Congress pursuant to Article I, Section 10, of the United States Constitution, after at least two Member States adopt this Compact.

"Health Care" means care, services, supplies, or plans related to the health of an individual and includes but is not limited to:

(a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body, and

(b) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription, and

(c) an individual or group plan that provides, or pays the cost of, care, services, or supplies related to the health of an individual, except any care, services, supplies, or plans provided by the United States Department of Defense and United States Department of Veteran Affairs, or provided to Native Americans.

"Member State" means a State that is signatory to this Compact and has adopted it under the laws of that State.

"Member State Base Funding Level" means a number equal to the total Federal spending on Health Care in the Member State during Federal fiscal year 2010. On or before the Effective Date, each Member State shall determine the Member State Base Funding Level for its State, and that number shall be binding upon that Member State.

"Member State Current Year Funding Level" means the Member State Base Funding Level multiplied by the Member State Current Year Population Adjustment Factor multiplied by the Current Year Inflation Adjustment Factor.

"Member State Current Year Population Adjustment Factor" means the average population of the Member State in the current year less the average population of the Member State in Federal fiscal year 2010, divided by the average population of the Member State in Federal fiscal year 2010, plus 1. Average population in a Member State shall be determined by the United States Census Bureau.

"Current Year Inflation Adjustment Factor" means the Total Gross Domestic Product Deflator in the current year divided by the Total Gross Domestic Product Deflator in Federal fiscal year 2010. Total Gross Domestic Product Deflator shall be determined by the Bureau of Economic Analysis of the United States Department of Commerce.

Sec. 2. Pledge. The Member States shall take joint and separate action to secure the consent of the United States Congress to this Compact in order to return the authority to regulate Health Care to the Member States consistent with the goals and principles articulated in this Compact. The Member States shall improve Health Care policy within their respective jurisdictions and according to the judgment and discretion of each Member State.

Sec. 3. Legislative Power. The legislatures of the Member States have the primary responsibility to regulate Health Care in their respective States.

Sec. 4. State Control. Each Member State, within its State, may suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding Health Care that are inconsistent with the laws and regulations adopted by the Member State pursuant to this Compact. Federal and State laws, rules,

regulations, and orders regarding Health Care will remain in effect unless a Member State expressly suspends them pursuant to its authority under this Compact. For any federal law, rule, regulation, or order that remains in effect in a Member State after the Effective Date, that Member State shall be responsible for the associated funding obligations in its State.

Sec. 5. Funding. (a) Each Federal fiscal year, each Member State shall have the right to Federal monies up to an amount equal to its Member State Current Year Funding Level for that Federal fiscal year, funded by Congress as mandatory spending and not subject to annual appropriation, to support the exercise of Member State authority under this Compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the Member State.

(b) By the start of each Federal fiscal year, Congress shall establish an initial Member State Current Year Funding Level for each Member State, based upon reasonable estimates. The final Member State Current Year Funding Level shall be calculated, and funding shall be reconciled by the United States Congress based upon information provided by each Member State and audited by the United States Government Accountability Office.

Sec. 6. Interstate Advisory Health Care Commission. (a) The Interstate Advisory Health Care Commission is established. The Commission consists of members appointed by each Member State through a process to be determined by each Member State. A Member State may not appoint more than two members to the Commission and may withdraw membership from the Commission at any time. Each Commission member is entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the Commission's total membership.

(b) The Commission may elect from among its membership a Chairperson. The Commission may adopt and publish bylaws and policies that are not inconsistent with this Compact. The Commission shall meet at least once a year, and may meet more frequently.

(c) The Commission may study issues of Health Care regulation that are of particular concern to the Member States. The Commission may make non-binding recommendations to the Member States. The legislatures of the Member States may consider these recommendations in determining the appropriate Health Care policies in their respective States.

(d) The Commission shall collect information and data to assist the Member States in their regulation of Health Care, including assessing the performance of various State Health Care programs and compiling information on the prices of Health Care. The Commission shall make this information and data available to the legislatures of the Member States. Notwithstanding any other provision in this Compact, no Member State shall disclose to the Commission the health information of any individual, nor shall the Commission disclose the health information of any individual.

(e) The Commission shall be funded by the Member States as agreed to by the Member States. The Commission shall have the responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the Member States in accordance with the terms of this Compact.

(f) The Commission shall not take any action within a Member State that contravenes any State law of that Member State.

Sec. 7. Congressional Consent. This Compact shall be effective on its adoption by at least two Member States and consent of the United States Congress. This Compact shall be effective unless the United States Congress, in consenting to this Compact, alters the fundamental purposes of this Compact, which are:

(a) To secure the right of the Member States to regulate Health Care in their respective States pursuant to this Compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their States; and

(b) To secure Federal funding for Member States that choose to invoke their authority under this Compact, as prescribed by Section 5 above.

Sec. 8. Amendments. The Member States, by unanimous agreement, may amend this Compact from time to time without the prior consent or approval of Congress and any amendment shall be effective unless, within one year, the Congress disapproves that amendment. Any State may join this Compact after the date on which Congress consents to the Compact by adoption into law under its State Constitution.

Sec. 9. Withdrawal; Dissolution. Any Member State may withdraw from this Compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the Governor of the withdrawing Member State has given notice of the withdrawal to the other Member States. A withdrawing State shall be liable for any obligations that it may have incurred prior to the date on which its withdrawal becomes effective. This Compact shall be dissolved upon the withdrawal of all but one of the Member States.

SECTION ____ .02. This article takes effect immediately if the Act 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 article takes effect September 1, 2011.

Amendment No. 1 was adopted by (Record 1452): 99 Yeas, 43 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; 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; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; 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, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

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

Absent, Excused — Anchia.

Absent — Davis, Y.; Peña; Quintanilla; Reynolds; Thompson.

Amendment No. 2

Representative Truitt offered the following amendment to **SB 8**:

Amend **SB 8** on third reading by striking added Section 1560.005(c), Insurance Code (as added by Floor Amendment No. ____ by Miller), and relettering subsequent subsections of that section accordingly.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Chisum offered the following amendment to **SB 8**:

Amend **SB 8** on third reading by inserting the following new sections, appropriately numbered, and renumbering subsequent sections accordingly:

SECTION ____ . Section 1451.109, Insurance Code, is amended to read as follows:

Sec. 1451.109. SELECTION OF CHIROPRACTOR. (a) An insured may select a chiropractor to provide the medical or surgical services or procedures scheduled in the health insurance policy that are within the scope of the chiropractor's license.

(b) If physical modalities and procedures are covered services under a health insurance policy and within the scope of the license of a chiropractor and one or more other type of practitioner, a health insurance policy issuer may not:

(1) deny payment or reimbursement for physical modalities and procedures provided by a chiropractor if:

(A) the chiropractor provides the modalities and procedures in strict compliance with laws and rules relating to a chiropractor's license; and

(B) the health insurance policy issuer allows payment or reimbursement for the same physical modalities and procedures performed by another type of practitioner;

(2) make payment or reimbursement for particular covered physical modalities and procedures within the scope of a chiropractor's practice contingent on treatment or examination by a practitioner that is not a chiropractor; or

(3) establish other limitations on the provision of covered physical modalities and procedures that would prohibit an insured from seeking the covered physical modalities and procedures from a chiropractor to the same extent that the insured may obtain covered physical modalities and procedures from another type of practitioner.

(c) Nothing in this section requires a health insurance policy issuer to cover particular services or affects the ability of a health insurance policy issuer to determine whether specific procedures for which payment or reimbursement is requested are medically necessary.

(d) This section does not apply to:

(1) workers' compensation insurance coverage as defined by Section 401.011, Labor Code;

(2) a self-insured employee welfare benefit plan subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.);

(3) the child health plan program under Chapter 62, Health and Safety Code, or the health benefits plan for children under Chapter 63, Health and Safety Code; or

(4) a Medicaid managed care program operated under Chapter 533, Government Code, or a Medicaid program operated under Chapter 32, Human Resources Code.

SECTION _____. The changes in law made by this Act to Section 1451.109, Insurance Code, apply only to a health insurance policy that is delivered, issued for delivery, or renewed on or after the effective date of this Act. A policy 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. 3 was adopted.

LEAVE OF ABSENCE GRANTED

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

Strama on motion of Coleman.

SB 8 - (consideration continued)

Amendment No. 4

On behalf of Representative Thompson, Representative Kolkhorst offered the following amendment to **SB 8**:

Amend **SB 8** on third reading as amended by Floor Amendment No. ____ in Section 2.01 of the bill as follows:

(1) In added Section 1002.101, add the following subsection (3), renumbering the succeeding subsection accordingly:

(3) improving the utilization of diagnostic imaging services and the quality and efficiency of the provision of those services in offices, clinics, imaging centers, and other locations where those services are provided; and

(2) In added section 1002.202(b), add the following subsection (5), renumbering the succeeding subsections accordingly:

(5) determine the feasibility of obtaining from offices, clinics, imaging centers and other locations where diagnostic imaging services are provided data regarding the quality and efficiency of the operation of diagnostic imaging equipment and the provision of diagnostic imaging services;

Amendment No. 4 failed of adoption. (The vote was reconsidered later today, and Amendment No. 4 was adopted by Record No. 1453.)

Amendment No. 5

Representatives Laubenberg and Harless offered the following amendment to **SB 8**:

Amend **SB 8** on third reading in added Section 224.002(c), Health and Safety Code, between "The policy" and "include", by striking "may" and substituting "must".

Amendment No. 5 was adopted.

Amendment No. 4 - Vote Reconsidered

Representative S. Miller moved to reconsider the vote by which Amendment No. 4 failed of adoption.

The motion to reconsider prevailed.

Amendment No. 4 was adopted by (Record 1453): 96 Yeas, 46 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson, C.; Bohac; Branch; Brown; Burnam; Callegari; Castro; Christian; Coleman; Cook; Creighton; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Peña; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Sheffield; Smith, T.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; Woolley; Zedler.

Nays — Aliseda; Anderson, R.; Aycocock; Beck; Berman; Bonnen; Burkett; Button; Cain; Carter; Chisum; Craddick; Crownover; Darby; Davis, S.; Flynn; Frullo; Gallego; Hamilton; Hartnett; Keffer; King, P.; King, S.; Landtroop;

Larson; Laubenberg; Lavender; Legler; Lewis; Morrison; Nash; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Schwertner; Sheets; Simpson; Solomons; Taylor, V.; White; Workman; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Shelton; Smith, W.; Smithee; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1453. I intended to vote no.

Branch

I was shown voting yes on Record No. 1453. I intended to vote no.

Geren

I was shown voting no on Record No. 1453. I intended to vote yes.

Larson

SB 8 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CASTRO: I know that this bill is—the intention of this bill is to make health care more efficient in Texas and make sure patients get good coverage, but you acknowledge that we're in a very tough time for health care in Texas right now both with the economy and with the budget that's being passed?

REPRESENTATIVE KOLKHORST: It is.

CASTRO: And, I just want to bring your attention—for one example, in San Antonio, it looks like The University of Texas Health Science Center at San Antonio is going to take about a 10 percent cut to GME funding. And at the same time, the county—the hospital—is going to take about an eight percent cut for Medicaid waivers. And so, how does your bill—how does this all work in the background of what we have going on with our budget?

KOLKHORST: Well, **SB 8** deals mainly with, kind of, payment processes to the doctors, and what we're looking at doing is creating more of a system that pays on outcome instead of a fee for service. And, as you look at our budget, certainly, we are very limited on our funds right now. I had the pleasure of doing Article III for two sessions in conferencing on that article, and our health-related institutions are funded through that. We have asked for a long time, through many administrations, for Medicare to increase our GME slots. We've not been successful in that, even from other states that have lost population. They continue to have the slots and they don't reapportion those.

Having said that, one of the things that we're going to have to find a mechanism to do is to create more GME slots. Translated, that is residency slots. Chairman Coleman has done a lot of work on that. I've tried to do it in a different kind of way. And incentivizing the hospitals to create those slots when everyone else out here wants a new med school—let me say to you, we can't build any more med schools until our GME slots, our residency slots, match those

graduating slots. That will help us offset some of the health care shortages that we're seeing. As far as money goes, I think this bill works to get better at how we deliver the health care.

And I just have to tell you, we can't sustain the path that we're on. Everyone complains about the Medicaid cost to our systems and everything else, and Chairman Coleman would argue we've underfunded different things. It's just the cost of the health care delivery system has gotten to the point that none of us can afford it, and so we're going to all look at this as a beginning. I don't think that this is a cure-all, but it's certainly a step in the right direction. We have to have a system that is integrated where we have health care providers working with hospitals on an outcome base instead of a fee for service. We shouldn't say the more services that you order the more you get paid. It's really perverse to what we're trying to accomplish.

REMARKS ORDERED PRINTED

Representative Castro moved to print remarks between Representative Kolkhorst and Representative Castro.

The motion prevailed.

SB 8, as amended, was passed by (Record 1454): 144 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; Bohac; Bonnen; Branch; Brown; 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; Lucio; 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; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Simpson.

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

Absent, Excused — Anchia; Strama.

Absent — Burkett.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1454. I intended to vote no.

Deshotel

I was shown voting yes on Record No. 1454. I intended to vote no.

Guillen

I was shown voting yes on Record No. 1454. I intended to vote no.

S. King

REASONS FOR VOTE

I voted no on the amendment to attach **HB 5** to **SB 8**, and I am voting against **SB 8** because **HB 5** was amended to **SB 8**. **HB 5** is bad public policy and will harm thousands of low income Texans.

Deshotel and Guillen

HB 2017 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

Representative McClendon called up with senate amendments for consideration at this time,

HB 2017, A bill to be entitled An Act relating to the organization, governance, duties, and functions of the Texas Department of Motor Vehicles.

Representative McClendon moved to concur in the senate amendments to **HB 2017**.

The motion to concur in the senate amendments to **HB 2017** prevailed by (Record 1455): 138 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; 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, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter.

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

Absent, Excused — Anchia; Strama.

Absent — Creighton; Elkins; Fletcher; Harless; King, S.; Riddle; Torres.

STATEMENTS OF VOTE

When Record No. 1455 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

When Record No. 1455 was taken, I was in the house but away from my desk. I would have voted yes.

Torres

Senate Committee Substitute

CSHB 2017, A bill to be entitled An Act relating to the organization, governance, duties, and functions of the Texas Department of Motor Vehicles.

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

SECTION 1. Section 2301.002, Occupations Code, is amended by adding Subdivisions (1-a) and (14-a) and amending Subdivisions (11), (16), (23), and (32) to read as follows:

(1-a) "Ambulance manufacturer" means a person other than the manufacturer of a motor vehicle chassis who, before the retail sale of the motor vehicle, performs modifications on the chassis that result in the finished product being classified as an ambulance.

(11) "Distributor" means a person, other than a manufacturer, who:

(A) distributes or sells new motor vehicles to a franchised dealer;

or

(B) enters into franchise agreements with franchised dealers, on behalf of the manufacturer.

(14-a) "Fire-fighting vehicle manufacturer" means a person other than the manufacturer of a motor vehicle chassis who, before the retail sale of the motor vehicle, performs modifications on the chassis that result in the finished product being classified as a fire-fighting vehicle.

(16) "Franchised dealer" means a person who:

(A) holds a franchised motor vehicle dealer's license issued by the board under this chapter and Chapter 503, Transportation Code; and

(B) is engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a manufacturer's warranty at an established and permanent place of business under a franchise in effect with a manufacturer or distributor.

(23) "Motor vehicle" means:

(A) a fully self-propelled vehicle having two or more wheels that has as its primary purpose the transport of a person or persons, or property, on a public highway;

(B) a fully self-propelled vehicle having two or more wheels that:

(i) has as its primary purpose the transport of a person or persons or property;

(ii) is not manufactured for use on public streets, roads, or highways; and

(iii) meets the requirements for ~~[has been issued]~~ a certificate of title;

(C) an engine, transmission, or rear axle, regardless of whether attached to a vehicle chassis, manufactured for installation in a vehicle that has:

(i) the transport of a person or persons, or property, on a public highway as its primary purpose; and

(ii) a gross vehicle weight rating of more than 16,000 pounds;

or

(D) a towable recreational vehicle.

(32) "Towable recreational vehicle" means a nonmotorized vehicle that:

(A) was originally designed and manufactured primarily to provide temporary human habitation in conjunction with recreational, camping, or seasonal use;

(B) meets the requirements to be issued a certificate of title and registration by ~~[is titled and registered with]~~ the department as a travel trailer through a county tax assessor-collector;

(C) is permanently built on a single chassis;

(D) contains at least one life support system; and

(E) is designed to be towable by a motor vehicle.

SECTION 2. Section 2301.153(a), Occupations Code, is amended to read as follows:

(a) Notwithstanding any other provision of law, the board has all powers necessary, incidental, or convenient to perform a power or duty expressly granted under this chapter, including the power to:

(1) initiate and conduct proceedings, investigations, or hearings;

(2) administer oaths;

(3) receive evidence and pleadings;

(4) issue subpoenas to compel the attendance of any person;

(5) order the production of any tangible property, including papers, records, or other documents;

(6) make findings of fact on all factual issues arising out of a proceeding initiated under this chapter;

(7) specify and govern appearance, practice, and procedures before the board;

(8) adopt rules and issue conclusions of law and decisions, including declaratory decisions or orders;

(9) enter into contracts;

(10) execute instruments;

(11) retain counsel;

(12) use the services of the attorney general and institute and direct the conduct of legal proceedings in any forum;

(13) obtain other professional services as necessary and convenient;

- (14) impose a sanction for contempt;
- (15) assess and collect fees and costs, including attorney's fees;
- (16) issue, suspend, or revoke licenses;
- (17) prohibit and regulate acts and practices in connection with the distribution and sale of motor vehicles or warranty performance obligations;
- (18) issue cease and desist orders in the nature of temporary or permanent injunctions;
- (19) impose a civil penalty;
- (20) enter an order requiring a person to:
 - (A) repurchase property under Section 2301.465 and pay costs and expenses of a party in connection with an order entered under that section [Section 2301.465];
 - (B) perform an act other than the payment of money; or
 - (C) refrain from performing an act; and
- (21) enforce a board order.

SECTION 3. Section 2301.154, Occupations Code, is amended to read as follows:

Sec. 2301.154. DELEGATION OF POWERS. (a) The director may delegate any of the director's powers to one or more of the division's employees.

(b) The board by rule may delegate any power relating to a contested case hearing, other than the power to issue a final order, to:

- (1) one or more of the board's members;
- (2) the executive director;
- (3) the director; or
- (4) one or more of the department's employees.

(c) The board by rule may delegate the authority to issue a final order in a contested case hearing to:

- (1) one or more of the board's members;
- (2) the executive director; or
- (3) the director of a division within the department designated by the board or the executive director to carry out the requirements of this chapter.

(d) The board by rule may delegate any power relating to a complaint investigation to any person employed by the department.

SECTION 4. Section 2301.252(b), Occupations Code, is amended to read as follows:

(b) For purposes of this section:

(1) the make of a conversion[~~, ambulance, or fire-fighting vehicle~~] is that of the chassis manufacturer; ~~and~~

(2) the make of a motor home is that of the motor home manufacturer;

(3) the make of an ambulance is that of the ambulance manufacturer;

and

(4) the make of a fire-fighting vehicle is that of the fire-fighting vehicle manufacturer.

SECTION 5. Sections 2301.257(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) An application for a dealer's license must be on a form prescribed by the department [board]. The application must include:

- (1) the information required by Chapter 503, Transportation Code; and
- (2) information relating to the applicant's financial resources, business integrity, business ability and experience, franchise if applicable, physical facilities, vehicle inventory, and other factors the department [board] considers necessary to determine the applicant's qualifications to adequately serve the public.

(b) If a material change occurs in the information included in an application for a dealer's license, the dealer shall notify the department [director] of the change within a reasonable time. The department [director] shall prescribe a form for the disclosure of the change.

(c) A franchised dealer must apply for a separate license under this section for each separate and distinct dealership showroom as determined by the department [board]. Before changing a location, a dealer must obtain a new license for that location.

SECTION 6. Section 2301.258, Occupations Code, is amended to read as follows:

Sec. 2301.258. GENERAL REQUIREMENTS FOR APPLICATION FOR MANUFACTURER'S, DISTRIBUTOR'S, CONVERTER'S, OR REPRESENTATIVE'S LICENSE. An application for a manufacturer's, distributor's, converter's, or representative's license must be on a form prescribed by the department [board]. The application must include information the department [board] determines necessary to fully determine the qualifications of an applicant, including financial resources, business integrity and experience, facilities and personnel for serving franchised dealers, and other information the department [board] determines pertinent to safeguard the public interest and welfare.

SECTION 7. Section 2301.261(a), Occupations Code, is amended to read as follows:

- (a) An application for a vehicle lessor's license must:
- (1) be on a form prescribed by the department [board];
 - (2) contain evidence of compliance with Chapter 503, Transportation Code, if applicable; and
 - (3) state other information required by the department [board].

SECTION 8. Section 2301.262(a), Occupations Code, is amended to read as follows:

(a) An application for a vehicle lease facilitator license must be on a form prescribed by the department [board] and contain the information required by the department [board].

SECTION 9. Sections 2301.264(c) and (d), Occupations Code, are amended to read as follows:

(c) The department [board] may prorate the fee for a representative's license to allow the representative's license and the license of the manufacturer or distributor who employs the representative to expire on the same day.

(d) The department [board] may refund from funds appropriated to the department [board] for that purpose a fee collected under this chapter that is not due or that exceeds the amount due.

SECTION 10. Sections 2301.301(a), (b), (c), and (e), Occupations Code, are amended to read as follows:

(a) Licenses issued under this chapter are valid for the period prescribed by the board [commission].

(b) The board [director] may issue a license (b) for a term of less than the period prescribed under Subsection (a) to coordinate the expiration dates of licenses held by a person that is required to obtain more than one license to perform activities under this chapter.

(c) The board [commission] by rule may implement a system under which licenses expire on various dates during the year. For a year in which a license expiration date is changed [~~If a license is issued or renewed for a term that is less than the period set under Subsection (a)~~], the fee for the license shall be prorated so that the license holder pays only that portion of the fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the entire license renewal fee is payable.

(e) If the board [commission] prescribes the term of a license under this chapter for a period other than one year, the board [commission] shall prorate the applicable annual fee required under this chapter as necessary to reflect the term of the license.

SECTION 11. Section 2301.302, Occupations Code, is amended to read as follows:

Sec. 2301.302. NOTICE OF LICENSE EXPIRATION. The department [board] shall notify each person licensed under this chapter of the date of license expiration and the amount of the fee required for license renewal. The notice shall be sent [mailed] at least 30 days before the date of license expiration.

SECTION 12. Section 2301.351, Occupations Code, is amended to read as follows:

Sec. 2301.351. GENERAL PROHIBITION. A dealer may not:

- (1) violate a board rule;
- (2) aid or abet a person who violates this chapter, Chapter 503, Transportation Code, or a rule adopted under those chapters; or
- (3) use false, deceptive, or misleading advertising relating to the sale or lease of motor vehicles.

SECTION 13. Sections 2301.358(a) and (c), Occupations Code, are amended to read as follows:

(a) A person who holds a license issued under this chapter may not participate in a new motor vehicle show or exhibition unless:

- (1) the person provides the department [board] with written notice at least 30 days before the date the show or exhibition opens; and
- (2) the department [board] grants written approval.

(c) This section does not prohibit the sale of a towable recreational vehicle, motor home, ambulance, fire-fighting vehicle, or tow truck at a show or exhibition if:

- (1) the show or exhibition is approved by the department [~~board~~]; and
- (2) the sale is not otherwise prohibited by law.

SECTION 14. Section 2301.401(a), Occupations Code, is amended to read as follows:

(a) A manufacturer or distributor shall file with the department [~~board~~] a copy of the current requirements the manufacturer or distributor imposes on its dealers with respect to the dealer's:

- (1) duties under the manufacturer's or distributor's warranty; and
- (2) vehicle preparation and delivery obligations.

SECTION 15. Section 2301.454(a), Occupations Code, is amended to read as follows:

(a) Notwithstanding the terms of any franchise, a manufacturer, distributor, or representative may not modify or replace a franchise if the modification or replacement would adversely affect to a substantial degree the dealer's sales, investment, or obligations to provide service to the public, unless:

(1) the manufacturer, distributor, or representative provides written notice by registered or certified mail to each affected dealer and the department [~~board~~] of the modification or replacement; and

(2) if a protest is filed under this section, the board approves the modification or replacement.

SECTION 16. Section 2301.476(c), Occupations Code, is amended to read as follows:

(c) Except as provided by this section, a manufacturer or distributor may not directly or indirectly:

(1) own an interest in a franchised or nonfranchised dealer or dealership;

(2) operate or control a franchised or nonfranchised dealer or dealership; or

(3) act in the capacity of a franchised or nonfranchised dealer.

SECTION 17. Section 2301.601(2), Occupations Code, is amended to read as follows:

(2) "Owner" means a person who is entitled to enforce a manufacturer's warranty with respect to a motor vehicle, and who:

(A) purchased the [~~a~~] motor vehicle at retail from a license holder [~~and is entitled to enforce a manufacturer's warranty with respect to the vehicle~~];

(B) is a lessor or lessee, other than a sublessee, who purchased or leased the vehicle from a license holder; [~~or~~]

(C) is a resident of this state and has registered the vehicle in this state;

(D) purchased or leased the vehicle at retail and is an active duty member of the United States armed forces stationed in this state at the time a proceeding is commenced under this subchapter; or

(E) is:

(i) the transferee or assignee of a person described by Paragraphs (A)-(D); [~~Paragraph (A) or (B)~~];

(ii) a resident of this state; [~~or~~] and

(iii) the person who registered the vehicle in this state ~~entitled to enforce the manufacturer's warranty~~.

SECTION 18. Sections 2301.611(a) and (c), Occupations Code, are amended to read as follows:

(a) The department ~~board~~ shall publish an annual report on the motor vehicles ordered repurchased or replaced under this subchapter.

(c) The department ~~board~~ shall make the report available to the public and may charge a reasonable fee to cover the cost of the report.

SECTION 19. Section 2301.613(a), Occupations Code, is amended to read as follows:

(a) The department ~~board~~ shall prepare, publish, and distribute information concerning an owner's rights under this subchapter. The retail seller of a new motor vehicle shall conspicuously post a copy of the information in the area where its customers usually pay for repairs.

SECTION 20. Section 2301.711, Occupations Code, is amended and to read as follows:

Sec. 2301.711. ORDERS AND DECISIONS. ~~(a)~~ An order or decision of the board must:

(1) include a separate finding of fact with respect to each specific issue the board is required by law to consider in reaching a decision;

(2) set forth additional findings of fact and conclusions of law on which the order or decision is based; ~~and~~

(3) give the reasons for the particular actions taken;

~~(4) [~~

~~(b) Except as provided by Subchapter M, the order or decision must:~~

~~(1)~~ be signed by the presiding officer or assistant presiding officer for the board;

~~(2)~~ be attested to by the director; and

~~(3)~~ have the seal affixed to it.

SECTION 21. Section 2301.803(c), Occupations Code, is amended to read as follows:

(c) A person affected by a statutory stay imposed by this chapter may request a hearing ~~initiate a proceeding before the board~~ to modify, vacate, or clarify the extent and application of the statutory stay.

SECTION 22. Section 501.023, Transportation Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (e) to read as follows:

(a) The owner of a motor vehicle must present identification and apply for a ~~certificate of~~ title as prescribed by the department, unless otherwise exempted by law. To obtain a title, the owner must apply:

(1) to the county assessor-collector in the county in which:

(A) the owner is domiciled; or

(B) the motor vehicle is purchased or encumbered; or ~~and~~

(2) if the county in which the owner resides has been declared by the governor as a disaster area, to the county assessor-collector in one of the closest unaffected counties to a county that asks for assistance and:

(A) continues to be declared by the governor as a disaster area because the county has been rendered inoperable by the disaster; and

(B) is inoperable for a protracted period of time [on a form prescribed by the department].

(b) The assessor-collector shall send the application to the department or enter it into the department's titling system within 72 [not later than 24] hours after receipt of [receiving] the application.

(c) The owner or a lessee of a commercial motor vehicle operating under the International Registration Plan or other agreement described by Section 502.054 that is applying for a [certificate of] title for purposes of registration may apply [must be made] directly to the department. Notwithstanding Section 501.138(a), an applicant for registration under this subsection shall pay [the department] the fee imposed by that section. The [department shall send the] fee shall be distributed to the appropriate county assessor-collector [for distribution] in the manner provided by Section 501.138.

(e) Applications submitted to the department electronically must request the purchaser's choice of county as stated in Subsection (a) as the recipient of all taxes, fees, and other revenue collected as a result of the transaction.

SECTION 23. Chapter 501, Transportation Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. ELECTRONIC TITLING SYSTEM

Sec. 501.171. APPLICATION OF SUBCHAPTER. This subchapter applies only if the department implements a titling system under Section 501.173.

Sec. 501.172. DEFINITIONS. In this subchapter:

(1) "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic document" means a document that is in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Paper document" means a document that is in printed form.

Sec. 501.173. ELECTRONIC TITLING SYSTEM. (a) The board by rule may implement an electronic titling system.

(b) A record of title maintained electronically by the department in the titling system is the official record of vehicle ownership unless the owner requests that the department issue a printed title.

Sec. 501.174. VALIDITY OF ELECTRONIC DOCUMENTS. (a) If this chapter requires that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is met by an electronic document that complies with this subchapter.

(b) If a law requires that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal is not required to accompany an electronic signature.

Sec. 501.175. RECORDING OF DOCUMENTS. (a) Under the titling system, the department may:

(1) receive, index, store, archive, and transmit electronic documents;

(2) provide for access to, and for search and retrieval of, documents and information by electronic means; and

(3) convert into electronic form:

(A) paper documents that it accepts for the titling of a motor vehicle; and

(B) information recorded and documents that were accepted for the titling of a motor vehicle before the titling system was implemented.

(b) The department shall continue to accept paper documents after the titling system is implemented.

Sec. 501.176. PAYMENT OF FEES BY ELECTRONIC FUNDS TRANSFER OR CREDIT CARD. (a) The department may accept payment by electronic funds transfer, credit card, or debit card of any title or registration fee that the department is required or authorized to collect under this chapter.

(b) The department may collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card. The amount of the fee must be reasonably related to the expense incurred by the department in processing the payment by electronic funds transfer, credit card, or debit card and may not be more than five percent of the amount of the fee being paid.

(c) In addition to the fee authorized by Subsection (b), the department may collect from a person making payment by electronic funds transfer, credit card, or debit card an amount equal to the amount of any transaction fee charged to the department by a vendor providing services in connection with payments made by electronic funds transfer, credit card, or debit card. The limitation prescribed by Subsection (b) on the amount of a fee does not apply to a fee collected under this subsection.

Sec. 501.177. SERVICE CHARGE. If, for any reason, the payment of a fee under this chapter by electronic funds transfer, credit card, or debit card is not honored by the funding institution, or by the electronic funds transfer, credit card, or debit card company on which the funds are drawn, the department may collect from the person who owes the fee being collected a service charge that is for the collection of that original amount and is in addition to the original fee. The amount of the service charge must be reasonably related to the expense incurred by the department in collecting the original amount.

Sec. 501.178. DISPOSITION OF FEES. All fees collected under this subchapter shall be deposited to the credit of the state highway fund.

Sec. 501.179. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This subchapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that Act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)).

SECTION 24. Section 502.002, Transportation Code, is amended to read as follows:

Sec. 502.002. REGISTRATION REQUIRED; GENERAL RULE. (a) Not more than 30 days after purchasing a vehicle or becoming a resident of this state, the [The] owner of a motor vehicle, trailer, or semitrailer shall apply for the registration of the vehicle for:

(1) each registration year in which the vehicle is used or to be used on a public highway; and

(2) if the vehicle is unregistered for a registration year that has begun and that applies to the vehicle and if the vehicle is used or to be used on a public highway, the remaining portion of that registration year.

(b) The application must be accompanied by personal identification as determined by department rule and made in a manner prescribed by [tø] the department:

(1) through the county assessor-collector of the county in which the owner resides; or

(2) if the county in which the owner resides has been declared by the governor as a disaster area, through the county assessor-collector of a county that is one of the closest unaffected counties to a county that asks for assistance and:

(A) continues to be declared by the governor as a disaster area because the county has been rendered inoperable by the disaster; and

(B) is inoperable for a protracted period of time.

(c) A provision of this chapter that conflicts with this section prevails over this section to the extent of the conflict.

(d) A county assessor-collector, a deputy county assessor-collector, or a person acting on behalf of a county assessor-collector is not liable to any person for:

(1) refusing to register a motor vehicle because of the person's failure to submit evidence of residency that complies with the department's rules; or

(2) registering a motor vehicle under this section.

SECTION 25. Section 502.151, Transportation Code, is amended to read as follows:

Sec. 502.151. APPLICATION FOR REGISTRATION. (a) An application for vehicle registration must:

(1) be made in a manner prescribed and include the information required [on a form furnished] by the department by rule; and

(2) contain a [the] full description [name and address of the owner] of the vehicle as required by department rule [;

~~(3) contain a brief description of the vehicle;~~

~~[(4) contain any other information required by the department; and
 (5) be signed by the owner].~~

(b) ~~The department shall deny the~~ [For a new motor vehicle, the description of the vehicle must include the vehicle's:

~~[(1) trade name;~~

~~[(2) year model;~~

~~[(3) style and type of body;~~

~~[(4) weight, if the vehicle is a passenger car;~~

~~[(5) net carrying capacity and gross weight, if the vehicle is a commercial motor vehicle;~~

~~[(6) vehicle identification number; and~~

~~[(7) date of sale by the manufacturer or dealer to the applicant.~~

~~[(e) An applicant for]~~ registration of a commercial motor vehicle, truck-tractor, trailer, or semitrailer if the applicant:

(1) has a business operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration or whose privilege to operate has been suspended, including the applicant entity, a relative, a family member, a corporate officer, or a shareholder;

(2) has a vehicle that has been prohibited from operating by the Federal Motor Carrier Safety Administration for safety-related reasons;

(3) is a carrier whose business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the owner, a relative, a family member, a corporate officer, or a shareholder; or

(4) fails to [must] deliver to the county assessor-collector proof of [an affidavit showing] the weight of the vehicle, the maximum load to be carried on the vehicle, and the gross weight for which the vehicle is to be registered. [The assessor-collector shall keep the affidavit on file.]

(c) [(d)] In lieu of filing an application during a year as provided by Subsection (a), the owner of a vehicle registered in any state for that year or the preceding year may present the registration receipt and transfer receipt, if any. The county assessor-collector shall accept the receipt as an application for renewal of the registration if the receipt indicates the applicant owns the vehicle. This section allows issuance for registration purposes only but does not authorize the department to issue a title.

(d) The department may require an applicant for registration to provide current personal identification as determined by department rule. Any identification number required by the department under this subsection may be entered into the department's electronic titling system but may not be printed on the title.

~~[(e) If an owner or claimed owner has lost or misplaced the registration receipt or transfer receipt for the vehicle, the county assessor-collector shall register the vehicle on the person's furnishing to the assessor-collector satisfactory evidence, by affidavit or otherwise, that the person owns the vehicle.~~

~~[(f) A county assessor-collector shall date each registration receipt issued for a vehicle with the date on which the application for registration is made.]~~

SECTION 26. Section 503.011, Transportation Code, is amended to read as follows:

Sec. 503.011. PRORATING FEES. If the board [~~commission~~] prescribes the term of a general distinguishing number, license, or license plate under this chapter for a period other than one year, the board [~~commission~~] shall prorate the applicable annual fee required under this chapter as necessary to reflect the term of the number, license, or license plate.

SECTION 27. Section 503.027(a), Transportation Code, is amended to read as follows:

(a) If a dealer [~~person~~] consigns for sale more than five vehicles in a calendar year from a location other than the location for which the dealer [~~person~~] holds a [~~wholesale motor vehicle auction general distinguishing number or a dealer~~] general distinguishing number, the dealer must also hold [~~location to which the person consigns the vehicles must have~~] a general distinguishing number for the consignment [~~that~~] location unless the consignment location is a wholesale motor vehicle auction.

SECTION 28. Section 503.033(g), Transportation Code, is amended to read as follows:

(g) This section does not apply to a person licensed as a franchised motor vehicle dealer by the department [~~department's Motor Vehicle Board~~].

SECTION 29. Section 503.039, Transportation Code, is amended to read as follows:

Sec. 503.039. PUBLIC MOTOR VEHICLE AUCTIONS. (a) A motor vehicle may not be the subject of a subsequent sale at a public [~~an~~] auction by a holder of a dealer's general distinguishing number unless:

[(1)] equitable or legal title has passed [~~passes~~] to the selling dealer [~~holder of a dealer's general distinguishing number~~] before the [a] transfer of title to the subsequent buyer.

(b) The [~~and~~]

[(2) the] holder of a dealer's general distinguishing number who sells a motor vehicle at a public auction must transfer [~~transfers~~] the certificate of title for that vehicle to the buyer before the 21st day after the date of the sale.

SECTION 30. Subchapter A, Chapter 520, Transportation Code, is amended by adding Sections 520.003 and 520.004 to read as follows:

Sec. 520.003. RULES; WAIVER OF FEES. The department may adopt rules to administer this chapter, including rules that waive the payment of fees if a dealer has gone out of business and the applicant can show that fees were paid to the dealer.

Sec. 520.004. DEPARTMENT RESPONSIBILITIES. The department has jurisdiction over the registration and titling of, and the issuance of license plates to, motor vehicles in compliance with the applicable statutes. The department by rule:

(1) shall provide services that are reasonable, adequate, and efficient;

(2) shall establish standards for uniformity and service quality for counties and dealers licensed under Section 520.005; and

(3) may conduct public service education campaigns related to the department's functions.

SECTION 31. Section 501.137, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, redesignated as Section 520.005, Transportation Code, and amended to read as follows:

Sec. 520.005 [~~501.137~~]. DUTY AND RESPONSIBILITIES OF COUNTY ASSESSOR-COLLECTOR. (a) Each county assessor-collector shall comply with Chapter 501 [~~this chapter~~].

(b) An assessor-collector who fails or refuses to comply with Chapter 501 [~~this chapter~~] is liable on the assessor-collector's official bond for resulting damages suffered by any person.

(c) The assessor-collector may license franchised and nonfranchised motor vehicle dealers to title and register motor vehicles in accordance with rules adopted under Section 520.004. The county assessor-collector may pay a fee to a motor vehicle dealer independent of or as part of the portion of the fees that would be collected by the county for each title and registration receipt issued.

SECTION 32. Section 502.109, Transportation Code, is transferred to Subchapter A, Chapter 520, Transportation Code, redesignated as Section 520.006, Transportation Code, and amended to read as follows:

Sec. 520.006 [~~502.109~~]. COMPENSATION OF ASSESSOR-COLLECTOR. (a) A county assessor-collector shall receive a fee of \$1.90 for each receipt issued under Chapter 502 [~~this chapter~~. ~~If the assessor-collector may be compensated by fees, a fee received is compensation for services under this chapter. The assessor-collector shall deduct the fee weekly from the gross collections made under this chapter.~~].

(a-1) A county assessor-collector collecting fees on behalf of a county that has been declared as a disaster area for purposes of Section 501.023 or 502.002 may retain the commission for fees collected, but shall allocate the fees to the county declared as a disaster area.

(b) A county assessor-collector who is compensated under this section shall pay the entire expense of issuing registration receipts and license plates under Chapter 501 or 502 [~~this chapter~~] from the compensation allowed under this section.

SECTION 33. Section 1001.001, Transportation Code, is amended by adding Subdivision (3) to read as follows:

(3) "Executive director" means the executive director of the department.

SECTION 34. Section 1001.004, Transportation Code, is amended to read as follows:

Sec. 1001.004. DIVISIONS. The executive director [~~board~~] shall organize the department into divisions to accomplish the department's functions and the duties assigned to the department [~~it, including divisions for:~~

~~(1) administration;~~

~~(2) motor carriers;~~

~~(3) motor vehicle board; and~~

~~(4) vehicle titles and registration].~~

SECTION 35. Subchapter A, Chapter 1001, Transportation Code, is amended by adding Sections 1001.007, 1001.008, 1001.009, 1001.010, and 1001.011 to read as follows:

Sec. 1001.007. PROTECTION AND USE OF INTELLECTUAL PROPERTY AND PUBLICATIONS. (a) The department may:

(1) apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation a patent, copyright, mark, or other evidence of protection or exclusivity issued in or for an idea, publication, or other original innovation fixed in a tangible medium, including:

- (A) a literary work;
- (B) a logo;
- (C) a service mark;
- (D) a study;
- (E) a map or planning document;
- (F) a graphic design;
- (G) a manual;
- (H) automated systems software;
- (I) an audiovisual work; or
- (J) a sound recording;

(2) enter into an exclusive or nonexclusive license agreement with a third party for the receipt of a fee, royalty, or other thing of monetary or nonmonetary value for the benefit of the department;

(3) waive or reduce the amount of a fee, royalty, or other thing of monetary or nonmonetary value to be assessed if the department determines that the waiver will:

- (A) further the goals and missions of the department; and
- (B) result in a net benefit to the state; and

(4) adopt and enforce rules necessary to implement this section.

(b) Money collected by the department under this section shall be deposited to the credit of the state highway fund for use by the department in supporting the department's operations and the administration of the department's functions.

Sec. 1001.008. DONATIONS AND CONTRIBUTIONS. (a) Except as provided by Subsection (b), for the purpose of carrying out its functions and duties, the board may accept a donation or contribution in any form, including real or personal property, money, materials, or services.

(b) The board may not accept a donation or contribution from an entity or association of entities that it regulates.

(c) The board by rule may delegate acceptance of donations or contributions under \$500, or not otherwise required to be acknowledged in an open meeting, to the executive director.

Sec. 1001.009. COLLECTION OF FEES FOR DEPARTMENT GOODS AND SERVICES. (a) The board may adopt rules regarding the method of collection of a fee for any goods sold or services provided by the department or for the administration of any department program.

(b) Goods sold and services provided under Subsection (a) include department publications and the issuance of licenses, permits, and registrations.

(c) The rules adopted under Subsection (a) may:

(1) authorize the use of electronic funds transfer or a valid debit or credit card issued by a financial institution chartered by a state, the United States, or a nationally recognized credit organization approved by the department; and

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee.

(d) Revenue generated from the collection of discount or service charges under Subsection (c) shall be deposited to the credit of the state highway fund for use by the department in supporting the department's operations and the administration of the department's functions.

Sec. 1001.010. AUTHORITY TO CONTRACT. (a) The department may enter into an interlocal contract with one or more local governments in accordance with Chapter 791, Government Code.

(b) The board by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding a contract under this section.

Sec. 1001.011. EDUCATIONAL CAMPAIGNS AND TRAINING. The department may conduct public service educational campaigns related to its functions.

SECTION 36. Subchapter B, Chapter 1001, Transportation Code, is amended by adding Section 1001.0221 to read as follows:

Sec. 1001.0221. BOARD; DUTIES. (a) The board shall oversee and coordinate the development of the department and shall ensure that all components of the motor vehicle industry function as a system.

(b) The board shall carry out its policy-making functions in a manner that protects the interests of the public and industry, maintains a safe and sound motor vehicle industry, and increases the economic prosperity of the state.

SECTION 37. Section 1001.023, Transportation Code, is amended to read as follows:

Sec. 1001.023. CHAIR AND VICE CHAIR; DUTIES. (a) The governor shall appoint one of the board's members chair of the board. The chair serves at the pleasure of the governor. The board shall elect one of its members vice chair of the board. The [A chair or] vice chair serves at the pleasure of the board.

(b) The chair shall:

(1) preside over board meetings, make rulings on motions and points of order, and determine the order of business;

(2) represent the department in dealing with the governor;

(3) report to the governor on the state of affairs of the department at least quarterly;

(4) report to the board the governor's suggestions for department operations;

(5) report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise;

(6) periodically review the department's organizational structure and submit recommendations for structural changes to the governor, the board, and the Legislative Budget Board;

(7) designate one or more employees of the department as a civil rights division of the department and receive regular reports from the division on the department's efforts to comply with civil rights legislation and administrative rules;

(8) create subcommittees, appoint board members to subcommittees, and receive the reports of subcommittees to the board as a whole;

(9) appoint a member of the board to act in the ~~chair's~~ absence of the chair and vice chair; and

(10) serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

SECTION 38. Section 1001.031, Transportation Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (f) to read as follows:

(a) The board ~~may~~ shall establish ~~separate~~ separate advisory committees ~~[for the motor carrier, motor vehicles, and vehicle titles and registration divisions]~~ to make recommendations to the board or the executive director ~~[on the operation of the applicable division]~~. A committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board. A committee and each committee member serves at the will of the board.

(a-1) Section 2110.002, Government Code, does not apply to an advisory committee established under this section.

(f) The meetings of an advisory committee shall be made accessible to the public in person or through electronic means.

SECTION 39. Subchapter C, Chapter 1001, Transportation Code, is amended by adding Section 1001.0411 to read as follows:

Sec. 1001.0411. EXECUTIVE DIRECTOR; DUTIES. (a) The board shall appoint an executive director to serve at the pleasure of the board. The executive director shall perform all duties assigned by the board.

(b) The executive director may delegate duties or responsibilities as the executive director considers appropriate, provided the delegation does not conflict with applicable law or a resolution of the board.

SECTION 40. Chapter 1001, Transportation Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ELECTRONIC ISSUANCE OF LICENSES

Sec. 1001.101. DEFINITIONS. In this subchapter:

(1) "Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

(2) "License" includes:

(A) a motor carrier registration issued under Chapter 643;

(B) a motor vehicle dealer, salvage dealer, manufacturer, distributor, representative, converter, or agent license issued by the department;

(C) specially designated or specialized license plates issued under Chapter 504; and

(D) an apportioned registration issued according to the International Registration Plan under Section 502.054.

Sec. 1001.102. APPLICATION FOR AND ISSUANCE OF LICENSE. The board by rule may provide for the filing of a license application and the issuance of a license by electronic means.

Sec. 1001.103. DIGITAL SIGNATURE. (a) A license application received by the department is considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the license in accordance with Subsection (b).

(b) The department may only accept a digital signature used to authenticate a license application under procedures that:

(1) comply with any applicable rules of another state agency having jurisdiction over department use or acceptance of a digital signature; and

(2) provide for consideration of factors that may affect a digital signature's reliability, including whether a digital signature is:

(A) unique to the person using it;

(B) capable of independent verification;

(C) under the sole control of the person using it; and

(D) transmitted in a manner that makes it infeasible to change the data in the communication or digital signature without invalidating the digital signature.

SECTION 41. Chapter 1003, Transportation Code, is amended by adding Section 1003.005 to read as follows:

Sec. 1003.005. DELEGATION OF POWER. (a) The board by rule may delegate any power relating to a contested case hearing, other than the power to issue a final order, to:

(1) one or more of the board's members;

(2) the executive director;

(3) the director of a division of the department; or

(4) one or more of the department's employees.

(b) The board by rule may delegate the authority to issue a final order in a contested case hearing to:

(1) one or more of the board's members;

(2) the executive director; or

(3) the director of a division within the department designated by the board or the executive director to carry out the requirements of this chapter.

(c) The board by rule may delegate any power relating to a complaint investigation to any person employed by the department.

SECTION 42. Section 264.502(b), Family Code, is amended to read as follows:

(b) The members of the committee who serve under Subsections (a)(1) through (3) shall select the following additional committee members:

(1) a criminal prosecutor involved in prosecuting crimes against children;

(2) a sheriff;

(3) a justice of the peace;

- (4) a medical examiner;
 (5) a police chief;
 (6) a pediatrician experienced in diagnosing and treating child abuse and neglect;
 (7) a child educator;
 (8) a child mental health provider;
 (9) a public health professional;
 (10) a child protective services specialist;
 (11) a sudden infant death syndrome family service provider;
 (12) a neonatologist;
 (13) a child advocate;
 (14) a chief juvenile probation officer;
 (15) a child abuse prevention specialist;
 (16) a representative of the Department of Public Safety; and
 (17) a representative of the Texas Department of Transportation [~~Motor Vehicles~~].

SECTION 43. Section 2110.002, Government Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to an advisory committee established by the Texas Department of Motor Vehicles.

SECTION 44. (a) The following provisions are repealed:

- (1) Section 2054.270, Government Code;
 (2) Sections 2301.105, 2301.106, and 2301.206, Occupations Code;
 (3) Sections 503.033(c), 1001.031(c) and (d), and 1004.003, Transportation Code; and
 (4) Sections 504.403, 504.404, and 504.406, Transportation Code.

(b) Section 6.03(c), Chapter 933 (**HB 3097**), Acts of the 81st Legislature, Regular Session, 2009, is repealed.

SECTION 45. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **CSHB 2017** (senate committee report) as follows:

(1) On page 7, line 47 to line 60, strike Subsection (b) and (c) and substitute the following:

(b) The department may collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card. The amount of the fee must not exceed the charges incurred by the state because of the use of the electronic funds transfer, credit card, or debit card.

(c) For online transactions the department may collect from a person making payment by electronic funds transfer, credit card, or debit card an amount equal to any fee charged in accordance with Government Code, Section 2054.2591.

(2) On page 12, line 68 by striking "may [~~shall~~] establish" and substituting "shall retain or establish one or more".

**HB 753 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Raymond called up with senate amendments for consideration at this time,

HB 753, A bill to be entitled An Act relating to the recruitment and retention of certain caseworkers employed by the Department of Family and Protective Services.

Representative Raymond moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 753**.

The motion prevailed. (Lewis and Margo recorded voting no.)

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 753**: Raymond, chair; Gonzalez, Hopson, Hunter, and Morrison.

**HB 1887 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Villarreal called up with senate amendments for consideration at this time,

HB 1887, A bill to be entitled An Act relating to the procedures for property tax protests and appeals.

Representative Villarreal moved to concur in the senate amendments to **HB 1887**.

The motion to concur in the senate amendments to **HB 1887** prevailed by (Record 1456): 92 Yeas, 52 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, R.; Brown; Burnam; Castro; Chisum; Coleman; Crownover; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Scott; Smith, T.; Smith, W.; Smithee; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Darby; Davis, S.; Driver; Flynn; Frullo; Geren; Hamilton; Harper-Brown; Huberty; Hughes; King, P.; Kolkhorst; Landtroop; Laubenberg; Lavender;

Legler; Madden; Miller, D.; Miller, S.; Morrison; Murphy; Parker; Paxton; Peña; Perry; Phillips; Schwertner; Sheets; Sheffield; Shelton; Simpson; Solomons; Taylor, V.; Truitt; White; Zedler.

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

Absent, Excused — Anchia; Strama.

Absent — Reynolds; Torres.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1456. I intended to vote no.

Gooden

I was shown voting yes on Record No. 1456. I intended to vote no.

Harless

I was shown voting yes on Record No. 1456. I intended to vote no.

Margo

When Record No. 1456 was taken, my vote failed to register. I would have voted yes.

Reynolds

I was shown voting yes on Record No. 1456. I intended to vote no.

T. Smith

When Record No. 1456 was taken, I was in the house but away from my desk. I would have voted yes.

Torres

I was shown voting yes on Record No. 1456. I intended to vote no.

Zerwas

Senate Committee Substitute

CSHB 1887, A bill to be entitled An Act relating to tax administration of and procedures for property tax protests and appeals; changing the elements of an offense.

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

SECTION 1. Section 1.111(j), Tax Code, is amended to read as follows:

(j) An individual exempt from registration as a property tax consultant under Section 1152.002, Occupations Code, who is not supervised, directed, or compensated by a person required to register as a property tax consultant under that chapter and who files a protest with the appraisal review board on behalf of the property owner is entitled to receive all notices from the appraisal district and appraisal review board regarding the property subject to the protest until the authority is revoked by the property owner as provided by this section. An individual to which this subsection applies who is not designated by the property

owner to receive notices, tax bills, orders, and other communications as provided by Subsection (f) or Section 1.11 shall file a statement with the protest that includes:

- (1) the individual's name and address;
- (2) a statement that the individual is acting on behalf of the property owner; and
- (3) a statement of the basis for the individual's exemption from registration under Section 1152.002, Occupations Code.

SECTION 2. Section 5.041, Tax Code, is amended by amending Subsections (c), (e-1), and (e-3) and adding Subsections (g) and (h) to read as follows:

(c) The comptroller may contract with service providers to assist with the duties imposed under Subsection (a), but the course required may not be provided by an appraisal district, the chief appraiser or another employee of an appraisal district, a member of the board of directors of an appraisal district, a member of an appraisal review board, or a taxing unit. The comptroller may assess a fee to recover a portion of the costs incurred for the training course, but the fee may not exceed \$50 per person trained.

(e-1) In addition to the course established under Subsection (a), the comptroller shall approve curricula and provide materials for use in a continuing education course for members of an appraisal review board. The curricula and materials must include information regarding:

- (1) the cost, income, and market data comparison methods of appraising property;
- (2) the appraisal of business personal property;
- (3) the determination of capitalization rates for property appraisal purposes;
- (4) the duties of an appraisal review board;
- (5) the requirements regarding the independence of an appraisal review board from the board of directors and the chief appraiser and other employees of the appraisal district;
- (6) the prohibitions against ex parte communications applicable to appraisal review board members;
- (7) the Uniform Standards of Professional Appraisal Practice;
- (8) the duty of the appraisal district to substantiate the district's determination of the value of property;
- (9) the requirements regarding the equal and uniform appraisal of property;
- (10) the right of a property owner to protest the appraisal of the property as provided by Chapter 41; and

(11) a detailed explanation of each of the actions described by Sections 25.25, 41.41(a), 41.411, 41.412, 41.413, 41.42, and 41.43 so that members are fully aware of each of the grounds on which a property appraisal can be appealed.

(e-3) The comptroller may contract with service providers to assist with the duties imposed under Subsection (e-1), but the course required by that subsection may not be provided by an appraisal district, the chief appraiser or another

employee of an appraisal district, a member of the board of directors of an appraisal district, a member of an appraisal review board, or a taxing unit. The comptroller may assess a fee to recover a portion of the costs incurred for the continuing education course, but the fee may not exceed \$50 for each person trained.

(g) Except during a hearing or other appraisal review board proceeding and as provided by Subsection (h) and Section 6.411(c-1), the following persons may not communicate with a member of an appraisal review board about a course provided under this section or any matter presented or discussed during the course:

(1) the chief appraiser of the appraisal district for which the appraisal review board is established;

(2) another employee of the appraisal district for which the appraisal review board is established;

(3) a member of the board of directors of the appraisal district for which the appraisal review board is established;

(4) an officer or employee of a taxing unit that participates in the appraisal district for which the appraisal review board is established; and

(5) an attorney who represents or whose law firm represents the appraisal district or a taxing unit that participates in the appraisal district for which the appraisal review board is established.

(h) An appraisal review board may retain an appraiser certified by the Texas Appraiser Licensing and Certification Board to instruct the members of the appraisal review board on valuation methodology if the appraisal district provides for the instruction in the district's budget.

SECTION 3. Sections 6.411(a), (b), and (c-1), Tax Code, are amended to read as follows:

(a) A member of an appraisal review board commits an offense if the member communicates with the chief appraiser or another employee or a member of the board of directors of the ~~an~~ appraisal district for which the appraisal review board is established in violation of Section 41.66(f).

(b) A chief appraiser or another employee of an appraisal district, a member of a board of directors of an appraisal district, or a property tax consultant or attorney representing a party to a proceeding before the appraisal review board commits an offense if the person ~~[chief appraiser or other employee]~~ communicates with a member of the appraisal review board established for the appraisal district with the intent to influence a decision by the member in the member's capacity as a member of the appraisal review board ~~[in a circumstance in which the appraisal review board member is prohibited by Section 41.66(f) from communicating with the chief appraiser or other employee].~~

(c-1) This section does not apply to communications involving the chief appraiser or another employee or a member of the board of directors of an appraisal district and a member of the appraisal review board:

(1) during a hearing on a protest or other proceeding before the appraisal review board;

(2) that constitute social conversation;

(3) that are specifically limited to and involve administrative, clerical, or logistical matters related to the scheduling and operation of hearings, the processing of documents, the issuance of orders, notices, and subpoenas, and the operation, appointment, composition, or attendance at training of the appraisal review board; or

(4) that are necessary and appropriate to enable the board of directors of the appraisal district to determine whether to appoint, reappoint, or remove a person as a member or the chairman or secretary of the appraisal review board.

SECTION 4. Section 6.412(a), Tax Code, is amended to read as follows:

(a) An individual is ineligible to serve on an appraisal review board if the individual:

(1) is related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district for which the appraisal review board is established; ~~or~~

(2) owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless:

(A) the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Section 33.02; or

(B) a suit to collect the delinquent taxes is deferred or abated under Section 33.06 or 33.065; or

(3) is related within the third degree by consanguinity or within the second degree by affinity, as determined under Chapter 573, Government Code, to a member of the appraisal district's board of directors.

SECTION 5. Section 6.43, Tax Code, is amended to read as follows:

Sec. 6.43. PERSONNEL. (a) The appraisal review board may employ legal counsel as provided by the district budget or use the services of the county attorney ~~[and may use the staff of the appraisal office for clerical assistance]~~.

(b) Except as provided by Subsection (c), an attorney may not serve as legal counsel for the appraisal review board if the attorney or a member of the attorney's law firm has during the year before the date of the appraisal review board's hiring of the attorney represented a property owner who owns property in the appraisal district, a taxing unit that participates in the appraisal district, or the appraisal district in a matter addressed by Section 1.111 or 25.25 of this code, Subtitle F of this title, or Subchapter Z, Chapter 2003, Government Code.

(c) The county attorney for the county in which the appraisal district is established may provide legal services to the appraisal review board notwithstanding that the county attorney or an assistant to the county attorney represents or has represented the appraisal district or a taxing unit that participates in the appraisal district in any matter.

(d) An attorney who serves as legal counsel for an appraisal review board may not act as an advocate in a hearing or proceeding conducted by the board. The attorney may provide advice to the board or a panel of the board during a

hearing or proceeding and shall disclose to the board all legal authority in the controlling jurisdiction known to the attorney to be relevant to the matter and not disclosed by the parties. The attorney shall disclose to the board a material fact that may assist the board or panel in making an informed decision regardless of whether the fact is adverse to the position of a party.

(e) An appraisal district may specify in its budget whether the appraisal review board may employ legal counsel or must use the services of the county attorney. If the budget authorizes the board to employ legal counsel, the budget must provide for reasonable compensation to be paid to the attorney serving as legal counsel. An appraisal district may not require the board to employ a specific attorney as legal counsel.

(f) The appraisal office may provide clerical assistance to the appraisal review board, including assisting the board with the scheduling and arranging of hearings.

SECTION 6. Sections 25.25(c), (e), and (g), Tax Code, are amended to read as follows:

(c) The appraisal review board, on motion of the chief appraiser or of a property owner, may direct by written order changes in the appraisal roll for any of the five preceding years to correct:

(1) clerical errors that affect a property owner's liability for a tax imposed in that tax year;

(2) multiple appraisals of a property in that tax year; ~~or~~

(3) the inclusion of property that does not exist in the form or at the location described in the appraisal roll; or

(4) an error in which property is shown as owned by a person who did not own the property on January 1 of that tax year.

(e) If the chief appraiser and the property owner do not agree to the correction before the 15th day after the date the motion is filed, a party bringing a motion under Subsection (c) or (d) is entitled on request to a hearing on and a determination of the motion by the appraisal review board. A party bringing a motion under this section must describe the error or errors that the motion is seeking to correct. Not later than 15 days before the date of the hearing, the board shall deliver written notice of the date, time, and place of the hearing to the chief appraiser, the property owner, and the presiding officer of the governing body of each taxing unit in which the property is located. The chief appraiser, the property owner, and each taxing unit are entitled to present evidence and argument at the hearing and to receive written notice of the board's determination of the motion. A property owner who files the motion must comply with the payment requirements of Section 25.26 ~~[42.08]~~ or forfeit the right to a final determination of the motion.

(g) Within 60 [45] days after receiving notice of the appraisal review board's determination of a motion under this section or of a determination of the appraisal review board that the property owner has forfeited the right to a final determination of a motion under this section for failing to comply with the

prepayment requirements of Section 25.26, the property owner or the chief appraiser may file suit to compel the board to order a change in the appraisal roll as required by this section.

SECTION 7. Chapter 25, Tax Code, is amended by adding Section 25.26 to read as follows:

Sec. 25.26. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES. (a) The pendency of a motion filed under Section 25.25 does not affect the delinquency date for the taxes on the property that is the subject of the motion. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided by Subsection (d), a property owner who files a motion under Section 25.25 must pay the amount of taxes due on the portion of the taxable value of the property that is the subject of the motion that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the motion.

(c) A property owner who pays an amount of taxes greater than that required by Subsection (b) does not forfeit the property owner's right to a final determination of the motion by making the payment. If the property owner files a timely motion under Section 25.25, taxes paid on the property are considered paid under protest, even if paid before the motion is filed.

(d) After filing an oath of inability to pay the taxes at issue, a property owner may be excused from the requirement of prepayment of tax as a prerequisite to the determination of a motion if the appraisal review board, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the property owner's right of access to the board. On the motion of a party, the board shall determine compliance with this section in the same manner and by the same procedure as provided by Section 41.4115(d) and may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances.

SECTION 8. Section 41.411(c), Tax Code, is amended to read as follows:

(c) A property owner who protests as provided by this section must comply with the payment requirements of Section 41.4115 [42.08] or the property owner forfeits the property owner's right to a final determination of the protest. [The delinquency date for purposes of Section 42.08(b) for the taxes on the property subject to a protest under this section is postponed to the 125th day after the date that one or more taxing units first delivered written notice of the taxes due on the property, as determined by the appraisal review board at a hearing under Section 41.44(e-3).]

SECTION 9. Subchapter C, Chapter 41, Tax Code, is amended by adding Section 41.4115 to read as follows:

Sec. 41.4115. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES. (a) The pendency of a protest under Section 41.411 does not affect the delinquency date for the taxes on the property subject to the protest. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b) and, for purposes of Subsection (b), that delinquency date is postponed to the 125th day after the date one or more taxing units first delivered written notice of the taxes due on the property, as determined by the appraisal review board at a hearing under Section 41.44(c-3). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided in Subsection (d), a property owner who files a protest under Section 41.411 must pay the amount of taxes due on the portion of the taxable value of the property subject to the protest that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the protest.

(c) A property owner who pays an amount of taxes greater than that required by Subsection (b) does not forfeit the property owner's right to a final determination of the protest by making the payment. If the property owner files a timely protest under Section 41.411, taxes paid on the property are considered paid under protest, even if paid before the protest is filed.

(d) After filing an oath of inability to pay the taxes at issue, a property owner may be excused from the requirement of prepayment of tax as a prerequisite to the determination of a protest if the appraisal review board, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the property owner's right of access to the board. On the motion of a party, the board shall hold a hearing to review and determine compliance with this section, and the reviewing board may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances. If the board determines that the property owner has not substantially complied with this section, the board shall dismiss the pending protest. If the board determines that the property owner has substantially but not fully complied with this section, the board shall dismiss the pending protest unless the property owner fully complies with the board's determination within 30 days of the determination.

SECTION 10. Section 41.44, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding any other provision of this section, a notice of protest may not be found to be untimely or insufficient based on a finding of incorrect ownership if the notice:

(1) identifies as the property owner a person who is, for the tax year at issue:

(A) an owner of the property at any time during the tax year;

(B) the person shown on the appraisal records as the owner of the property, if that person filed the protest;

(C) a lessee authorized to file a protest; or

(D) an affiliate of or entity related to a person described by this subdivision; or

(2) uses a misnomer of a person described by Subdivision (1).

SECTION 11. Section 41.47, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) If the protest is of the determination of the appraised value of the owner's property, the appraisal review board must state in the order the appraised value of the property:

(1) as shown in the appraisal records submitted to the board by the chief appraiser under Section 25.22 or 25.23; and

(2) as finally determined by the board.

SECTION 12. Section 42.01, Tax Code, is amended to read as follows:

Sec. 42.01. RIGHT OF APPEAL BY PROPERTY OWNER. (a) A property owner is entitled to appeal:

(1) an order of the appraisal review board determining:

(A) a protest by the property owner as provided by Subchapter C of Chapter 41; ~~or~~

(B) a determination of an appraisal review board on a motion filed under Section 25.25; or

(C) a determination of an appraisal review board that the property owner has forfeited the right to a final determination of a motion filed under Section 25.25 or of a protest under Section 41.411 for failing to comply with the prepayment requirements of Section 25.26 or 41.4115, as applicable; or

(2) an order of the comptroller issued as provided by Subchapter B, Chapter 24, apportioning among the counties the appraised value of railroad rolling stock owned by the property owner.

(b) A property owner who establishes that the owner did not forfeit the right to a final determination of a motion or of a protest in an appeal under Subsection (a)(1)(C) is entitled to a final determination of the court, as applicable:

(1) of the motion filed under Section 25.25; or

(2) of the protest under Section 41.411 of the failure of the chief appraiser or appraisal review board to provide or deliver a notice to which the property owner is entitled, and, if failure to provide or deliver the notice is established, of a protest made by the property owner on any other grounds of protest authorized by this title relating to the property to which the notice applies.

SECTION 13. Subchapter A, Chapter 42, Tax Code, is amended by adding Section 42.016 to read as follows:

Sec. 42.016. INTERVENTION IN APPEAL BY CERTAIN PERSONS. A person is entitled to intervene in an appeal brought under this chapter and the person has standing and the court has jurisdiction in the appeal if the property that is the subject of the appeal was also the subject of a protest hearing and the person:

(1) owned the property at any time during the tax year at issue;

(2) leased the property at any time during the tax year at issue and the person filed the protest that resulted in the issuance of the order under appeal; or

(3) is shown on the appraisal roll as the owner of the property or as a lessee authorized to file a protest and the person filed the protest that resulted in the issuance of the order under appeal.

SECTION 14. Section 42.21(b), Tax Code, is amended to read as follows:

(b) A petition for review brought under Section 42.02 must be brought against the owner of the property involved in the appeal. A petition for review brought under Section 42.031 must be brought against the appraisal district and against the owner of the property involved in the appeal. A petition for review brought under Subdivision (2) [~~or (3)~~] of Section 42.01 or under Section 42.03 must be brought against the comptroller. Any other petition for review under this chapter must be brought against the appraisal district. A petition for review may [~~is~~] not [~~required to~~] be brought against the appraisal review board [~~, but may be brought against the appraisal review board in addition to any other required party, if appropriate~~]. An appraisal district may hire an attorney that represents the district to represent the appraisal review board established for the district to file an answer and obtain a dismissal of a suit filed against the appraisal review board in violation of this subsection.

SECTION 15. Subchapter B, Chapter 42, Tax Code, is amended by adding Section 42.226 to read as follows:

Sec. 42.226. MEDIATION. On motion by a party to an appeal under this chapter, the court shall enter an order requiring the parties to attend mediation. The court may enter an order requiring the parties to attend mediation on its own motion.

SECTION 16. Section 42.23, Tax Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) For purposes of a no-evidence motion for summary judgment filed by a party to an appeal under this chapter, the offer of evidence, including an affidavit or testimony, by any person, including the appraisal district, the property owner, or the owner's agent, that was presented at the hearing on the protest before the appraisal review board constitutes sufficient evidence to deny the motion.

(g) For the sole purpose of admitting expert testimony to determine the value of chemical processing property or utility property in an appeal brought under this chapter and for no other purpose under this title, including the rendition of property under Chapter 22, the property is considered to be personal property.

SECTION 17. Subchapter B, Chapter 42, Tax Code, is amended by adding Section 42.30 to read as follows:

Sec. 42.30. ATTORNEY NOTICE OF CERTAIN ENGAGEMENTS. (a) An attorney who accepts an engagement or compensation from a third party to represent a person in an appeal under this chapter shall provide notice to the person represented:

(1) informing the person that the attorney has been retained by a third party to represent the person;

(2) explaining the attorney's ethical obligations to the person in relation to the third party, including the obligation to ensure that the third party does not interfere with the attorney's independent judgment or the attorney-client relationship;

(3) describing the general activities the third party may perform in the appeal;

(4) explaining that compensation will be received by the attorney from the third party; and

(5) informing the person that the person's consent is required before the attorney may accept compensation from the third party.

(b) The attorney shall mail the notice by certified mail to the person represented by the attorney not later than the 30th day after the date the attorney accepts the engagement from the third party.

(c) Notwithstanding the other provisions of this section, an engagement complies with this section if each party related to the engagement, including the person represented in the appeal, the third party, and the attorney, enters into an agreement not later than the 30th day after the date of the filing of the appeal by the attorney that contains the information required by Subsection (a).

(d) A person may void an engagement that does not comply with this section. An attorney who does not comply with this section is presumed to have violated Rules 1.08 and 8.04(a)(9), Texas Disciplinary Rules of Professional Conduct.

SECTION 18. Section 42.43(h), Tax Code, is amended to read as follows:

(h) A separate form must be filed with a taxing unit under Subsection (g) for each appeal to which the property owner is a party. A form may be ~~remains in effect for all subsequent refunds required by this section until~~ revoked in a written revocation filed with the taxing unit by the property owner.

SECTION 19. (a) Section 6.411, Tax Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) Sections 25.25(c), (e), and (g), 25.26, 41.411(c), 41.4115, and 42.01, Tax Code, as added or amended by this Act, apply only to a motion to correct an appraisal roll or a protest filed on or after the effective date of this Act. A motion to correct an appraisal roll or a protest filed before the effective date of this Act is governed by the law in effect on the date the motion or protest was filed, and the former law is continued in effect for that purpose.

(c) Sections 41.44 and 41.47, Tax Code, as amended by this Act, apply only to a protest that is pending on the effective date of this Act or is filed on or after the effective date of this Act.

(d) Sections 42.016, 42.226, and 42.23, Tax Code, as added or amended by this Act, apply only to an appeal that is pending on the effective date of this Act or is filed on or after the effective date of this Act.

(e) Section 42.30, Tax Code, as added by this Act, applies only to a violation committed on or after the effective date of this Act. A violation committed before the effective date of this Act is governed by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

SECTION 20. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1887** (Senate committee printing) in SECTION 17 of the bill, by striking added Section 42.30(d), Tax Code (page 7, lines 64-67), and substituting the following:

(d) A person may void an engagement that does not comply with this section. An attorney who does not comply with this section may be reported to the Office of Chief Disciplinary Counsel for the State Bar of Texas.

Senate Amendment No. 2 (Senate Floor Amendment No. 1 - Third Reading)

Amend **CSHB 1887** (senate committee printing) on third reading as follows:

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

SECTION _____. Subsection (e-1), Section 41.45, Tax Code, is amended to read as follows:

(e-1) A property owner or a person [who has not] designated by the property owner as the owner's [an] agent under Section 1.111 to represent the owner at the hearing [and] who fails to appear at the hearing is entitled to a new hearing if the property owner or the owner's agent files, not later than the fourth day after the date the hearing occurred, a written statement with the appraisal review board showing good cause for the failure to appear and requesting a new hearing.

**HB 2729 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Callegari called up with senate amendments for consideration at this time,

HB 2729, A bill to be entitled An Act relating to local government contracts with private entities for civil works projects and improvements to real property.

Representative Callegari moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2729**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2729**: Callegari, chair; Cain, Hunter, Lozano, and Parker.

**HB 725 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Callegari called up with senate amendments for consideration at this time,

HB 725, A bill to be entitled An Act relating to the operation, powers, and duties of certain water districts.

Representative Callegari moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 725**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 725**: Callegari, chair; Hardcastle, Hopson, T. King, and Ritter.

**HB 1371 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gonzalez called up with senate amendments for consideration at this time,

HB 1371, A bill to be entitled An Act relating to vehicle parking requirements in certain municipal housing authority communities.

Representative Gonzalez moved to concur in the senate amendments to **HB 1371**.

The motion to concur in the senate amendments to **HB 1371** prevailed by (Record 1457): 82 Yeas, 64 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Branch; Burnam; Castro; Chisum; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, T.; Kleinschmidt; Larson; Laubenberg; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Scott; Simpson; Smith, T.; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, S.; Driver; Flynn; Geren; Gooden; Hamilton; Hancock; Harless; Harper-Brown; Howard, C.; Huberty; Hughes; King, P.; King, S.; Kolkhorst; Kuempel; Landtroop; Lavender; Legler;

Lewis; Madden; Miller, D.; Miller, S.; Morrison; Parker; Patrick; Paxton; Peña; Perry; Phillips; Price; Ritter; Schwertner; Sheets; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Truitt; Weber; White; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Senate Committee Substitute

CSHB 1371, A bill to be entitled An Act relating to vehicle parking requirements in certain municipal housing authority communities.

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

SECTION 1. Section 92.0131, Property Code, is amended by adding Subsection (c-2) to read as follows:

(c-2) Notwithstanding Subsection (c-1), a municipal housing authority located in a municipality that has a population of more than 500,000 and is not more than 50 miles from an international border, or a public facility corporation, affiliate, or subsidiary of the authority, may require that vehicles parked in a community of the authority, corporation, affiliate, or subsidiary be registered with the housing authority.

SECTION 2. This Act takes effect September 1, 2011.

HB 590 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 590, A bill to be entitled An Act relating to amended sales tax reports and the reallocation of sales tax revenue.

Representative Thompson moved to concur in the senate amendments to **HB 590**.

The motion to concur in the senate amendments to **HB 590** prevailed by (Record 1458): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; 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; 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; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; 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, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Coleman; Madden; Martinez Fischer; Veasey.

STATEMENT OF VOTE

When Record No. 1458 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 590** (senate committee printing) by adding the following new appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 321.002, Tax Code, is amended to read as follows:

Sec. 321.002. DEFINITIONS.

(a) In this chapter:

(1) "Additional municipal sales and use tax" means only the additional tax authorized by Section 321.101(b).

(2) "Municipality" includes any incorporated city, town, or village.

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at last three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant. An outlet, office, facility, or any location that contracts with a retail or commercial business [engaged in activities to which this chapter applies] to process for that business invoices, purchase orders, [or] bills of lading, or other equivalent records on which sales tax is added, including an office operated for the purpose of buying and selling taxable goods to be used or consumed by the retail or commercial business, is not a "place of business of the retailer" if the comptroller determines that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business. Notwithstanding any other provision of this subdivision, a kiosk is not a "place of business of the retailer." In this subdivision, "kiosk" means a small stand-alone area or structure that:

(A) is used solely to display merchandise or to submit orders for taxable items from a data entry device, or both;

(B) is located entirely within a location that is a place of business of another retailer, such as a department store or shopping mall; and

(C) at which taxable items are not available for immediate delivery to a customer.

(b) Words used in this chapter and defined by Chapter 151 have the meanings assigned by Chapter 151.

SECTION ____ . SECTION ____ as added by this amendment takes effect September 1, 2011.

**HB 1732 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Ritter called up with senate amendments for consideration at this time,

HB 1732, A bill to be entitled An Act relating to the applicability of the constitutional limit on state debt payable from the general revenues of the state to bonds issued by the Texas Water Development Board.

Representative Ritter moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1732**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1732**: Ritter, chair; Keffer, T. King, Larson, and Price.

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).

**HB 2226 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Truitt called up with senate amendments for consideration at this time,

HB 2226, A bill to be entitled An Act relating to authorized investments for governmental entities.

Representative Truitt moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2226**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2226**: Truitt, chair; R. Anderson, Hernandez Luna, Legler, and Veasey.

**HB 3109 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Craddick called up with senate amendments for consideration at this time,

HB 3109, A bill to be entitled An Act relating to the rulemaking power of certain groundwater conservation districts.

Representative Craddick moved to concur in the senate amendments to **HB 3109**.

The motion to concur in the senate amendments to **HB 3109** prevailed by (Record 1459): 140 Yeas, 2 Nays, 2 Present, not voting. (The vote was reconsidered on May 26, and the house refused to concur in senate amendments and appointed a Conference Committee on **HB 3109**.)

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; 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; Lozano; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Gallego; Johnson.

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

Absent, Excused — Anchia; Strama.

Absent — Burnam; Coleman; Hancock; Lewis.

Senate Committee Substitute

CSHB 3109, A bill to be entitled An Act relating to the rulemaking power of certain groundwater conservation districts.

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

SECTION 1. Section 36.121, Water Code, is amended to read as follows:

Sec. 36.121. LIMITATION ON RULEMAKING POWER OF DISTRICTS OVER WELLS IN CERTAIN COUNTIES. Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991,

shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 121,000 or less but greater than 100,000 and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 115,000 [~~100,000~~] or less but greater than 100,000, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.

SECTION 2. 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.

HB 1756 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Rodriguez called up with senate amendments for consideration at this time,

HB 1756, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 2; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

Representative Rodriguez moved to concur in the senate amendments to **HB 1756**.

The motion to concur in the senate amendments to **HB 1756** prevailed by (Record 1460): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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.; 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, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Creighton; King, P.; Naishtat; Peña.

STATEMENT OF VOTE

When Record No. 1460 was taken, I was in the house but away from my desk. I would have voted yes.

Creighton

Senate Committee Substitute

CSHB 1756, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 2; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8376 to read as follows:

CHAPTER 8376. PILOT KNOB MUNICIPAL UTILITY DISTRICT NO. 2

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8376.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental

Quality.

(3) "Director" means a board member.

(4) "District" means the Pilot Knob Municipal Utility District No. 2.

(5) "Municipality" means a municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8376.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8376.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect permanent directors as provided by Section 8376.051 of this code and Section 49.102, Water Code.

Sec. 8376.004. CONSENT OF MUNICIPALITY REQUIRED. (a) The temporary directors may not hold an election under Section 8376.003 until each municipality has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

(b) If a municipality does not consent to the creation of the district or if the district does not enter into an agreement required by the terms of the municipal ordinance or resolution consenting to the creation of the district under this section before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to the municipality or another local governmental entity to be used for a public purpose; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

Sec. 8376.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, or improvement of macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

Sec. 8376.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8376.007-8376.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8376.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (b), the district is governed by a board of five elected directors.

(b) If required under the terms of the agreement, ordinance, or resolution by which a municipality consents to the creation of the district, the board consists of:

(1) four elected directors; and

(2) one director appointed by the governing body of the municipality.

(c) A director appointed under Subsection (b)(2) is not required to be a qualified voter of the district or to own land subject to taxation in the district.

(d) Except as provided by Section 8376.052, directors serve staggered four-year terms. A permanent director may not serve more than two four-year terms.

(e) The common law doctrine of incompatibility does not disqualify an official or employee of a municipality from being appointed a director by the governing body of a municipality under Subsection (b)(2), and a director appointed to the board may continue to serve in a public office of or be employed by the municipality.

Sec. 8376.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the

commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

- (1) the date permanent directors are elected under Section 8376.003; or
- (2) the fourth anniversary of the effective date of the Act enacting this

chapter.

(c) If permanent directors have not been elected under Section 8376.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 8376.003; or
- (2) the fourth anniversary of the date of the appointment or

reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8376.053-8376.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8376.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8376.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8376.103. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the commission as required by Section 54.234, Water Code.

Sec. 8376.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8376.103 unless:

(1) each municipality or county that will operate and maintain the road has approved the plans and specifications of the road project, if a municipality or county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8376.105. COMPLIANCE WITH AND ENFORCEABILITY OF MUNICIPAL CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION.

(a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) Any agreement between the district and a municipality related to the municipality's consent to the creation of the district is valid and enforceable.

(c) On the issuance of bonds by the district, the district is considered to have waived sovereign immunity to suit by a municipality for the purpose of adjudicating a claim for breach of an agreement described by this section.

Sec. 8376.106. CONTRACT TO FURTHER REGIONAL COOPERATION. The district and a municipality may contract on terms that the board and governing body of the municipality agree will further regional cooperation between the district and the municipality.

Sec. 8376.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8376.108-8376.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8376.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8376.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8376.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8376.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

(c) If required by an agreement between the district and a municipality under Section 8376.105, the total ad valorem tax rate of the district may not be less than the total ad valorem tax rate of the municipality.

Sec. 8376.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8376.154-8376.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8376.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8376.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8376.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

[Sections 8376.204-8376.250 reserved for expansion]

SUBCHAPTER F. STRATEGIC PARTNERSHIP AGREEMENT; MUNICIPAL ANNEXATION AND NOTICE

Sec. 8376.251. STRATEGIC PARTNERSHIP; CONTINUATION OF DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) The district may continue to exist as a limited district after full-purpose annexation by a municipality if the district and the annexing municipality state the terms of the limited district's existence in a strategic partnership agreement under Section 43.0751, Local Government Code.

(b) The strategic partnership agreement may provide for a term of any number of years. The limitation in Section 43.0751(g)(2), Local Government Code, on the length of the term does not apply to a limited district created under this section.

Sec. 8376.252. MUNICIPAL ANNEXATION; NOTICE. (a) Sections 43.0561 and 43.0562, Local Government Code, do not apply to the annexation of the district by a municipality that consents to the creation of the district under Section 8376.004.

(b) Not later than the 30th day after the date a municipality adopts a resolution or ordinance consenting to the creation of the district, the municipality shall file, in the real property records of the county in which the land to be included in the district is located, a notice to a purchaser of real property in the district that describes:

- (1) the municipality's authority and intention to annex the district; and
- (2) the anticipated date of the annexation.

(c) After the notice is filed, a person who proposes to sell or otherwise convey real property in the district must include the information contained in the municipality's notice in the Notice to Purchasers required by Section 49.452, Water Code.

SECTION 2. The Pilot Knob Municipal Utility District No. 2 initially includes all the territory contained in the following area:

557.187 acres of land described below:

A DESCRIPTION OF 557.672 ACRES IN THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 138.540 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MARCH 2, 2007 AND RECORDED IN DOCUMENT NO. 2007038642 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 20.807 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED JANUARY 3, 2007 AND RECORDED IN DOCUMENT NO. 2007003159 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF AN 81.018 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 12, 2006 AND RECORDED IN DOCUMENT NO. 2006246454 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 103.415 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 20, 2006 AND RECORDED IN DOCUMENT NO. 2006224021 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 167.748 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 13, 2006 AND RECORDED IN DOCUMENT NO. 2006241307 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 42.558 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MAY 16, 2008 AND RECORDED IN DOCUMENT NO. 2008083861 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 20.005 ACRE TRACT DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN TO JOHN T. HALDENSTEIN AND JOSHUA N. HALDENSTEIN, DATED DECEMBER 14, 2000 AND RECORDED IN DOCUMENT NO. 2000203669 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 198.302 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 20, 2006 AND RECORDED IN DOCUMENT NO. 2006244772 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 232.233 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN TO JONA ACQUISITION INC., DATED JANUARY 8, 2009 AND RECORDED IN DOCUMENT NO. 2009003190 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 37.390 ACRE

TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED OCTOBER 30, 2008 AND RECORDED IN DOCUMENT NO. 2008179828 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF COLTON BLUFF SPRINGS ROAD (APPARENT RIGHT-OF-WAY WIDTH VARIES), AND ALL OF A 67.339 ACRE ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 7, 2007 AND RECORDED IN DOCUMENT NO. 2007204509 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 557.672 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron pipe found for an interior ell corner in the north line of said 138.540 acre tract, same being an angle point in the south line of a 380.080 acre tract described in a deed to Ernest Collins and Floretta Collins, recorded in Volume 12791, Page 11 of the Real Property Records of Travis County, Texas;

THENCE crossing said 138.540 acre tract, said 20.807 acre tract, Colton Bluff Springs Road, said 81.018 acre tract, said 103.415 acre tract, said 167.748 acre tract, said 42.558 acre tract, said 20.005 acre tract, said 198.302 acre tract, said 232.233 acre tract, and said 37.390 acre tract, the following thirty (30) courses and distances:

1. South 27°05'52" West, a distance of 3.20 feet to a calculated point;
2. South 47°34'32" East, a distance of 42.94 feet to a calculated point;
3. With a curve to the left, having a radius of 2002.94 feet, a delta angle of 22°31'58", an arc length of 787.70 feet, and a chord which bears South 58°50'31" East, a distance of 782.64 feet to a calculated point;
4. South 19°53'30" West, a distance of 342.26 feet to a calculated point;
5. With a curve to the left, having a radius of 499.99 feet, a delta angle of 41°14'55", an arc length of 359.95 feet, and a chord which bears South 00°43'58" East, a distance of 352.23 feet to a calculated point;
6. South 21°21'01" East, a distance of 1149.03 feet to a calculated point;
7. With a curve to the right, having a radius of 800.00 feet, a delta angle of 04°05'43", an arc length of 57.18 feet, and a chord which bears South 19°18'34" East, a distance of 57.17 feet to a calculated point;
8. South 27°06'32" West, a distance of 1006.99 feet to a calculated point;
9. North 62°55'07" West, a distance of 393.93 feet to a calculated point;
10. South 27°04'42" West, a distance of 1090.01 feet to a calculated point;
11. South 62°55'07" East, a distance of 393.35 feet to a calculated point;
12. South 27°05'07" West, a distance of 1284.12 feet to a calculated point;
13. South 27°11'27" West, a distance of 450.14 feet to a calculated point;

14. With a curve to the left, having a radius of 1399.96 feet, a delta angle of $31^{\circ}05'54''$, an arc length of 759.86 feet, and a chord which bears North $77^{\circ}33'02''$ West, a distance of 750.56 feet to a calculated point;
 15. South $86^{\circ}54'01''$ West, a distance of 948.14 feet to a calculated point;
 16. With a curve to the right, having a radius of 1399.96 feet, a delta angle of $31^{\circ}17'38''$, an arc length of 764.63 feet, and a chord which bears North $77^{\circ}27'10''$ West, a distance of 755.16 feet to a calculated point;
 17. North $61^{\circ}48'21''$ West, a distance of 1135.34 feet to a calculated point;
 18. North $28^{\circ}11'39''$ East, a distance of 910.01 feet to a calculated point;
 19. With a curve to the right, having a radius of 431.98 feet, a delta angle of $53^{\circ}14'32''$, an arc length of 401.42 feet, and a chord which bears North $58^{\circ}50'30''$ East, a distance of 387.13 feet to a calculated point;
 20. North $16^{\circ}01'51''$ West, a distance of 256.62 feet to a calculated point;
 21. With a curve to the left, having a radius of 606.85 feet, a delta angle of $50^{\circ}15'23''$, an arc length of 532.29 feet, and a chord which bears North $37^{\circ}39'34''$ West, a distance of 515.39 feet to a calculated point;
 22. North $62^{\circ}55'18''$ West, a distance of 292.66 feet to a calculated point;
 23. With a curve to the right, having a radius of 1466.51 feet, a delta angle of $180^{\circ}00'00''$, an arc length of 4607.17 feet, and a chord which bears North $27^{\circ}04'42''$ East, a distance of 2933.02 feet to a calculated point;
 24. South $62^{\circ}55'18''$ East, a distance of 292.66 feet to a calculated point;
 25. With a curve to the left, having a radius of 606.85 feet, a delta angle of $50^{\circ}15'23''$, an arc length of 532.29 feet, and a chord which bears South $88^{\circ}11'02''$ East, a distance of 515.39 feet to a calculated point;
 26. North $70^{\circ}11'14''$ East, a distance of 260.49 feet to a calculated point;
 27. With a curve to the right, having a radius of 428.50 feet, a delta angle of $57^{\circ}46'46''$, an arc length of 432.12 feet, and a chord which bears North $02^{\circ}55'38''$ West, a distance of 414.04 feet to a calculated point;
 28. North $25^{\circ}57'45''$ East, a distance of 891.49 feet to a calculated point;
 29. With a curve to the right, having a radius of 750.00 feet, a delta angle of $16^{\circ}27'44''$, an arc length of 215.49 feet, and a chord which bears North $34^{\circ}11'36''$ East, a distance of 214.75 feet to a calculated point;
 30. North $42^{\circ}25'28''$ East, a distance of 130.83 feet to a calculated point in the common line of said 138.540 acre tract and said 380.080 acre tract, from which a $3/4''$ iron pipe found for an angle point in said common line bears North $47^{\circ}34'32''$ West, a distance of 1131.25 feet;
- THENCE South $47^{\circ}34'32''$ East, with said common line, a distance of 1475.59 feet to the POINT OF BEGINNING, containing 557.672 acres of land, more or less.
- SAVE AND EXCEPT 0.485 ACRES:

BEING ALL OF A 21,064 SQUARE FOOT TRACT DESCRIBED IN A WARRANTY DEED AND ACCESS EASEMENT TO CREEDMOOR-MAHA WATER SUPPLY CORPORATION, DATED MAY 24 1999 AND RECORDED IN DOCUMENT NO. 1999070566 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS; SAID 0.485 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found for the south corner of said 21,064 square foot tract, same being an angle point in the southwest line of said 232.233 acre tract, also being in the northeast line of said 37.390 acre tract;

THENCE North 62°15'58" West, with the southwest line of said 21,064 square foot tract, same being the northeast line of said 37.390 acre tract, a distance of 84.16 feet to a 1/2" rebar with Chaparral cap found for the west corner of said 21,064 square foot tract, same being an angle point in the southwest line of said 232.233 acre tract;

THENCE with the common line of said 21,064 square foot tract and said 232.233 acre tract, the following three (3) courses and distances:

1. North 27°03'32" East, a distance of 251.09 feet to a 1/2" rebar found;
2. South 62°00'51" East, a distance of 84.16 feet to a 1/2" rebar found;
3. South 27°03'32" West, a distance of 250.72 feet to the POINT OF

BEGINNING, containing 0.485 acres of land, more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. 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.

HB 2408 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Darby called up with senate amendments for consideration at this time,

HB 2408, A bill to be entitled An Act relating to the regulation of the title insurance industry.

Representative Darby moved to concur in the senate amendments to **HB 2408**.

The motion to concur in the senate amendments to **HB 2408** prevailed by (Record 1461): 143 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; 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; Dutton; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Menendez; Taylor, L.(C).

Absent, Excused — Anchia; Strama.

Absent — Coleman; Eiland.

Senate Committee Substitute

CSHB 2408, A bill to be entitled An Act relating to title insurance.

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

SECTION 1. 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).

SECTION 2. 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; [ø]

(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 3. 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 4. 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 complete.

(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 6. 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 7. 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 finally closed or resolved by a final order issued by the commissioner on or before the date on which the initial or renewal application is complete.

(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 8. 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) An additional premium or other amount may not be charged for an endorsement to a loan policy of title insurance if the endorsement:

(1) insures against loss from damage to improvements or permanent buildings located on land that results from the future exercise of any right existing on the date of the loan policy to use the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral;

(2) expressly does not insure against loss resulting from subsidence;
and

(3) was promulgated by the commissioner in calendar year 2009.

SECTION 9. 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) A reduction to, or credit on a premium charge for, a policy of title insurance or other insuring form may not be directly or indirectly based on an exclusion of, or general or special exception to, a mineral estate in the title insurance policy.

(c) 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 10. Section 2703.153, Insurance Code, is amended by amending Subsection (d) and adding Subsections (h) and (i) to read as follows:

(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.

SECTION 11. 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 12. 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 13. 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 14. 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 15. Section 2703.205, Insurance Code, is repealed.

SECTION 16. Section 2703.0515, Insurance Code, as added by this Act, 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.

SECTION 17. Sections 2703.055 and 2703.056, Insurance Code, as added 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.

SECTION 18. This Act takes effect September 1, 2011.

HB 3111 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Craddick called up with senate amendments for consideration at this time,

HB 3111, A bill to be entitled An Act relating to fees to finance capital improvements in certain municipalities.

Representative Craddick moved to concur in the senate amendments to **HB 3111**.

The motion to concur in the senate amendments to **HB 3111** prevailed by (Record 1462): 140 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Burnam; Castro; Gallego.

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

Absent, Excused — Anchia; Strama.

Absent — Coleman; Crownover; Morrison.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3111** by adding the following SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9016 to read as follows:

CHAPTER 9016. MIDLAND COUNTY UTILITY DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9016.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "County" means Midland County.

(4) "Director" means a board member.

(5) "District" means the Midland County Utility District.

(6) "Municipality" means a municipality in whose corporate limits or extraterritorial jurisdiction any part of the district is located.

Sec. 9016.002. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.

Sec. 9016.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 9016.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 9016.003 until each municipality has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 9016.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of a water control and improvement district as provided by general law and Section 59, Article XVI, Texas Constitution.

Sec. 9016.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 9016.007-9016.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9016.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (c), the district is governed by a board of five elected directors.

(b) Except as provided by Section 9016.052, directors serve staggered four-year terms.

(c) If the municipality annexes any part of the territory of the district, the municipality shall appoint one ex officio member to the board to serve as a sixth director.

Sec. 9016.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

- (1) Shelton Viney;
- (2) Susie Hitchcock-Hall;
- (3) Alan Lang;
- (4) David Orr; and
- (5) Israel Rodriguez.

(b) Temporary directors serve until the earlier of:

- (1) the date permanent directors are elected under Section 9016.003; or
- (2) September 1, 2015.

(c) If permanent directors have not been elected under Section 9016.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 9016.003; or
- (2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

Sec. 9016.053. NOTICE OF MEETINGS. The district shall provide the municipality with written notice before a meeting of the board.

[Sections 9016.054-9016.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9016.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 9016.102. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

Sec. 9016.103. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 42.042, Local Government Code, and Section 9016.004 and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 9016.104. COMPLIANCE WITH MUNICIPAL REGULATIONS. (a) Any water, sanitary sewer, drainage, or other infrastructure or public facilities constructed, acquired, improved, maintained, or operated by the district shall comply with any applicable regulations of the municipality in whose corporate limits or extraterritorial jurisdiction the infrastructure or facilities are located.

(b) Any water system constructed, acquired, improved, maintained, or operated by the district shall:

(1) comply with any applicable regulations of the municipality regarding specifications for rural density; and

(2) contain distribution lines that are:

(A) four inches or more in diameter; and

(B) sufficient to provide fire hydrant service according to the municipality's specifications for rural density.

Sec. 9016.105. COUNTY RIGHT-OF-WAY. The district must obtain the approval of the county's governing body of the plans and specifications of any facilities to be installed on property located in a county right-of-way.

Sec. 9016.106. LIABILITY. (a) Neither the county nor the municipality is liable for any claims arising from the operation of the district's water system or other actions or inactions of the district, including labor, safety, or signage, or contamination or other environmental issues.

(b) Any action taken by the municipality is a governmental function.

Sec. 9016.107. COSTS OF LINE RELOCATION. (a) The district is solely responsible for the expense associated with the relocation of any district water line required by:

(1) the county or a municipality; or

(2) a state or federal highway authority, including the Texas Department of Transportation and the Federal Highway Administration.

(b) The district will not unreasonably delay any requested line relocation.

Sec. 9016.108. SERVICES TO BE PROVIDED BY THE DISTRICT, COUNTY, OR MUNICIPALITY. (a) The district may enter into an interlocal contract with the county or municipality to provide governmental functions, including fire protection, trash collection and disposal, and ambulance service.

(b) Notwithstanding Subsection (a), the municipality is authorized to provide sewer and drainage service in the district. The municipality shall establish the amount of the fees to be charged to recipients of sewer and drainage service under this subsection.

(c) Notwithstanding Subsection (a), the district may not provide any services within the territorial limits of the municipality as those limits exist on September 1, 2011.

Sec. 9016.109. ANNEXATION BY MUNICIPALITY. (a) The municipality may annex a part of the territory of the district without annexing the entire territory of the district.

(b) If the municipality annexes all or part of the district:

(1) the annexed territory is not removed from the district; and

(2) the district is not:

(A) dissolved; or

(B) prevented from providing district services to the annexed territory.

(c) If any territory inside the district is annexed, the owner of the property shall pay the same rate of ad valorem tax to the municipality as other residents of the municipality.

(d) By annexing territory in the district, the municipality does not assume any debt of the district.

(e) The district may not contest an annexation by the municipality.

Sec. 9016.110. WATER SERVICE DEADLINE. The district must begin operation of a water system serving at least a part of the district not later than the sixth anniversary of the date that district voters approve the issuance of bonds to provide for the development of the water system.

Sec. 9016.111. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain:

(1) outside the district to acquire a site or easement for a recreational facility as defined by Section 49.462, Water Code; or

(2) in the corporate limits of the municipality as those limits exist on September 1, 2011.

Sec. 9016.112. PROHIBITION ON DIVISION OF DISTRICT. The district may not divide into two or more districts.

[Sections 9016.113-9016.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9016.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 9016.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 51, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 9016.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 9016.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 9016.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 9016.154-9016.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 9016.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 9016.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Section 51.433, Water Code.

Sec. 9016.203. LIMITATION ON TAX RATE. Notwithstanding any other provision of this chapter, the projected combined operation, maintenance, and debt service tax rates as of the date of the issuance of any bonds, as described by the commission in a commission order approving the issuance of the bonds, may not exceed 65 cents for each \$100 of assessed valuation of property in the district.

Sec. 9016.204. BONDS AND OTHER OBLIGATIONS NOT TO BE PAID BY MUNICIPALITY OR COUNTY. Bonds or other obligations of the district:

(1) may not be paid wholly or partly by taxes imposed by the county or the municipality;

(2) are not debts of the county or municipality; and

(3) do not give rise to a claim against the county or municipality.

SECTION _____. The Midland County Utility District initially includes all the territory contained in the following area:

54,050 Acres of Land

Located in Various Sections and Blocks,
T&P RR Co. Survey, Midland County, Texas.

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y= 10,677,038' and X= 1,736,917') a point in the west line of Section 7, Block 39, T2S and a southerly line of Midland city limits and being the most westerly northwest corner of this tract;

THENCE S 14°19' E, a distance of 2685 feet to the southwest corner of said Section 7 and being an ell corner of this tract;

THENCE N 75°10' E with the south right-of-way line of West County Road 120, a distance of 7031 feet to a point in the north line of Section 17 this block for a point of deflection of this tract;

THENCE S 64°46' E, a distance of 4725 feet to a point in the east line of said Section 17 and in the west right-of-way line of South County Road 1210 also being a point of deflection of this tract;

THENCE S 14°23' E with the west right-of-way line of said South County Road 1210, a distance of 6340 feet to a point in the north right-of-way line of West County Road 138 and being an ell corner of this tract;

THENCE S 75°41' W with the north right-of-way line of said West County Road 138, a distance of 3340 feet to a point in the west right-of-way line of South County Road 1216 and being an ell corner of this tract;

THENCE S 14°52' E with the west right-of-way line of said South County Road 1216, a distance of 1272 feet to a point in the north right-of-way line of West County Road 140 and being an ell corner of this tract;

THENCE S 75°29' W with the north right-of-way line of said West County Road 140, a distance of 1974 feet to a point near the northwest corner of Section 29, Block 39, T2S and being an ell corner of this tract;

THENCE S 14°16' E, a distance of 26,411 feet to a point near the southwest corner of Section 6, Block 39, T3S and being the most southerly southwest corner of this tract;

THENCE N 75°59' E, a distance of 15,901 feet to a point in the east right-of-way line of State Highway 349 and being the most southerly southeast corner of this tract;

THENCE N 14°08' W with the east right-of-way line of said State Highway 349, a distance of 18,548 feet to a point near the southwest corner of Condor Aviation Co. Inc. tract and being an ell corner of this tract;

THENCE N 75°17' E, a distance of 5227 feet to a point in the east line of Section 35, Block 39, T2S and being an ell corner of this tract;

THENCE N 14°23' W, a distance of 1604 feet to a point for an ell corner of this tract;

THENCE N 76°20' E, a distance of 5414 feet to a point in the east right-of-way line of Farm to Market Road 715 and being an ell corner of this tract;

THENCE N 14°21' W with the east right-of-way line of said Farm to Market Road 715, a distance of 664 feet to a point for an ell corner of this tract;

THENCE N 75°23' E, a distance of 2628 feet to a point in the west half of Section 24, Block 38, T2S and being an ell corner of this tract;

THENCE S 14°03' E, a distance of 8251 feet to a point for an ell corner of this tract;

THENCE N 76°09' E, a distance of 2658 feet to a point in the east right-of-way line of South County Road 1160 and being an ell corner of this tract;

N 14°22' W with the east right-of-way line of said South County Road 1160, a distance of 3359 feet to a point in the south right-of-way line of East County Road 160 and being an ell corner of this tract;

THENCE N 75°38' E with the south right-of-way line of said East County Road 160, a distance of 10,581 feet to a point near the southeast corner of Section 22, Block 38, T2S and being an ell corner of this tract;

THENCE N 14°07' W with the east line of said Section 22, a distance of 5353 feet to a point near the northeast corner of said Section 22 and being an ell corner of this tract;

THENCE N 75°40' E, a distance of 1381 feet to a point near the southeast corner of George V. Anderson Jr. tract and the southwest corner of Donna Johnson tract also being an ell corner of this tract;

THENCE N 14°03' W with the west line of said Donna Johnson tract and the east line of said George V. Anderson Jr. tract, a distance of 1926 feet to a point near the northwest corner of said Donna Johnson tract and being an ell corner of this tract;

THENCE N 75°43' E, a distance of 1355 feet to a point in the east right-of-way line of South County Road 1136 and being an ell corner this tract;

THENCE N 13°52' W with the east right-of-way line of said South County Road 1136, a distance of 8663 feet to a point in the southwesterly right-of-way of State Highway 158 and the south right-of-way line of East County Road 130 also being an ell corner of this tract;

THENCE N 75°27' E with the south right-of-way line of said East County Road 130, a distance of 3996 feet to a point for an ell corner of this tract;
THENCE N 13°57' W, a distance of 5272 feet to a point in the south right-of-way line of East County Road 120 and being an ell corner of this tract;
THENCE N 75°41' E with the south right-of-way line of said East County road 120, a distance of 14,750 feet to a point for an ell corner of this tract;
THENCE N 14°17' W, a distance of 5276 feet to a point near the northwest corner of Section 51, Block 37, T2S and being an ell corner of this tract;
THENCE N 74°54' E, a distance of 10,567 feet to a point in the east right-of-way line of Farm to Market Road 1379 and being the most easterly southeast corner of this tract;
THENCE N 13°59' W with the east right-of-way line of said Farm to Market Road 1379, a distance of 3955 feet to a point of deflection of this tract;
THENCE N 14°17' W, a distance of 20,565 feet to a point in the southeasterly right-of-way of Interstate Highway 20 and being the most easterly northeast corner of this tract;
THENCE S 59°40' W with the southeasterly right-of-way of said Interstate Highway 20, a distance of 22,345 feet to a point in the projection of North County Road 1120 and being a point of deflection of this tract;
THENCE N 14°09' W, a distance of 8118 feet to a point near the northeast Section 26, Block 38, T1S and being an ell corner of this tract;
THENCE S 75°33' W with the north line of said Section 26, a distance of 2741 feet to a point for an ell corner of this tract;
THENCE N 13°46' W, a distance of 3300 feet to a point for an ell corner of this tract;
THENCE S 75°45' W, a distance of 2696 feet to a point in the west line of Section 23 and the east line of Section 22, Block 38, T1S and being an ell corner of this tract;
THENCE S 14°37' E with the west line of said Section 23 and the east line of said Section 22, a distance of 668 feet to a point for an ell corner of this tract;
THENCE S 75°34' W, a distance of 7949 feet to a point near the middle of Section 21, Block 38, T1S and being an ell corner of this tract;
THENCE N 14°18' W, a distance of 2716 feet to a point in the north line of said Section 21 and being an ell corner of this tract;
THENCE S 75°23' W, a distance of 4294 feet to a point in the north line of Section 20, Block 38, T1S and being a point of deflection of this tract;
THENCE S 66°10' W, a distance of 3034 feet to a point in an easterly line of the Midland city limits and being the most northerly northwest corner of this tract;
THENCE S 14°33' E with said city limits, a distance of 5372 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°36' W with said city limits, a distance of 2511 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°34' E with said city limits, a distance of 180 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°36' W with said city limits, a distance of 835 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°34' E with said city limits, a distance of 3832 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°36' E with said city limits, a distance of 2208 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 14°34' W with said city limits, a distance of 1204 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°36' E with said city limits, a distance of 1138 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 15°14' E with said city limits, a distance of 645 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°36' E with said city limits, a distance of 4603 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°35' E with said city limits, a distance of 5122 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°37' E with said city limits, a distance of 659 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°36' E with said city limits, a distance of 2879 feet to a point in the northwesterly right-of-way line of Business Interstate Highway 20 (US Highway 80) and the most easterly southeast corner of said city limits also being a point of deflection of this tract;

THENCE N 59°41' E with the northwesterly right-of-way line of said Business Interstate Highway 20, a distance of 4829 feet to a point near the northwest corner of Section 40, Block 38, T1S and being a point of deflection of this tract;

THENCE S 14°24' E, a distance of 7260 feet to a point in the east line of Section 45, Block 38, T1S and being 1000 feet southerly of the southeasterly right-of-way line of Interstate Highway 20 and being a point of deflection of this tract;

THENCE S 45°05' W 1000 feet southerly and parallel to the southeasterly right-of-way line of said Interstate Highway 20, a distance of 6527 feet to a point in the north line of Section 5, Block 38, T2S and in the south right-of-way line of Farm to Market Road 307 also being a point of deflection of this tract;

THENCE N 76°37' E with the south right-of-way line of said Farm to Market Road 307, a distance of 2882 feet to a point near the northeast corner of a 320 acre City of Midland tract in Section 4, Block 38, T2S and being an ell corner of this tract;

THENCE S14°25' E with the east line of said 320 acre tract, a distance of 5252 feet to a point in the south line of said Section 4 and the north line of Section 9, Block 38, T2S and being an ell corner of this tract;

THENCE N 75°36' E with the north line of said Section 9, a distance of 2768 feet to a point near the northeast corner of said Section 9 and in the west right-of-way South County Road 1140 also being an ell corner of this tract;

THENCE S 14°36' E with the west right-of-way line of said South County Road 1140, a distance of 5313 feet to a point in the north right-of-way line of East County Road 120 and being an ell corner of this tract;

THENCE S 75°56' W with the north right-of-way line of said East County Road 120, a distance of 5150 to a point in the northeasterly right-of-way line of State Highway 158 and being a point of deflection of this tract;

THENCE N 70°55' W with the northeasterly right-of-way line of said State Highway 158, a distance of 4453 to a point near the most southerly southwest corner of a 365.58 acre City of Midland tract as described in Volume 2308, Page 3, Official Public Records of Midland County and the southeast corner of Ralph H White tract also being a point of deflection of this tract;

THENCE N 15°31' W with the east line of said Ralph H White tract and a west line of said City of Midland Tract, a distance of 732 feet to a point near the northeast corner of said Ralph H White tract and being a point of deflection of this tract;

THENCE N 70°36' W with the north line of said Ralph H White tract, a distance of 171 feet to a point near the northwest corner of said Ralph H White tract and in the east line of a 1.00 acre City of Midland tract as described in Volume 2308, Page 3, Official Public Records of Midland County and being a point of deflection of this tract;

THENCE S 15°31' E with the west line of said Ralph H White tract and the east line of said 1.00 acre City of Midland tract, a distance of 733 feet to a point in the northeasterly right-of-way line of said State Highway 158 and being a point of deflection of this tract;

THENCE N 70°55' W with the south line of said 1.00 acre City of Midland tract and the northeasterly right-of-way line of said State Highway 158, a distance of 415 feet to the southwest corner of said 1.00 acre City of Midland tract and being a point of deflection of this tract;

THENCE N 15°31' W with the west line of said 1.00 acre City of Midland tract, a distance of 1252 feet to the northwest corner of said 1.00 acre City of Midland and being a point of deflection of said 365.58 acre City of Midland tract also being a point of deflection of this tract;

THENCE S 75°57' W with a south line of said 365.58 acre City of Midland tract, a distance of 1419 feet to a point in the west line of Section 8, Block 38, T2S and being an ell corner of this tract;

THENCE N 14°10' W with the west line of said Section 8, a distance of 1274 feet to a point near the northwest corner of said Section 8 and being an ell corner of this tract;

THENCE N 75°49' E with the north line of said Section 8, a distance of 36 feet to a point near the southeast corner of Section 6, Block 38, T2S and being an ell corner of this tract;

THENCE N 14°12' W with the east line of said Section 6, a distance of 2124 feet to a point 1000 feet southerly of the southeasterly right-of-way line of said Interstate Highway 20 and being a point of deflection of this tract;

THENCE S 44°40' W southerly and parallel to the southeasterly right-of-way line of said Interstate Highway 20, a distance of 3968 feet to a point in the Midland city limits and being a point of deflection of this tract;

THENCE S 14°09' E with said city limits, a distance of 611 feet to the most southerly southeast corner of said city limits and being an ell corner of this tract;

THENCE S 75°32' W with the south line of said city limits, a distance of 10,595 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°23' E with the said city limits, a distance of 750 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°29' W with said city limits, a distance of 677 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°32' E with said city limits, a distance of 781 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°24' W with said city limits, a distance of 1675 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°23' W with said city limits, a distance of 1041 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°29' W with said city limits, a distance of 1000 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°23' W said city limits, a distance of 500 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°37' W with said city limits, a distance of 3137 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 14°18' E with said city limits, a distance of 570 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°42' W with said city limits, a distance of 1660 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°18' W with said city limits, a distance of 567 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°37' W with said city limits, a distance of 3390 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 15°02' E with said city limits, a distance of 709 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 74°54' W with said city limits, a distance of 1040 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 15°03' E with said city limits, a distance of 90 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°34' W with said city limits, a distance of 1064 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE N 14°40' W with said city limits, a distance of 817 feet to an ell corner of said city limits and being an ell corner of this tract;
THENCE S 75°44' W with said city limits, a distance of 559 feet to a point of curvature of said city limits and this tract;
THENCE around a curve to the left in a southwesterly direction and with said city limits, said curve having a radius length of 10,509 feet, a delta angle of 16°04', an arc length of 2947 feet and a chord length of 2937 feet bearing S 67°42' W to a point of tangency of said city limits and this tract;
THENCE S 59°40' W with said city limits, a distance of 6362 feet to the Point of Beginning, containing approximately 54,050 acres of land, more or less.
Bearings, distances and coordinates are relative to the Texas Coordinate System, 1983 NAD, Central Zone based on City of Midland's G.I.S Digital Map.

SECTION _____. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION _____. (a) Section 9016.111, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 9016, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 9016.111 to read as follows:

Sec. 9016.111. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend Amendment No. 1 by Seliger to **CSHB 3111** as follows:

(1) At the end of added Subdivision (1), Section 9016.1111, Special District Local Laws Code (on page 6 of the amendment, line 28), strike "or".

(2) At the end of added Subdivision (2), Section 9016.1111, Special District Local Laws Code (on page 6 of the amendment, line 30), between "2011" and the period, insert the following:

; or

(3) outside the county

HB 1178 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Flynn called up with senate amendments for consideration at this time,

HB 1178, A bill to be entitled An Act relating to employment protection for members of the state military forces.

Representative Flynn moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1178**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1178**: Flynn, chair; Guillen, Peña, Berman, and Zedler.

**HB 2396 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative McClendon called up with senate amendments for consideration at this time,

HB 2396, A bill to be entitled An Act relating to the pledge of advanced transportation district sales and use taxes to certain bonds.

Representative McClendon moved to concur in the senate amendments to **HB 2396**.

The motion to concur in the senate amendments to **HB 2396** prevailed by (Record 1463): 97 Yeas, 45 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Berman; Branch; Burnam; Castro; Cook; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Legler; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Smith, W.; Smithee; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Craddock; Creighton; Darby; Davis, S.; Frullo; Gooden; Hamilton; Isaac; Keffer; Landtroop; Laubenberg; Lavender; Lewis; Madden; Miller, D.; Miller, S.; Nash; Parker; Patrick; Paxton; Perry; Price; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Taylor, V.; White; Zedler.

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

Absent, Excused — Anchia; Strama.

Absent — Coleman; Harless; Hughes; Solomons.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1463. I intended to vote no.

Berman

I was shown voting yes on Record No. 1463. I intended to vote no.

Flynn

When Record No. 1463 was taken, I was in the house but away from my desk. I would have voted no.

Harless

I was shown voting yes on Record No. 1463. I intended to vote no.

Kolkhorst

When Record No. 1463 was taken, I was in the house but away from my desk. I would have voted no.

Solomons

Senate Committee Substitute

CSHB 2396, A bill to be entitled An Act relating to the pledge of advanced transportation district sales and use taxes to certain bonds.

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

SECTION 1. Section 451.702, Transportation Code, is amended by amending Subsections (a) and (l) and adding Subsection (l-1) to read as follows:

(a) The board of an authority in which the sales and use tax is imposed at a rate of one-half of one percent and in which the principal municipality has a population of more than 1.3 million [~~700,000~~] may order an election to create an advanced transportation district within the authority's boundaries and to impose a sales and use tax for advanced transportation and mobility enhancement under this subchapter. If approved at the election, the rate of the sales and use tax for advanced transportation and mobility enhancement shall be set by the governing body of the district at a rate of:

- (1) one-eighth of one percent;
- (2) one-fourth of one percent;
- (3) three-eighths of one percent; or
- (4) one-half of one percent.

(l) Notwithstanding any other provision of this chapter, the [The] governing body of a [the] district may, by order or resolution, without the necessity of an election specifically concerning the matter:

(1) pledge the sales and use tax proceeds identified in Subsection (f) from a sales and use tax imposed by an election held under this section after May 21, 1999, to one or more series of sales and use tax revenue bonds issued under Subchapter H, subject to Subsection (l-1); and

(2) enter into an agreement or contractual arrangement under Subsection (k) [without the necessity of an election].

(l-1) The governing body of a district may not pledge sales and use tax proceeds under Subsection (l) unless the board has conducted a public hearing concerning the issuance of the bonds to which the proceeds are pledged and published notice of the hearing at least 14 days before the date of the hearing in a newspaper of general circulation in the principal municipality of the authority.

SECTION 2. This Act takes effect September 1, 2011.

**HB 2048 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Flynn called up with senate amendments for consideration at this time,

HB 2048, A bill to be entitled An Act relating to the collection and enforcement of state and local hotel occupancy taxes.

Representative Flynn moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2048**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2048**: Lyne, chair; Flynn, Thompson, Murphy, and Gonzalez.

**HB 2900 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hartnett called up with senate amendments for consideration at this time,

HB 2900, A bill to be entitled An Act relating to guardianship matters and proceedings.

Representative Hartnett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2900**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2900**: Hartnett, chair; Thompson, Madden, Lewis, and Raymond.

(Crownover in the chair)

**HB 2605 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative L. Taylor called up with senate amendments for consideration at this time,

HB 2605, A bill to be entitled An Act relating to certain workers' compensation benefits and to the continuation and functions of the division of workers' compensation of the Texas Department of Insurance; providing an administrative violation.

Representative L. Taylor moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2605**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2605**: L. Taylor, chair; Harper-Brown, Solomons, Cook, and Menendez.

(L. Taylor in the chair)

HB 1757 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Rodriguez called up with senate amendments for consideration at this time,

HB 1757, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

Representative Rodriguez moved to concur in the senate amendments to **HB 1757**.

The motion to concur in the senate amendments to **HB 1757** prevailed by (Record 1464): 137 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; Rodriguez; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter; Miller, S.; Sheffield; Taylor, V.

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

Absent, Excused — Anchia; Strama.

Absent — Dukes; Geren; Quintanilla; Ritter; Schwertner.

STATEMENTS OF VOTE

When Record No. 1464 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 1464 was taken, I was temporarily out of the house chamber. I would have voted yes.

Geren

When Record No. 1464 was taken, my vote failed to register. I would have voted yes.

Schwertner

Senate Committee Substitute

CSHB 1757, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 1; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8375 to read as follows:

CHAPTER 8375. PILOT KNOB MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8375.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental

Quality.

(3) "Director" means a board member.

(4) "District" means the Pilot Knob Municipal Utility District No. 1.

(5) "Municipality" means a municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8375.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8375.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect permanent directors as provided by Section 8375.051 of this code and Section 49.102, Water Code.

Sec. 8375.004. CONSENT OF MUNICIPALITY REQUIRED. (a) The temporary directors may not hold an election under Section 8375.003 until each municipality has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

(b) If a municipality does not consent to the creation of the district or if the district does not enter into an agreement required by the terms of the municipal ordinance or resolution consenting to the creation of the district under this section before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to the municipality or another local governmental entity to be used for a public purpose; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

Sec. 8375.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, or improvement of macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

Sec. 8375.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8375.007-8375.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8375.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (b), the district is governed by a board of five elected directors.

(b) If required under the terms of the agreement, ordinance, or resolution by which a municipality consents to the creation of the district, the board consists of:

(1) four elected directors; and

(2) one director appointed by the governing body of the municipality.

(c) A director appointed under Subsection (b)(2) is not required to be a qualified voter of the district or to own land subject to taxation in the district.

(d) Except as provided by Section 8375.052, directors serve staggered four-year terms. A permanent director may not serve more than two four-year terms.

(e) The common law doctrine of incompatibility does not disqualify an official or employee of a municipality from being appointed a director by the governing body of a municipality under Subsection (b)(2), and a director appointed to the board may continue to serve in a public office of or be employed by the municipality.

Sec. 8375.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8375.003; or

(2) the fourth anniversary of the effective date of the Act enacting this

chapter.

(c) If permanent directors have not been elected under Section 8375.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8375.003; or

(2) the fourth anniversary of the date of the appointment or

reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8375.053-8375.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8375.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8375.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8375.103. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the commission as required by Section 54.234, Water Code.

Sec. 8375.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8375.103 unless:

(1) each municipality or county that will operate and maintain the road has approved the plans and specifications of the road project, if a municipality or county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8375.105. COMPLIANCE WITH AND ENFORCEABILITY OF MUNICIPAL CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION.

(a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) Any agreement between the district and a municipality related to the municipality's consent to the creation of the district is valid and enforceable.

(c) On the issuance of bonds by the district, the district is considered to have waived sovereign immunity to suit by a municipality for the purpose of adjudicating a claim for breach of an agreement described by this section.

Sec. 8375.106. CONTRACT TO FURTHER REGIONAL COOPERATION. The district and a municipality may contract on terms that the board and governing body of the municipality agree will further regional cooperation between the district and the municipality.

Sec. 8375.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8375.108-8375.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8375.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8375.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8375.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8375.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

(c) If required by an agreement between the district and a municipality under Section 8375.105, the total ad valorem tax rate of the district may not be less than the total ad valorem tax rate of the municipality.

Sec. 8375.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8375.154-8375.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8375.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8375.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8375.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

[Sections 8375.204-8375.250 reserved for expansion]

SUBCHAPTER F. STRATEGIC PARTNERSHIP AGREEMENT; MUNICIPAL ANNEXATION AND NOTICE

Sec. 8375.251. STRATEGIC PARTNERSHIP; CONTINUATION OF DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) The district may continue to exist as a limited district after full-purpose annexation by a municipality if the district and the annexing municipality state the terms of the limited district's existence in a strategic partnership agreement under Section 43.0751, Local Government Code.

(b) The strategic partnership agreement may provide for a term of any number of years. The limitation in Section 43.0751(g)(2), Local Government Code, on the length of the term does not apply to a limited district created under this section.

Sec. 8375.252. MUNICIPAL ANNEXATION; NOTICE. (a) Sections 43.0561 and 43.0562, Local Government Code, do not apply to the annexation of the district by a municipality that consents to the creation of the district under Section 8375.004.

(b) Not later than the 30th day after the date a municipality adopts a resolution or ordinance consenting to the creation of the district, the municipality shall file, in the real property records of the county in which the land to be included in the district is located, a notice to a purchaser of real property in the district that describes:

- (1) the municipality's authority and intention to annex the district; and
(2) the anticipated date of the annexation.

(c) After the notice is filed, a person who proposes to sell or otherwise convey real property in the district must include the information contained in the municipality's notice in the Notice to Purchasers required by Section 49.452, Water Code.

SECTION 2. The Pilot Knob Municipal Utility District No. 1 initially includes all the territory contained in the following area:

339.690 acres of land described below:

A DESCRIPTION OF 342.280 ACRES IN THE SANTIAGO DEL VALLE GRANT, THE GUILLERMO NUNEZ SURVEY NO. 502, AND THE BARBARA LOPEZ Y MIRELEZ SURVEY NO. 503, IN TRAVIS COUNTY, TEXAS, BEING ALL OF A 25.304 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED JULY 23, 2008 AND RECORDED IN DOCUMENT NO. 2008124712 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 138.540 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MARCH 2, 2007 AND RECORDED IN DOCUMENT NO. 2007038642 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 20.807 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED JANUARY 3, 2007 AND RECORDED IN DOCUMENT NO. 2007003159 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF AN 81.018 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 12, 2006 AND RECORDED IN DOCUMENT NO. 2006246454 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 103.415 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 20, 2006 AND RECORDED IN DOCUMENT NO. 2006224021 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 167.748 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 13, 2006 AND RECORDED IN DOCUMENT NO. 2006241307 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 152.571 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 2, 2006 AND RECORDED IN DOCUMENT NO. 2006214522 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 59.027 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MARCH 2, 2007 AND RECORDED IN DOCUMENT NO. 2007038634 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF F.M. 1625 (80' RIGHT-OF-WAY) AND A PORTION OF COLTON BLUFF SPRINGS ROAD (APPARENT RIGHT-OF-WAY WIDTH VARIES); SAID 342.280 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with Chaparral cap found in the west right-of-way line of U.S. Highway 183 (100' right-of-way) for the northeast corner of said 25.304 acre tract, same being the southeast corner of Lot 14, South 183 Park, a subdivision recorded in Volume 78, Page 253 of the Plat Records of Travis County, Texas;

THENCE with the west right-of-way line of U.S. Highway 183, same being the east line of said 25.304 acre tract and the north terminus of F.M. 1625, with a curve to the left, having a radius of 5779.84 feet, a delta angle of 6°21'28", an arc length of 641.35 feet, and a chord which bears South 5°19'41" West, a distance of 641.02 feet to a calculated point for the east right-of-way line of F.M. 1625;

THENCE with the east right-of-way line of F.M. 1625, the following five (5) courses and distances:

1. South 85°41'32" West, a distance of 44.00 feet to a calculated point;
2. South 30°34'53" West, a distance of 164.30 feet to a calculated point;
3. South 27°05'32" West, a distance of 672.59 feet to a calculated point;
4. South 26°41'32" West, a distance of 410.38 feet to a calculated point;
5. South 27°11'23" West, in part with the west terminus of McKenzie Road (60' right-of-way), a distance of 380.85 feet to a 1/2" rebar with Chaparral cap found in the south right-of-way line of McKenzie Road, for the northwest corner of said 59.027 acre tract;

THENCE with the south right-of-way line of McKenzie Road, same being the northeast line of said 59.027 acre tract, the following two (2) courses and distances:

1. South 62°41'20" East, a distance of 908.70 feet to a 1" iron pipe found;
2. South 33°59'03" East, a distance of 171.70 feet to a 1/2" rebar with Chaparral cap found in the west right-of-way line of U.S. Highway 183, for the northeast corner of said 59.027 acre tract;

THENCE South 04°10'14" East, with the west right-of-way line of U.S. Highway 183, same being the east line of said 59.027 acre tract, and the east line of said 152.571 acre tract, a distance of 4697.45 feet to a 5/8" rebar found for the southeast corner of said 152.571 acre tract, same being the northeast corner of a 9.87 acre tract described in a deed to Bobby Ray Burklund, et al., recorded in Document No. 1999103744 of the Official Public Records of Travis County, Texas;

THENCE North 62°43'22" West, with the southwest line of said 152.571 acre tract, same being the northeast line of said 9.87 acre tract, the northeast line of a 19.73 acre tract described in a deed to Erland Burklund, et ux., recorded in Volume 4054, Page 1326 of the Deed Records of Travis County, Texas, the northeast line of a 3.00 acre tract described in a deed to Erland Burklund, et ux., recorded in Volume 3978, Page 1205 of the Deed Records of Travis County, Texas, and the northeast line of a 1.00 acre tract described in a deed to Erland Burklund, et ux., recorded in Volume 2100, Page 268 of the Deed Records of Travis County, Texas, a distance of 3498.94 feet to a 1/2" rebar with Chaparral cap found in the east right-of-way line of F.M. 1625, for the southwest corner of said 152.571 acre tract, same being the northwest corner of said 1.00 acre tract;

THENCE North 62°38'08" West, crossing F.M. 1625, a distance of 80.00 feet to a calculated point in the west right-of-way line of F.M. 1625, same being the east line of said 167.748 acre tract;

THENCE North 27°05'45" East, with the west right of line of F.M. 1625, same being the east line of said 167.748 acre tract, a distance of 0.13 feet to a calculated point;

THENCE crossing said 167.748 acre tract, said 103.415 acre tract, said 81.018 acre tract, Colton Bluff Springs Road, said 20.807 acre tract and said 138.540 acre tract, the following fourteen (14) courses and distances:

1. North 62°48'33" West, a distance of 190.11 feet to a calculated point;
2. North 27°11'27" East, a distance of 450.00 feet to a calculated point;
3. North 27°05'07" East, a distance of 1284.12 feet to a calculated point;
4. North 62°55'07" West, a distance of 393.35 feet to a calculated point;
5. North 27°04'42" East, a distance of 1090.01 feet to a calculated point;
6. South 62°55'07" East, a distance of 393.93 feet to a calculated point;
7. North 27°06'32" East, a distance of 1006.99 feet to a calculated point;
8. With a curve to the left, having a radius of 800.00 feet, a delta angle of 04°05'43", an arc length of 57.18 feet, and a chord which bears North 19°18'34" West, a distance of 57.17 feet to a calculated point;
9. North 21°21'01" West, a distance of 1149.03 feet to a calculated point;
10. With a curve to the right, having a radius of 499.99 feet, a delta angle of 41°14'55", an arc length of 359.95 feet, and a chord which bears North 00°43'58" West, a distance of 352.23 feet to a calculated point;
11. North 19°53'30" East, a distance of 342.26 feet to a calculated point;
12. With a curve to the right, having a radius of 2002.94 feet, a delta angle of 22°31'58", an arc length of 787.70 feet, and a chord which bears North 58°50'31" West, a distance of 782.64 feet to a calculated point;
13. North 47°34'32" West, a distance of 42.94 feet to a calculated point;
14. North 27°06'47" East, a distance of 3.20 feet to a 1/2" iron pipe found for an interior ell corner in the north line of said 138.540 acre tract, same being the south corner of a 380.080 acre tract described in a deed to Ernest Collins and Floretta Collins, recorded in Volume 12791, Page 11 of the Real Property Records of Travis County, Texas;

THENCE with the northwest line of said 138.540 acre tract, same being the southeast line of said 380.080 acre tract, the following two (2) courses and distances:

1. North 27°06'47" East, a distance of 851.48 feet to a 3/4" iron pipe found;
2. North 29°08'56" East, a distance of 229.98 feet to a 1/2" iron pipe found for a north corner of said 138.540 acre tract, same being the west corner of said 25.304 acre tract;

THENCE North 26°45'01" East, with the northwest line of said 25.304 acre tract, same being the southeast line of said 380.080 acre tract, a distance of 430.74 feet to a 1/2" rebar found for the north corner of said 25.304 acre tract, same being the west corner of Lot 8, South 183 Park;

THENCE South 48°05'10" East, with the southwest line of South 183 Park, a distance of 2072.23 feet to POINT OF BEGINNING, containing 342.280 acres of land, more or less.

SAVE AND EXCEPT 2.461 ACRES:

BEING ALL OF A 1 ACRE TRACT DESCRIBED IN A DEED TO TEOFILO DE SANTIAGO, DATED AUGUST 1, 1977 AND RECORDED IN VOLUME 5869, PAGE 1058 OF THE DEED RECORDS OF TRAVIS COUNTY TEXAS, AND ALL OF A 1.10 ACRE TRACT DESCRIBED IN A WARRANTY DEED TO HERIBERTA OJEDA AND GLORIA OJEDA, DATED NOVEMBER 6, 1995 AND RECORDED IN VOLUME 12586, PAGE 40 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 2.461 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with Chaparral cap found in the west right-of-way line of F.M. 1625, for the south corner of said 1.10 acre tract, same being the east corner of said 20.807 acre tract;

THENCE North 53°08'58" West, with the southwest line of said 1.10 acre tract and said 1 acre tract, same being the northeast line of said 20.807 acre tract, a distance of 440.29 feet to a 1/2" rebar found for the west corner of said 1 acre tract, same being an angle point in the south line of said 138.540 acre tract;

THENCE North 30°00'39" East, with the northwest line of said 1 acre tract, same being the south line of said 138.540 acre tract, a distance of 250.26 feet to a 1/2" rebar with Chaparral cap found for the north corner of said 1 acre tract, same being an angle point in the south line of said 138.540 acre tract;

THENCE South 52°47'09" East, with the northeast line of said 1 acre tract and said 1.10 acre tract, same being the south line of said 138.540 acre tract, a distance of 427.83 feet to a calculated point in the west right-of-way line of F.M. 1625, for the east corner of said 1.10 acre tract;

THENCE South 27°05'32" West, with the west right-of-way line of F.M. 1625, same being the southeast line of said 1.10 acre tract, a distance of 249.38 feet to the POINT OF BEGINNING, containing 2.461 acres of land, more or less.

SAVE AND EXCEPT 0.129 ACRES:

BEING ALL OF A 0.1291 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO CROWN COMMUNICATION INC., DATED SEPTEMBER 3, 2001 AND RECORDED IN DOCUMENT NUMBER 2001163489 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 0.129 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with Chaparral cap found for the north corner of said 0.1291 acre tract, same being a northeast corner of said 167.748 acre tract, also being in the southwest line of said 103.415 acre tract;

THENCE South 62°41'37" East, with the northeast line of said 0.1291 acre tract, same being the southwest line of said 103.415 acre tract, a distance of 75.00 feet to a calculated point in the west right-of-way line of F.M. 1625, for the east corner of said 0.1291 acre tract;

THENCE South 27°05'45" West, with the west right-of-way line of F.M. 1625, same being the southeast line of said 0.1291 acre tract, a distance of 75.17 feet to a calculated point for the south corner of said 0.1291 acre tract, same being a northeast corner of said 167.748 acre tract;

THENCE North 62°41'37" West, with the southwest line of said 0.1291 acre tract, same being a northeast line of said 167.748 acre tract, a distance of 75.00 feet to a 1/2" rebar with Chaparral cap found for the west corner of said 0.1291 acre tract, same being an angle point in the northeast line of said 167.748 acre tract;

THENCE North 27°05'45" East, with the northwest line of said 0.1291 acre tract, same being the northeast line of said 167.748 acre tract, a distance of 75.17 feet to the POINT OF BEGINNING, containing 0.129 acres of land, more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. 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.

HB 2169 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Aycock called up with senate amendments for consideration at this time,

HB 2169, A bill to be entitled An Act relating to the authority of the governing body of a taxing unit to rescind a discount for early payment of ad valorem taxes.

Representative Aycock moved to concur in the senate amendments to **HB 2169**.

The motion to concur in the senate amendments to **HB 2169** prevailed by (Record 1465): 142 Yeas, 0 Nays, 2 Present, not voting.

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

Creighton; 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.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Coleman; Crownover; Huberty; Ritter.

STATEMENTS OF VOTE

When Record No. 1465 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1465 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

I was shown voting yes on Record No. 1465. I intended to vote no.

Laubenberg

I was shown voting yes on Record No. 1465. I intended to vote no.

Paxton

I was shown voting yes on Record No. 1465. I intended to vote no.

Sheets

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2169** (house committee printing) as follows:

(1) On page 1, line 10, strike "beginning in" and substitute "in the tax year following".

(2) On page 1, lines 10-12, strike ", except that the rescission takes effect beginning in the following year if the discount is rescinded after September 1".

**HB 3278 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Shelton called up with senate amendments for consideration at this time,

HB 3278, A bill to be entitled An Act relating to membership of the commissioner of education and the Texas Education Agency in certain advisory committees, commissions, task forces, and other similar entities.

Representative Shelton moved to concur in the senate amendments to **HB 3278**.

The motion to concur in the senate amendments to **HB 3278** prevailed by (Record 1466): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; 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; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Aycock; Coleman; Crownover.

STATEMENTS OF VOTE

When Record No. 1466 was taken, my vote failed to register. I would have voted yes.

Aycock

When Record No. 1466 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

Senate Committee Substitute

CSHB 3278, A bill to be entitled An Act relating to membership of the commissioner of education and the Texas Education Agency in certain advisory committees, commissions, task forces, and other similar entities.

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

SECTION 1. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.030 to read as follows:

Sec. 7.030. ADVISORY COMMITTEE PARTICIPATION.

(a) Notwithstanding any other provision of law, the agency is not required to participate in the Advisory Committee on Reducing Drug Demand.

(b) This section does not prohibit the agency from participating in the advisory committee specified under Subsection (a).

SECTION 2. Section 535.051(b), Government Code, is amended to read as follows:

(b) The chief administrative officer of each of the following state agencies, in consultation with the governor, shall designate one employee from the agency to serve as a liaison for faith- and community-based organizations:

- (1) the Office of Rural Community Affairs;
- (2) the Texas Commission on Environmental Quality;
- (3) the Texas Department of Criminal Justice;
- (4) the Texas Department of Housing and Community Affairs;
- (5) ~~the Texas Education Agency;~~
- ~~[(6)]~~ the Texas Juvenile Probation Commission;
- ~~[(7)]~~ the Texas Veterans Commission;
- ~~[(8)]~~ the Texas Workforce Commission;
- ~~[(9)]~~ the Texas Youth Commission; and
- ~~[(10)]~~ other state agencies as determined by the governor.

SECTION 3. Section 772.011(b), Government Code, is amended to read as follows:

(b) The work group is composed of the heads of the following agencies or their designees:

- (1) the Texas Department of Rural Affairs;
- (2) the Texas Department of Housing and Community Affairs;
- (3) the Texas Water Development Board;
- (4) the Texas Department of Transportation;
- (5) the Texas Commission on Environmental Quality;
- (6) the Texas Workforce Commission;
- (7) the Department of State Health Services;
- (8) the Health and Human Services Commission;
- (9) the General Land Office;
- (10) ~~the Texas Education Agency;~~
- ~~[(11)]~~ the Texas Economic Development and Tourism Office;
- ~~[(12)]~~ the Office of State-Federal Relations;
- ~~[(13)]~~ the Texas Higher Education Coordinating Board;
- ~~[(14)]~~ the attorney general's office;
- ~~[(15)]~~ the secretary of state's office;

(15) [~~(16)~~] the Department of Public Safety; and

(16) [~~(17)~~] the Railroad Commission of Texas.

SECTION 4. Section 81.010(c), Health and Safety Code, is amended to read as follows:

(c) The council consists of one representative from each of the following agencies appointed by the executive director or commissioner of each agency:

- (1) the Department of State Health Services;
- (2) the Department of Aging and Disability Services;
- (3) the Department of Assistive and Rehabilitative Services;
- (4) the Department of Family and Protective Services;
- (5) the Texas Youth Commission;
- (6) the Texas Department of Criminal Justice;
- (7) the Texas Juvenile Probation Commission;
- (8) [~~the Texas Education Agency;~~
- (9) the Texas Medical Board;
- (9) [~~(10)~~] the Texas Board of Nursing;
- (10) [~~(11)~~] the State Board of Dental Examiners;
- (11) [~~(12)~~] the Health and Human Services Commission;
- (12) [~~(13)~~] the Texas Workforce Commission; and
- (13) [~~(14)~~] the Texas Higher Education Coordinating Board.

SECTION 5. Section 93.002(a), Health and Safety Code, is amended to read as follows:

(a) The Council on Cardiovascular Disease and Stroke is composed of:

- (1) 11 public members appointed by the governor, with the advice and consent of the senate, as follows:
 - (A) a licensed physician with a specialization in cardiology;
 - (B) a licensed physician with a specialization in neurology to treat stroke;
 - (C) a licensed physician employed in a primary care setting;
 - (D) a registered nurse with a specialization in quality improvement practices for cardiovascular disease and stroke;
 - (E) a registered and licensed dietitian;
 - (F) two persons with experience and training in public health policy, research, or practice;
 - (G) two consumer members, with special consideration given to persons actively participating in the Texas affiliates of the American Heart Association or American Stroke Association, managed care, or hospital or rehabilitation settings; and
 - (H) two members from the general public that have or care for persons with cardiovascular disease or stroke; and
- (2) one nonvoting member representing each of the state agencies that oversee:
 - (A) health services;
 - (B) [~~education;~~
 - (C) assistive and rehabilitative services; and
 - (C) [~~(D)~~] aging and disability services.

SECTION 6. Section 103.002(a), Health and Safety Code, is amended to read as follows:

(a) The Texas Diabetes Council is composed of 11 citizen members appointed from the public and one representative each from the department, ~~[the Texas Education Agency,]~~ the Health and Human Services Commission ~~[Texas Department of Human Services]~~, and the Department of Assistive and Rehabilitative Services ~~[Texas Commission for the Blind, and the Texas Rehabilitation Commission].~~

SECTION 7. Sections 103.017(a) and (c), Health and Safety Code, are amended to read as follows:

(a) The department, ~~the Department of Assistive and Rehabilitative Services [Texas Commission for the Blind, the Texas Rehabilitation Commission],~~ and the Health and Human Services Commission ~~[Texas Department of Human Services, and the Texas Education Agency]~~ shall work with the council to jointly develop, produce, and implement a general public awareness strategy focusing on diabetes, its complications, and techniques for achieving good management. Each agency shall pay for the costs of producing and disseminating information on diabetes to clients served by that agency.

(c) The department, ~~the Department of Assistive and Rehabilitative Services [Texas Commission for the Blind, the Texas Rehabilitation Commission],~~ and the Health and Human Services Commission ~~[Texas Department of Human Services, and the Texas Education Agency]~~ may jointly develop and implement a statewide plan for conducting regional training sessions for public and private service providers, including institutional health care providers, who have routine contact with persons with diabetes.

SECTION 8. Sections 614.002(a) and (e), Health and Safety Code, are amended to read as follows:

(a) The Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments is composed of 29 ~~[34]~~ members.

(e) The executive head of each of the following agencies, divisions of agencies, or associations, or that person's designated representative, shall serve as a member of the committee:

(1) the correctional institutions division of the Texas Department of Criminal Justice;

(2) the Department of State Health Services;

(3) the parole division of the Texas Department of Criminal Justice;

(4) the community justice assistance division of the Texas Department of Criminal Justice;

(5) the Texas Juvenile Probation Commission;

(6) the Texas Youth Commission;

(7) the Department of Assistive and Rehabilitative Services;

(8) ~~[the Texas Education Agency;~~

~~(9)]~~ the Correctional Managed Health Care Committee;

(9) ~~(40)~~ the Mental Health Association in Texas;

(10) ~~(11)~~ the Board of Pardons and Paroles;

- (11) ~~[(12)]~~ the Commission on Law Enforcement Officer Standards and Education;
- (12) ~~[(13)]~~ the Texas Council of Community Mental Health and Mental Retardation Centers;
- (13) ~~[(14)]~~ the Commission on Jail Standards;
- (14) ~~[(15)]~~ the Texas Council for Developmental Disabilities;
- (15) ~~[(16)]~~ the Texas Association for Retarded Citizens;
- (16) ~~[(17)]~~ the National Alliance for the Mentally Ill of Texas;
- (17) ~~[(18)]~~ the Parent Association for the Retarded of Texas, Inc.;
- (18) ~~[(19)]~~ the Health and Human Services Commission; and
- (19) ~~[(20)]~~ the Department of Aging and Disability Services.

SECTION 9. Section 121.0015(b), Human Resources Code, is amended to read as follows:

(b) The work group is composed of a representative of each health and human services agency designated by the executive commissioner of the Health and Human Services Commission. The commissioner of each designated agency shall appoint the representative for that agency ~~the:~~

~~[(1) Texas Education Agency, appointed by the commissioner of education;~~

~~[(2) Texas Commission for the Blind, appointed by the commissioner of that agency;~~

~~[(3) Texas Department of Mental Health and Mental Retardation, appointed by the commissioner of mental health and mental retardation;~~

~~[(4) Texas Rehabilitation Commission, appointed by the commissioner of that agency; and~~

~~[(5) Texas Commission for the Deaf and Hard of Hearing, appointed by the executive director of that agency].~~

SECTION 10. Section 1802.102(a), Occupations Code, is amended to read as follows:

(a) The advisory board consists of six ~~[seven]~~ members appointed as follows:

(1) three members who are licensed auctioneers appointed by the presiding officer of the commission, with the commission's approval;

(2) the executive director of the Texas Economic Development and Tourism Office or the director's designee; and

~~(3) [the commissioner of education or the commissioner's designee; and~~

~~[(4)] two public members.~~

SECTION 11. 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.

**HB 1334 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Allen called up with senate amendments for consideration at this time,

HB 1334, A bill to be entitled An Act relating to the effect of a delay by the State Board for Educator Certification in renewing an educator's certification.

Representative Allen moved to concur in the senate amendments to **HB 1334**.

The motion to concur in the senate amendments to **HB 1334** prevailed by (Record 1467): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Bernan; 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; 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; Lucio; Lyne; 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; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Coleman; Madden; Schwertner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1467. I intended to vote no.

Kolkhorst

When Record No. 1467 was taken, my vote failed to register. I would have voted yes.

Schwertner

Senate Committee Substitute

CSHB 1334, A bill to be entitled An Act relating to the effect of a delay by the State Board for Educator Certification in renewing an educator's certification.

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

SECTION 1. Section 21.0031, Education Code, is amended by adding Subsection (f) to read as follows:

(f) For purposes of this section, a certificate or permit is not considered to have expired if:

(1) the employee has completed the requirements for renewal of the certificate or permit;

(2) the employee submitted the request for renewal prior to the expiration date; and

(3) the date the certificate or permit would have expired is before the date the State Board for Educator Certification takes action to approve the renewal of the certificate or permit.

SECTION 2. 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.

HB 1821 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative R. Anderson called up with senate amendments for consideration at this time,

HB 1821, A bill to be entitled An Act relating to the delivery of subdivision information by a property owners' association to purchasers.

Representative R. Anderson moved to concur in the senate amendments to **HB 1821**.

The motion to concur in the senate amendments to **HB 1821** prevailed by (Record 1468): 139 Yeas, 4 Nays, 2 Present, not voting.

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

Nays — Hochberg; Kolkhorst; Nash; Sheffield.

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

Absent, Excused — Anchia; Strama.

Absent — Allen; Coleman; Gonzalez.

STATEMENT OF VOTE

I was shown voting no on Record No. 1468. I intended to vote yes.

Nash

Senate Committee Substitute

CSHB 1821, A bill to be entitled An Act relating to certain information or guidelines provided by or concerning a property owners' association or concerning subdivisions that are subject to restrictive covenants.

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

SECTION 1. Section 5.012, Property Code, is amended by amending Subsection (a) and adding Subsections (a-1), (f), and (g) to read as follows:

(a) A seller of residential real property that is subject to membership in a property owners' association and that comprises not more than one dwelling unit located in this state shall give to the purchaser of the property a written notice that reads substantially similar to the following:

NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION
 CONCERNING THE PROPERTY AT (street address) (name of residential community)

As a purchaser of property in the residential community in which this property is located, you are obligated to be a member of a property owners' association. Restrictive covenants governing the use and occupancy of the property and all [a] dedicatory instruments [instrument] governing the establishment, maintenance, or [and] operation of this residential community have been or will be recorded in the Real Property Records of the county in which the property is located. Copies of the restrictive covenants and dedicatory instruments [instrument] may be obtained from the county clerk.

You are obligated to pay assessments to the property owners' association. The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's [a] lien on and the foreclosure of your property.

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

Date: _____

 Signature of Purchaser

(a-1) The second paragraph of the notice prescribed by Subsection (a) must be in bold print and underlined.

(f) On the purchaser's request for a resale certificate from the property owners' association or the association's agent, the association or its agent shall promptly deliver a copy of the most recent resale certificate issued for the property under Chapter 207 so long as the resale certificate was prepared not earlier than the 60th day before the date the resale certificate is delivered to the purchaser and reflects any special assessments approved before and due after the resale certificate is delivered. If a resale certificate that meets the requirements of this subsection has not been issued for the property, the seller shall request the association or its agent to issue a resale certificate under Chapter 207, and the association or its agent shall promptly prepare and deliver a copy of the resale certificate to the purchaser.

(g) The purchaser shall pay the fee to the property owners' association or its agent for issuing the resale certificate unless otherwise agreed by the purchaser and seller of the property. The property owners' association may require payment before beginning the process of providing a resale certificate requested under Chapter 207 but may not process a payment for a resale certificate until the certificate is available for delivery. The association may not charge a fee if the certificate is not provided in the time prescribed by Section 207.003(a).

SECTION 2. Subdivision (1), Section 202.001, Property Code, is amended to read as follows:

(1) "Dedictory instrument" means each document governing ~~[instrument covering]~~ the establishment, maintenance, or ~~[and]~~ operation of a residential subdivision, planned unit development, condominium or townhouse regime, or any similar planned development. The term includes a declaration or similar instrument subjecting real property to:

(A) restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association;

(B)~~], to~~ properly adopted rules and regulations of the property owners' association; or

(C)~~], or to~~ all lawful amendments to the covenants, bylaws, instruments, rules, or regulations.

SECTION 3. Section 202.006, Property Code, is amended to read as follows:

Sec. 202.006. PUBLIC RECORDS. (a) A property owners' association shall file all ~~the~~ dedictory instruments ~~[instrument]~~ in the real property records of each county in which the property to which the dedictory instruments relate ~~[instrument relates]~~ is located.

(b) A dedictory instrument has no effect until the instrument is filed in accordance with this section.

SECTION 4. Section 207.003, Property Code, is amended by amending Subsections (a), (b), and (f) and adding Subsections (a-1) and (c-1) to read as follows:

(a) Not later than the 10th business day after the date a written request for subdivision information is received from an owner or ~~the~~ owner's agent, a purchaser of property in a subdivision or the purchaser's agent, or a title insurance company or its agent acting on behalf of the owner or purchaser and the

evidence of the requestor's authority to order a resale certificate under Subsection (a-1) is received and verified, the property owners' association shall deliver to the owner or the[-] owner's agent, the purchaser or the purchaser's agent, or the title insurance company or its agent:

(1) a current copy of the restrictions applying to the subdivision;

(2) a current copy of the bylaws and rules of the property owners' association; and

(3) a resale certificate prepared not earlier than the 60th day before the date the certificate is delivered that complies with Subsection (b).

(a-1) For a request from a purchaser of property in a subdivision or the purchaser's agent, the property owners' association may require the purchaser or purchaser's agent to provide to the association, before the association begins the process of preparing or delivers the items listed in Subsection (a), reasonable evidence that the purchaser has a contractual or other right to acquire property in the subdivision.

(b) A resale certificate under Subsection (a) must contain:

(1) a statement of any right of first refusal, other than a right of first refusal that is prohibited by statute, and any [or] other restraint contained in the restrictions or restrictive covenants that restricts the owner's right to transfer the owner's property;

(2) the frequency and amount of any regular assessments;

(3) the amount and purpose of any special assessment that has been approved before and is due after [the date] the resale certificate is delivered [prepared];

(4) the total of all amounts due and unpaid to the property owners' association that are attributable to the owner's property;

(5) capital expenditures, if any, approved by the property owners' association for the property owners' association's current fiscal year;

(6) the amount of reserves, if any, for capital expenditures;

(7) the property owners' association's current operating budget and balance sheet;

(8) the total of any unsatisfied judgments against the property owners' association;

(9) the style and cause number of any pending lawsuit in which the property owners' association is a party, other than a lawsuit relating to unpaid ad valorem taxes of an individual member of the association [defendant];

(10) a copy of a certificate of insurance showing the property owners' association's property and liability insurance relating to the common areas and common facilities;

(11) a description of any conditions on the owner's property that the property owners' association board has actual knowledge are in violation of the restrictions applying to the subdivision or the bylaws or rules of the property owners' association;

(12) a summary or copy of notices received by the property owners' association from any governmental authority regarding health or housing code violations existing on the preparation date of the certificate relating to the owner's property or any common areas or common facilities owned or leased by the property owners' association;

(13) the amount of any administrative transfer fee charged by the property owners' association for a change of ownership of property in the subdivision;

(14) the name, mailing address, and telephone number of the property owners' association's managing agent, if any; ~~and~~

(15) a statement indicating whether the restrictions allow foreclosure of a property owners' association's lien on the owner's property for failure to pay assessments; and

(16) a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee.

(c-1) The property owners' association may require payment before beginning the process of providing a resale certificate but may not process a payment for a resale certificate until the certificate is available for delivery. The association may not charge a fee if the certificate is not provided in the time prescribed by Subsection (a).

(f) Not later than the seventh business day after the date a written request for an update of ~~to~~ a resale certificate delivered under Subsection (a) is received from an owner, owner's agent, or title insurance company or its agent acting on behalf of the owner, the property owners' association shall deliver to the owner, owner's agent, or title insurance company or its agent an updated resale certificate that contains the following information:

(1) if a right of first refusal or other restraint on sale is contained in the restrictions, a statement of whether the property owners' association waives the restraint on sale;

(2) the status of any unpaid special assessments, dues, or other payments attributable to the owner's property; and

(3) any changes to the information provided in the resale certificate issued under Subsection (a).

SECTION 5. Chapter 207, Property Code, is amended by adding Section 207.006 to read as follows:

Sec. 207.006. ONLINE SUBDIVISION INFORMATION REQUIRED. A property owners' association shall make dedicatory instruments relating to the association or subdivision and filed in the county deed records available on a website if the association has, or a management company on behalf of the association maintains, a publicly accessible website.

SECTION 6. Section 209.003, Property Code, is amended by adding Subsection (e) to read as follows:

(e) Section 209.0062 does not apply to a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines.

SECTION 7. Chapter 209, Property Code, is amended by adding Section 209.0062 to read as follows:

Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN ASSESSMENTS. (a) A property owners' association shall file the association's alternative payment schedule guidelines adopted under this section in the real property records of each county in which the subdivision is located.

(b) A property owners' association composed of more than 14 lots shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties. For purposes of this section, monetary penalties do not include reasonable costs associated with administering the payment plan or interest.

(c) The minimum term for a payment plan offered by a property owners' association is three months.

(d) A property owners' association is not required to allow a payment plan for any amount that extends more than 18 months from the date of the owner's request for a payment plan or to enter into a payment plan with an owner who failed to honor the terms of a previous payment plan during the two years following the owner's default under the previous payment plan.

(e) A property owners' association's failure to file as required by this section the association's guidelines in the real property records of each county in which the subdivision is located does not prohibit a property owner from receiving an alternative payment schedule by which the owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties, as defined by Subsection (b).

SECTION 8. (a) Section 5.012, Property Code, as amended by this Act, applies only to a sale of property that occurs on or after the effective date of this Act. For the purposes of this subsection, a sale of property occurs before the effective date of this Act if the executory contract binding the purchaser to purchase the property is executed before that date. A sale of property that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) Section 202.006, Property Code, as amended by this Act, applies to a provision in a dedicatory instrument or a restrictive covenant enacted before, on, or after the effective date of this Act, except that any action taken before the effective date of this Act based on an unfiled dedicatory instrument is not invalidated by Section 202.006, Property Code, as amended by this Act.

(c) Section 207.003, Property Code, as amended by this Act, applies only to a request for information received by a property owners' association on or after the effective date of this Act. A request for information received by a property

owners' association 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.

(d) Section 209.0062, Property Code, as added by this Act, applies only to an assessment or other debt that becomes due on or after the effective date of this Act. An assessment or other debt that becomes due 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.

SECTION 9. Not later than January 1, 2012, each property owners' association shall present for recording with the county clerk as prescribed by Section 202.006, Property Code, as amended by this Act, each dedicatory instrument governing the association that has not been previously recorded in the real property records of the county.

SECTION 10. This Act takes effect January 1, 2012.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1821** (senate committee printing) as follows:

(1) In SECTION 7 of the bill, in added Section 209.0062(d), Property Code (page 4, line 32), strike "is not required to" and substitute "may not".

(2) In SECTION 7 of the bill, in added Section 209.0062(d), Property Code (page 4, line 34), strike "plan or" and substitute "plan. The association is not required".

HB 2490 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Solomons called up with senate amendments for consideration at this time,

HB 2490, A bill to be entitled An Act relating to the regulation of certain metal dealers; providing criminal penalties.

Representative Solomons moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2490**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2490**: Solomons, chair; Aliseda, Chisum, Legler, and W. Smith.

HB 3324 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative McClendon called up with senate amendments for consideration at this time,

HB 3324, A bill to be entitled An Act relating to the operations and monitoring of fusion centers in this state.

Representative McClendon moved to concur in the senate amendments to **HB 3324**.

The motion to concur in the senate amendments to **HB 3324** prevailed by (Record 1469): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycok; 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; 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; Lucio; 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; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Coleman; Schwertner.

STATEMENT OF VOTE

When Record No. 1469 was taken, my vote failed to register. I would have voted yes.

Schwertner

Senate Committee Substitute

CSHB 3324, A bill to be entitled An Act relating to the operations and monitoring of fusion centers in this state.

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

SECTION 1. Section 421.001, Government Code, is amended by adding Subdivisions (2-a), (4), and (5) to read as follows:

(2-a) "Fusion center" means a state or regional multidisciplinary collaborative effort of two or more agencies that combine resources, expertise, and intelligence and other information with the goal of maximizing the ability of those agencies to detect, prevent, and respond to criminal activities or to otherwise engage in homeland security activities.

(4) "Intelligence" means the product of systematic gathering, evaluation, and synthesis of raw data on individuals or activities suspected of being, or known to be, criminal in nature.

(5) "Recognized fusion center" means a fusion center operating in this state that has been recognized by the director of Texas Homeland Security as meeting the fusion center mission identified in the governor's homeland security strategy and in the Department of Homeland Security State, Local, and Regional Fusion Center Initiative established under 6 U.S.C. Section 124h.

SECTION 2. Section 421.002(b), Government Code, is amended to read as follows:

(b) The governor's homeland security strategy shall coordinate homeland security activities among and between local, state, and federal agencies and the private sector and must include specific plans for:

- (1) intelligence gathering and analysis;
- (2) information sharing;
- (3) reducing the state's vulnerability to homeland security emergencies;
- (4) protecting critical infrastructure;
- (5) protecting the state's international border, ports, and airports;
- (6) detecting, deterring, and defending against terrorism, including cyber-terrorism and biological, chemical, and nuclear terrorism;
- (7) positioning equipment, technology, and personnel to improve the state's ability to respond to a homeland security emergency;
- (8) directing the Texas Fusion [~~Infrastructure Protection Communications~~] Center and giving the center certain forms of authority to implement the governor's homeland security strategy; and
- (9) using technological resources to:
 - (A) facilitate the interoperability of government technological resources, including data, networks, and applications;
 - (B) coordinate the warning and alert systems of state and local agencies;
 - (C) incorporate multidisciplinary approaches to homeland security; and
 - (D) improve the security of governmental and private sector information technology and information resources.

SECTION 3. Section 421.071, Government Code, is amended to read as follows:

Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local agency that performs a homeland security activity or a nongovernmental entity that contracts with a state or local agency to perform a homeland security activity shall cooperate with and assist the office of the governor, the Homeland Security Council, the Texas Fusion [~~Infrastructure Protection Communications~~] Center, and the National Infrastructure Protection Center in the performance of their duties under this chapter and other state or federal law.

SECTION 4. The heading to Subchapter E, Chapter 421, Government Code, is amended to read as follows:

SUBCHAPTER E. TEXAS FUSION CENTER AND OTHER FUSION
CENTERS OPERATING IN THIS STATE

SECTION 5. Sections 421.082(a) and (b), Government Code, are amended to read as follows:

(a) The Texas Fusion Center [center] shall serve as the state's primary entity for the planning, coordination, and integration of government communications capabilities to help implement the governor's homeland security strategy and ensure an effective response in the event of a homeland security emergency.

(b) The center's duties include:

(1) promotion of emergency preparedness;

(2) receipt and analysis of information, assessment of threats, and issuance of public warnings related to homeland security emergencies; [and]

(3) authorization and facilitation of cooperative efforts related to emergency response and recovery efforts in the event of a homeland security emergency; and

(4) making recommendations to the Department of Public Safety regarding the monitoring of fusion centers operating in this state and regarding the functions of the Texas Fusion Center Policy Council created under Section 421.083.

SECTION 6. Subchapter E, Chapter 421, Government Code, is amended by adding Sections 421.083, 421.084, 421.085, and 421.086 to read as follows:

Sec. 421.083. TEXAS FUSION CENTER POLICY COUNCIL. (a) The Department of Public Safety shall create the Texas Fusion Center Policy Council and the bylaws for the council to assist the department in monitoring fusion center activities in this state.

(b) The policy council is composed of one executive representative from each recognized fusion center operating in this state.

(c) The policy council shall:

(1) develop and disseminate strategies to:

(A) facilitate the implementation of applicable federal standards and programs on a statewide basis by each fusion center operating in this state;

(B) expand and enhance the statewide intelligence capacity to reduce the threat of terrorism and criminal enterprises; and

(C) continuously review critical issues pertaining to homeland security activities;

(2) establish a privacy advisory group, with at least one member who is a privacy advocate, to advise the policy council and to meet at the direction of the policy council; and

(3) recommend best practices for each fusion center operating in this state, including:

(A) best practices to ensure that the center adheres to 28 C.F.R. Part 23 and any other federal or state law designed to protect privacy and the other legal rights of individuals; and

(B) best practices for the smooth exchange of information among all fusion centers operating in this state.

Sec. 421.084. FUSION CENTERS OPERATING IN THIS STATE: RULES AND MONITORING. (a) After considering the recommendations of the Texas Fusion Center under Section 421.082(b)(4) and the Texas Fusion

Center Policy Council under Section 421.083(c)(3), the Department of Public Safety shall adopt rules to govern the operations of fusion centers in this state, including guidelines to:

(1) for any fusion center operating in this state, establish a common concept of operations to provide clear baseline standards for each aspect of the center's activities;

(2) inform and define the monitoring of those activities by the Texas Fusion Center Policy Council; and

(3) ensure that any fusion center operating in this state adheres to federal and state laws designed to protect privacy and the other legal rights of individuals, including 28 C.F.R. Part 23 and any other law that provides clear standards for the treatment of intelligence or for the collection and storage of noncriminal information, personally identifiable information, or protected health information.

(b) The Department of Public Safety may require that a fusion center audited under applicable department rules pay any costs incurred by the policy council in relation to the audit.

(c) A member of the policy council may not receive compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660 and the General Appropriations Act.

(d) A fusion center may not receive state grant money if the center adopts a rule, order, ordinance, or policy under which the center fails or refuses to comply with rules adopted by the Department of Public Safety under Subsection (a), beginning with the first state fiscal year occurring after the center adopts the rule, order, ordinance, or policy.

Sec. 421.085. PRIVACY POLICY REQUIRED. (a) Each fusion center operating in this state shall adopt a privacy policy providing at a minimum that, with respect to an individual or organization, the fusion center:

(1) will not seek, collect, or retain information that is based solely on any of the following factors, as applicable to that individual or organization:

(A) religious, political, or social views or activities;

(B) participation in a particular organization or event; or

(C) race, ethnicity, citizenship, place of origin, age, disability, gender, or sexual orientation; and

(2) will take steps to ensure that any agency that submits information to the fusion center does not submit information based solely on a factor described by Subdivision (1).

(b) In a criminal investigation, a factor described by Subsection (a)(1) may not alone give rise to reasonable suspicion. However, a factor described by Subsection (a)(1) may be used in connection with a specific description of a suspect in the investigation.

Sec. 421.086. REPORT. The Texas Fusion Center Policy Council annually shall submit to the governor and to each house of the legislature a report that contains, with respect to the preceding year:

(1) the council's progress in developing and coordinating the statewide fusion effort and intelligence network described by the governor's homeland security strategy;

(2) the progress made by fusion centers operating in this state in meeting the fusion center guidelines developed under the Department of Homeland Security State, Local, and Regional Fusion Center Initiative established under 6 U.S.C. Section 124h; and

(3) a summary of fusion center audits or reviews conducted under applicable rules adopted by the Department of Public Safety.

SECTION 7. 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.

**HB 2560 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Sheffield called up with senate amendments for consideration at this time,

HB 2560, A bill to be entitled An Act relating to transporting a foster child in a vehicle where a handgun is in the possession of a foster parent licensed to carry a concealed handgun.

Representative Sheffield moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2560**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2560**: Sheffield, chair; Fletcher, Lavender, Legler, and Lozano.

**HB 3161 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hancock called up with senate amendments for consideration at this time,

HB 3161, A bill to be entitled An Act relating to limited purpose subsidiary life insurance companies.

Representative Hancock moved to concur in the senate amendments to **HB 3161**.

The motion to concur in the senate amendments to **HB 3161** prevailed by (Record 1470): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; 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; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Coleman; Driver; Menendez; Schwertner.

STATEMENT OF VOTE

When Record No. 1470 was taken, my vote failed to register. I would have voted yes.

Schwertner

Senate Committee Substitute

CSHB 3161, A bill to be entitled An Act relating to limited purpose subsidiary life insurance companies.

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

SECTION 1. Chapter 841, Insurance Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. LIMITED PURPOSE SUBSIDIARY LIFE INSURANCE COMPANIES

Sec. 841.401. **PURPOSE.** The purpose of this subchapter is to authorize the establishment of domestic limited purpose subsidiary life insurance companies to enable those companies to support excess reserves for certain life insurance policies.

Sec. 841.402. **DEFINITIONS.** In this subchapter:

(1) "Affiliated company" means:

(A) domestic life insurance companies that are directly or indirectly wholly owned subsidiaries of the same holding company; or

(B) controlled persons.

(2) "Appointed actuary" means the actuary who is appointed by a limited purpose subsidiary life insurance company to render the actuarial opinion required by Subchapter B, Chapter 425.

(3) "Ceding insurer" means a company that cedes risk to a limited purpose subsidiary life insurance company under a reinsurance contract and that is:

(A) a domestic life insurance company that is the parent of a limited purpose subsidiary life insurance company; or

(B) an affiliated company of a limited purpose subsidiary life insurance company.

(4) "Controlled person" means a person organized or authorized to do business under the laws of this state that is controlled directly or indirectly by a holding company.

(5) "Excess reserves" means the amount of statutory reserves determined to be redundant by the appointed actuary for life insurance policies whose reserves are calculated under 28 T.A.C. Chapter 3, Subchapter EE. Excess reserves may not be an amount greater than the difference between the reserves calculated using 28 T.A.C. Chapter 3, Subchapter EE, and the reserves calculated using generally accepted accounting principles.

(6) "Guarantor" means a holding company or an affiliated company under Section 841.417 of the limited purpose subsidiary life insurance company that is a party to a guaranty.

(7) "Guaranty" means a commissioner-approved agreement by a guarantor with sufficient equity and financial strength to pay, during the life of the guaranty, an amount equal to the specified obligations of a limited purpose subsidiary life insurance company, less the equity of all ceding insurers that are subsidiaries of the guarantor, to satisfy the agreement.

(8) "Holding company" means a person that directly or indirectly controls an insurer.

(9) "Insurer" means a domestic life insurance company organized under this chapter.

(10) "Letter of credit" means a clean, unconditional, irrevocable letter of credit issued or confirmed by a qualified United States financial institution, as defined by Section 492.104(b)(2)(C).

(11) "Limited purpose subsidiary life insurance company" means a limited purpose subsidiary life insurance company organized under this subchapter:

(A) that is wholly owned by a life insurance company or an affiliated company; and

(B) to which the commissioner issues a certificate of authority under this chapter.

(12) "Material transaction" means a transaction or series of transactions involving amounts equal to or exceeding three percent of a limited purpose subsidiary life insurance company's admitted assets.

(13) "Organizational document" means a limited purpose subsidiary life insurance company's articles of incorporation and the company's bylaws.

(14) "Organizing company" means the company that organizes a limited purpose subsidiary life insurance company under this subchapter.

(15) "Parent" means a person that directly or indirectly controls through one or more intermediaries, or wholly owns, a limited purpose subsidiary life insurance company.

(16) "Person" has the meaning assigned by Section 823.002.

(17) "Reinsurance contract" means a contract between a limited purpose subsidiary life insurance company and a ceding insurer under which the limited purpose subsidiary life insurance company agrees to provide reinsurance to the ceding insurer for certain risks.

(18) "Risk" means a risk associated with life insurance policies written on or after the effective date of this chapter by a ceding insurer, or assumed by a ceding insurer from an affiliated company under life insurance policies which were written on or after the effective date of this chapter, by the affiliated company and for which the ceding insurer calculates statutory reserves for those policies pursuant to 28 T.A.C. Chapter 3, Subchapter EE.

Sec. 841.403. ORGANIZATIONAL DOCUMENTS. (a) A wholly owned domestic insurer authorized to transact the business of insurance under this chapter or an affiliated company organized or authorized to conduct business under the laws of this state may organize a limited purpose subsidiary life insurance company under this subchapter.

(b) A limited purpose subsidiary life insurance company may reinsure risks of the organizing company and of an affiliated company.

(c) A limited purpose subsidiary life insurance company's organizational documents must:

(1) limit the company's authority to transact the business of insurance to reinsuring only the risks of a ceding insurer;

(2) provide that the limited purpose subsidiary life insurance company may not otherwise engage in the business of insurance; and

(3) provide that the limited purpose subsidiary life insurance company must always be wholly owned by a domestic insurer authorized to transact the business of insurance under this chapter or by an affiliated company organized or authorized to do business under the laws of this state.

Sec. 841.404. CERTIFICATE OF AUTHORITY REQUIRED. A limited purpose subsidiary life insurance company may not engage in the business of reinsurance in this state unless the limited purpose subsidiary life insurance company obtains from the commissioner a certificate of authority under this subchapter.

Sec. 841.405. APPLICATION FOR CERTIFICATE OF AUTHORITY. To obtain a charter for a limited purpose subsidiary life insurance company, the incorporators of the company shall pay to the department a charter fee in an amount determined under Chapter 202 and file with the department:

(1) an application for charter on the form prescribed by, and containing the information prescribed by, the commissioner;

(2) the company's articles of incorporation;

(3) an affidavit made by the company's president, vice president, treasurer, or chief financial officer stating that:

(A) the minimum capital and surplus requirements of this subchapter are satisfied;

(B) the capital and surplus are the bona fide property of the company;

(C) the information in the articles of incorporation is true and correct;

(D) the proposed organization and operation of the limited purpose subsidiary life insurance company comply with all applicable provisions of this subchapter;

(E) the limited purpose subsidiary life insurance company's investment policy reflects and takes into account the liquidity of assets and the reasonable preservation, administration, and management of those assets with respect to the risks associated with the reinsurance contract; and

(F) any reinsurance contract and any arrangement for securing the limited purpose subsidiary life insurance company's obligations under the reinsurance contract, including any agreements or other documentation to implement the arrangement;

(4) a business plan that includes pro forma financial statement projections that demonstrate how the limited purpose subsidiary life insurance company will comply with Section 841.412;

(5) a copy of any proposed guaranty that demonstrates how compliance with Sections 841.412 and 841.417 will be achieved;

(6) an opinion of a qualified independent actuary acceptable to the commissioner that the methodology and assumptions used to set and discount reserves make good and sufficient provision for the risk assumed by the limited purpose subsidiary life insurance company, including significant stress tests on key assumptions; and

(7) any other statement or document required by the commissioner to evaluate the limited purpose subsidiary life insurance company's application for a certificate of authority.

Sec. 841.406. INVESTMENT OF CERTAIN SURPLUS BY ORGANIZING COMPANY. If the company that organizes a limited purpose subsidiary life insurance company is a domestic life insurance company, the organizing company may invest funds from the organizing company's surplus in the limited purpose subsidiary life insurance company.

Sec. 841.407. OFFICERS AND DIRECTORS. The officers and directors of a company that organizes a limited purpose subsidiary life insurance company may serve as officers and directors of the limited purpose subsidiary life insurance company.

Sec. 841.408. ISSUANCE OF CERTIFICATE OF AUTHORITY. (a) The commissioner may issue a certificate of authority to a limited purpose subsidiary life insurance company, authorizing the company to transact reinsurance business in this state as a limited purpose subsidiary life insurance company based on a finding that:

(1) the company's application meets the criteria contained in this subsection;

(2) the proposed plan of the limited purpose subsidiary life insurance company provides for viable operation of the company, including a determination by the commissioner that the limited purpose subsidiary life insurance company applicant has sufficiently strong financial support;

(3) the guaranties meet the requirements of Section 841.417;

(4) the terms of any reinsurance arrangement, including the reinsurance contract and related transactions, comply with this subchapter and all applicable insurance laws and rules;

(5) the proposed application and reinsurance arrangement is not hazardous to any ceding insurer; and

(6) the proposed application and reinsurance contract will always fund authorized investments that comply with Section 841.412, including statutory reserves for life insurance with invested assets at least equal to the amount of reserves required under generally accepted accounting principles.

(b) In conjunction with the issuance of a certificate of authority under this section, the commissioner may issue an order that includes any provisions, terms, and conditions regarding the organization, licensing, and operation of the limited purpose subsidiary life insurance company that the commissioner deems appropriate and that are not inconsistent with this chapter, including requesting from the company information to monitor the financial strength of guarantors and requiring the periodic reporting and monitoring of assets behind any guaranties issued.

Sec. 841.409. SCOPE OF CERTIFICATE OF AUTHORITY. (a) A limited purpose subsidiary life insurance company that has been issued a certificate of authority may reinsure only the risks of a ceding insurer. A limited purpose subsidiary life insurance company may not otherwise engage in the business of insurance.

(b) A limited purpose subsidiary life insurance company may purchase reinsurance to cede the risks assumed under a reinsurance contract.

(c) A limited purpose subsidiary life insurance company organized under this subchapter is considered to be licensed to transact the business of reinsurance for the purposes of Section 492.051, but may only reinsure risks of the company's affiliated companies.

(d) A limited purpose subsidiary life insurance company shall provide the commissioner with notice of any change in the company's business plan required by Section 841.405, including any material change in the methods used to comply with Section 841.413.

Sec. 841.410. CAPITAL AND SURPLUS. (a) The commissioner may not issue a certificate of authority to a limited purpose subsidiary life insurance company unless the company possesses and maintains unimpaired paid-in capital and surplus of not less than \$10 million.

(b) A limited purpose subsidiary life insurance company shall comply with the risk-based capital requirements adopted by the commissioner by rule.

(c) A limited purpose subsidiary life insurance company shall maintain risk-based capital in an amount that is at least equal to 300 percent of the authorized control level of risk-based capital adopted by the commissioner.

Sec. 841.411. FORECLOSURE ON COLLATERAL. A limited purpose subsidiary life insurance company shall immediately notify the commissioner of any action by a ceding insurer or any other person to foreclose on, or otherwise take possession of, collateral provided by the limited purpose subsidiary life insurance company to secure an obligation of the company.

Sec. 841.412. MINIMUM AUTHORIZED INVESTMENT REQUIREMENT AFTER CREDIT FOR REINSURANCE; LETTERS OF CREDIT; GUARANTIES. (a) A limited purpose subsidiary life insurance company shall hold investments authorized under Subchapters C and D, Chapter 425, exclusive of investments in affiliates, in an amount that at least equals the sum of:

- (1) the minimum capital and surplus requirements of Section 841.410;
- (2) the risk-based capital requirements adopted by the commissioner;

and

- (3) reserves calculated using generally accepted accounting principles.

(b) Subject to compliance with Subsection (a) and notwithstanding Chapter 425, a limited purpose subsidiary life insurance company may reduce the amount of the company's excess reserves on account of:

- (1) reinsurance that complies with Chapter 492;
- (2) a letter of credit that complies with Section 492.104(b)(2)(C); or
- (3) guaranties from a holding company or an affiliated company as

provided by Section 841.417.

(c) Notwithstanding Subsection (b), a limited purpose subsidiary life insurance company may hold guaranties from a holding company or an affiliated company as provided by Section 841.417 as an admitted asset with an offsetting increase in special surplus funds to support excess reserves only.

Sec. 841.413. PERMITTED REINSURANCE. (a) A limited purpose subsidiary life insurance company may only reinsure the risks of a ceding insurer under a reinsurance contract.

(b) Unless otherwise approved in advance by the commissioner, a limited purpose subsidiary life insurance company may not assume or retain exposure to reinsurance losses for the company's own account that are not funded by:

(1) premium and other amounts payable by the ceding insurer to the limited purpose subsidiary life insurance company under the reinsurance contract, or any return on the investment of the premiums or other amounts;

(2) letters of credit that qualify under Section 492.104(b)(2)(C); or

(3) guaranties of a holding company or an affiliated company as provided by Section 841.417.

(c) A limited purpose subsidiary life insurance company may cede risks assumed under a reinsurance contract to one or more reinsurers through the purchase of reinsurance, subject to the prior approval of the commissioner. The commissioner may approve a reinsurance contract under this subsection if the commissioner finds that:

- (1) the proposed reinsurance complies with Chapter 492;

(2) the proposed reinsurer has sufficient liquidity, admitted assets, and policyholder surplus to support the liabilities assumed under the reinsurance contract; and

(3) the proposed reinsurance contract would not result in a hazardous financial condition for the limited purpose subsidiary life insurance company.

(d) A limited purpose subsidiary life insurance company may enter into contracts and conduct other commercial activities related or incidental to, and necessary to fulfill the purposes of, a reinsurance contract.

Sec. 841.414. REPORTS ON RESERVES AND RISK-BASED CAPITAL.

(a) A limited purpose subsidiary life insurance company annually shall file an opinion of the appointed actuary acceptable to the commissioner concerning the methods and assumptions used to set reserves. The opinion must demonstrate that the limited purpose subsidiary life insurance company holds risk-based capital and invested admitted assets that are at least equal to reserves specified by generally accepted accounting principles.

(b) The commissioner may reject the opinion of the appointed actuary if the commissioner determines that accepting the opinion would be hazardous to policyholders, enrollees, creditors, or the public.

(c) A limited purpose subsidiary life insurance company annually shall file with the commissioner a report of the limited purpose subsidiary life insurance company's risk-based capital level as of the end of the preceding calendar year containing the information required by the risk-based capital instructions adopted by the commissioner.

Sec. 841.415. OTHER LAWS NOT APPLICABLE. The deposit requirements in Subchapter H do not apply to a limited purpose subsidiary life insurance company.

Sec. 841.416. APPLICABILITY OF OTHER LAW. Except as specifically provided by law, all provisions of this code apply to a limited purpose subsidiary life insurance company formed under this subchapter.

Sec. 841.417. GUARANTY REQUIREMENTS. (a) A guaranty may not be used to comply with this chapter without the prior written approval of the commissioner.

(b) Before approving a guaranty, the commissioner must find that:

(1) the guarantor has capital and surplus of \$100 million, exclusive of investments in subsidiaries and affiliates;

(2) the guarantor has admitted assets backing capital and surplus in an amount sufficient to fulfill the guaranty, and the sufficiency on an ongoing basis is demonstrated to the satisfaction of the commissioner;

(3) the guarantor and all affiliates are in good standing with the department;

(4) the guarantor has provided all information requested by the commissioner; and

(5) the guarantor is otherwise acceptable to the commissioner.

(c) Notwithstanding Subsection (b), the commissioner may allow, subject to the commissioner's prior approval, an affiliated company of the holding company to serve as guarantor. The commissioner may approve an affiliated company as a

guarantor on a finding that the affiliated company possesses the independent financial means to discharge the guaranty using the affiliated company's own financial resources.

Sec. 841.418. SUNSET PROVISION. This subchapter is valid for business sold only until January 1 of the year in which principle-based reserve requirements become operative in Texas under the adoption of the National Association of Insurance Commissioners' 2009 amendments to the NAIC Model Standard Valuation Law. After that January 1, the limited purpose subsidiary life insurance company may not assume new risks of a ceding insurer relating to business sold after that date.

Sec. 841.419. CERTIFICATION OF ACTUARIAL OFFICER. (a) At the time a limited purpose subsidiary life insurance company files an application for a certificate of authority under this subchapter, and not later than March 1 of each year that a limited purpose subsidiary life insurance company is in operation and is ceded new business from a ceding insurer, a senior actuarial officer of each ceding insurer shall file with the commissioner a certification that the ceding insurer's transactions with the limited purpose subsidiary life insurance company are not being used to gain an unfair advantage in the pricing of the ceding insurer's products.

(b) A ceding insurer may not be deemed to have an unfair advantage if the pricing of the policies and contracts reinsured by the limited purpose subsidiary life insurance company reflects, at the time the policies and contracts were issued, a reasonable long-term estimate of the cost to the ceding insurer of an alternative third-party transaction, and uses current pricing assumptions.

(c) The ceding insurer shall keep documentation between examinations that sets forth the manner in which a senior actuarial officer arrived at the conclusions in the certification.

Sec. 841.420. ACCOUNTING AND FINANCIAL REPORTING. The commissioner shall prescribe accounting and financial reporting requirements with regard to the limited purpose subsidiary life insurance company and any insurer as defined by Section 841.402 that organizes a limited purpose subsidiary life insurance company.

SECTION 2. 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.

HB 1090 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gonzalez called up with senate amendments for consideration at this time,

HB 1090, A bill to be entitled An Act relating to the calculation of interest on certain ad valorem tax refunds.

Representative Gonzalez moved to concur in the senate amendments to **HB 1090**.

The motion to concur in the senate amendments to **HB 1090** prevailed by (Record 1471): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; 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; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Driver; Laubenberg; Miller, D.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1090** (senate committee printing) by striking SECTION 2 of the bill and substituting the following:

SECTION 2. The change in law made by this Act applies only to the rate of interest on a tax refund that is made following an appeal that is filed on or after the effective date of this Act. The rate of interest on a tax refund that is made following an appeal that is filed before the effective date of this Act is determined by the law in effect when the appeal is filed, and that law is continued in effect for that purpose.

HB 1568 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 1568, A bill to be entitled An Act relating to authority of the Harris County Hospital District and certain local governmental entities to appoint, contract for, or employ physicians.

Representative Coleman moved to concur in the senate amendments to **HB 1568**.

The motion to concur in the senate amendments to **HB 1568** prevailed by (Record 1472): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Craddock; 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; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Miller, S.

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

Absent, Excused — Anchia; Strama.

Absent — Cook; Madden.

Senate Committee Substitute

CSHB 1568, A bill to be entitled An Act relating to the authority of certain local governmental entities in certain populous counties to appoint, contract for, or employ physicians.

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

SECTION 1. Subchapter B, Chapter 281, Health and Safety Code, is amended by adding Section 281.0283 to read as follows:

Sec. 281.0283. HARRIS COUNTY HOSPITAL DISTRICT; EMPLOYMENT OF PHYSICIANS. (a) The board of the Harris County Hospital District may appoint, contract for, or employ physicians as the board considers necessary for the efficient operation of the district.

(b) The term of an employment contract entered into under this section may not exceed four years.

(c) This section may not be construed as authorizing the board of the Harris County Hospital District to supervise or control the practice of medicine, as prohibited by Subtitle B, Title 3, Occupations Code.

(d) The authority granted to the board of the Harris County Hospital District under Subsection (a) to employ physicians shall apply as necessary for the district to fulfill the district's statutory mandate to provide medical care for the indigent and needy residents of the district as provided by Section 281.046.

(e) The medical executive board of the Harris County Hospital District shall adopt, maintain, and enforce policies to ensure that a physician employed by the district exercises the physician's independent medical judgment in providing care to patients.

(f) The policies adopted by the medical executive board under this section must include:

(1) policies relating to:

(A) governance of the medical executive board;

(B) credentialing;

(C) quality assurance;

(D) utilization review;

(E) peer review;

(F) medical decision-making; and

(G) due process; and

(2) rules requiring the disclosure of financial conflicts of interest by a member of the medical executive board.

(g) The medical executive board and the board of the Harris County Hospital District shall jointly develop and implement a conflict management process to resolve any conflict between a policy adopted by the medical executive board under this section and a policy of the Harris County Hospital District.

(h) A member of the medical executive board who is a physician shall provide biennially to the chair of the medical executive board a signed, verified statement indicating that the board member:

(1) is licensed by the Texas Medical Board;

(2) will exercise independent medical judgment in all medical executive board matters, including matters relating to:

(A) credentialing;

(B) quality assurance;

(C) utilization review;

(D) peer review;

(E) medical decision-making; and

(F) due process;

(3) will exercise the board member's best efforts to ensure compliance with the policies that are adopted or established by the medical executive board; and

(4) will report immediately to the Texas Medical Board any action or event that the board member reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

(i) For all matters relating to the practice of medicine, each physician employed by the Harris County Hospital District shall ultimately report to the chair of the medical executive board for the district.

SECTION 2. Subchapter C, Chapter 351, Local Government Code, is amended by adding Section 351.045 to read as follows:

Sec. 351.045. HEALTH CARE SERVICES IN CERTAIN COUNTIES; EMPLOYMENT OF PHYSICIANS. (a) The commissioners court of a county with a population of 3.3 million or more may appoint, contract for, or employ physicians to provide health care services to inmates in the custody of the sheriff.

(b) This section may not be construed as authorizing the commissioners court to supervise or control the practice of medicine, as prohibited by Subtitle B, Title 3, Occupations Code.

SECTION 3. 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.

**HB 3275 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Coleman called up with senate amendments for consideration at this time,

HB 3275, A bill to be entitled An Act relating to the operation and governance of tax increment financing reinvestment zones.

Representative Coleman moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3275**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3275**: Coleman, chair; J. Davis, Y. Davis, Huberty, and Murphy.

**HB 2784 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Alonzo called up with senate amendments for consideration at this time,

HB 2784, A bill to be entitled An Act relating to the refund policy for courses and programs at career schools and colleges.

Representative Alonzo moved to concur in the senate amendments to **HB 2784**.

The motion to concur in the senate amendments to **HB 2784** prevailed by (Record 1473): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycok; 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; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; 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; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Coleman; Gallego.

Senate Committee Substitute

CSHB 2784, A bill to be entitled An Act relating to the refund policy for courses and programs at career schools and colleges.

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

SECTION 1. Sections 132.061(b), (f), and (g), Education Code, are amended to read as follows:

(b) Except as provided by Subsection (g), as a condition for granting certification each career school or college must maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student, after expiration of the 72-hour cancellation privilege, fails to enter a program in which the student is enrolled or withdraws or is discontinued from the program at any time prior to completion, and such policy must provide:

(1) refunds for resident programs and synchronous distance education courses or programs will be based on the period of enrollment computed on the basis of course or program time;

(2) the effective date of termination for refund purposes in residence programs and synchronous distance education courses or programs [~~career schools or colleges~~] will be the earliest of the following:

(A) the last date of attendance, if the student is terminated by the school or college;

(B) the date of receipt of written notice of withdrawal from the student; or

(C) 10 school days following the last date of attendance;

(3) if tuition and fees are collected in advance of entrance, and if, after expiration of the 72-hour cancellation privilege, the student does not enter the residence career school or college, not more than \$100 shall be retained by the school or college;

(4) for the student who enters a residence program or a synchronous distance education course and who [~~of not more than 12 months in length, terminates, or~~] withdraws or is otherwise terminated, the school or college may

retain not more than \$100 of any administrative [tuition and] fees charged and the minimum refund of the remaining tuition and fees will be the pro rata portion of tuition, fees, and other charges that the number of hours remaining in the portion of the course or program for which the student has been charged after the effective date of termination bears to the total number of hours in the portion of the course or program for which the student has been charged, except that a student may not collect a refund if the student has completed 75 percent or more of the total number of hours in the portion of the program for which the student has been charged on the effective date of termination[:

~~[(A) during the first week or one tenth of the program or course, whichever is less, 90 percent of the remaining tuition and fees;~~

~~[(B) after the first week or one tenth of the program or course, whichever is less, but within the first three weeks or one fifth of the program or course, whichever is less, 80 percent of the remaining tuition and fees;~~

~~[(C) after the first three weeks or one fifth of the program or course, whichever is less, but within the first quarter of the program or course, 75 percent of the remaining tuition and fees;~~

~~[(D) during the second quarter of the program or course, 50 percent of the remaining tuition and fees;~~

~~[(E) during the third quarter of the program or course, 10 percent of the remaining tuition and fees; or~~

~~[(F) during the last quarter of the program or course, the student may be considered obligated for the full tuition and fees];~~

~~(5) [for residence programs or synchronous distance education courses more than 12 months in length, the refund shall be applied to each 12 month period paid, or part thereof separately, and the student is entitled to a refund as provided by Subdivision (4);~~

~~[(6)] refunds of items of extra expense to the student, such as instructional supplies, books, student activities, laboratory fees, service charges, rentals, deposits, and all other such ancillary miscellaneous charges, where these items are separately stated and shown in the data furnished the student before enrollment, will be made in a reasonable manner acceptable to the commission;~~

~~(6) [(7)] refunds based on enrollment in residence and synchronous distance education courses or programs [schools or colleges] will be totally consummated within 60 days after the effective date of termination;~~

~~(7) [(8)] refunds for asynchronous distance education courses or programs will be computed on the basis of the number of lessons in the course or program;~~

~~(8) [(9)] the effective date of termination for refund purposes in asynchronous distance education courses or programs will be the earliest of the following:~~

~~(A) the date of notification to the student if the student is terminated;~~

~~(B) the date of receipt of written notice of withdrawal from the student; or~~

(C) the end of the third calendar month following the month in which the student's last lesson assignment was received unless notification has been received from the student that the student wishes to remain enrolled;

(9) [(40)] if tuition and fees are collected before any courses [~~lessons~~] for a program have been completed, and if, after expiration of the 72-hour cancellation privilege, the student fails to begin the program, not more than \$50 shall be retained by the school or college;

(10) [(11)] in cases of termination or withdrawal after the student has begun the asynchronous distance education course or program, the school or college may retain \$50 of tuition and fees, and the minimum refund policy must provide that the student will be refunded the pro rata portion of the remaining tuition, fees, and other charges that the number of courses [~~lessons~~] completed and serviced by the school or college bears to the total number of courses [~~lessons~~] in the program [~~course~~]; and

(11) [(12)] refunds based on enrollment in asynchronous distance education schools or colleges will be totally consummated within 60 days after the effective date of termination.

(f) A career school or college shall record a grade of "incomplete" for a student who withdraws during the last quarter of a course or program [~~but is not entitled to a refund under Subsection (b)(4)(F)~~] if the student requests the grade at the time the student withdraws and the student withdraws for an appropriate reason unrelated to the student's academic status. A student who receives a grade of incomplete may re-enroll in the program during the 12-month period following the date the student withdraws, pay the amount of tuition refunded to the student under Subsection (b), and complete those incomplete subjects [~~without payment of additional tuition~~].

(g) A program that is 40 hours or less of course time, or a seminar or workshop, is exempt from the 72-hour rule provided by Subsection (a). The career school or college shall maintain a policy for the refund of the unused portion of tuition, fees, and other charges in the event the student fails to enter the program or withdraws or is discontinued from the program at any time before completion of the program as provided by this section. The policy must provide that:

(1) refunds are based on the period of enrollment computed on the basis of course or program time;

(2) the effective date of termination for refund purposes is the earlier of:

(A) the last date of attendance; or

(B) the date the school or college receives written notice from the student that the student is withdrawing from the class; and

(3) the student will be refunded the pro rata portion of tuition, fees, and other charges that the number of hours [~~of course time~~] remaining in the portion of the [student's] program for which the student has been charged after the effective date of termination bears to the total number of hours in the portion of [of course time in] the program for which the student has been charged.

SECTION 2. (a) The change in law made by this Act to Section 132.061, Education Code, applies only to the refund policy of a career school or college to which a certificate of approval is granted or for which a certificate of approval is renewed on or after the date this Act takes effect.

(b) The refund policy of a career school or college to which a certificate of approval is granted or for which a certificate of approval is renewed before the date this Act takes effect is governed by the law in effect on the most recent date the certificate of approval was granted or renewed until the certificate of approval expires or is renewed on or after the date this Act takes effect, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2784** (senate committee printing) in SECTION 1 of the bill, by striking amended Section 132.061(f), Education Code (page 2, lines 57 through 67), and substituting the following:

(f) A career school or college shall record a grade of "incomplete" for a student who withdraws during the portion of a course or program for which the student is not eligible to collect a refund under Subsection (b)(4) ~~[but is not entitled to a refund under Subsection (b)(4)(F)]~~ if the student requests the grade at the time the student withdraws and the student withdraws for an appropriate reason unrelated to the student's academic status. A student who receives a grade of incomplete may re-enroll in the course or program during the 12-month period following the date the student withdraws and complete those incomplete subjects without payment of additional tuition for that portion of the course or program.

HB 1969 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hughes called up with senate amendments for consideration at this time,

HB 1969, A bill to be entitled An Act relating to the applicability of commercial fertilizer regulations to a substance containing animal manure or plant remains.

Representative Hughes moved to concur in the senate amendments to **HB 1969**.

The motion to concur in the senate amendments to **HB 1969** prevailed by (Record 1474): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycok; 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.; Gonzalez; Gooden; Gutierrez; Hamilton; Hancock; 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; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Gonzales, V.; Guillen; Hardcastle.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1969** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 63, Agriculture Code, is amended by adding Section 63.0025 to read as follows:

Sec. 63.0025. CERTAIN ANALYSES NOT GUARANTEE OF NUTRIENT LEVELS. A representative laboratory analysis conducted for purposes of fulfilling a requirement established by a federal agency or a state agency other than the department may not:

(1) be considered a guarantee of nutrient levels for:

(A) fertilizer material;

(B) mixed fertilizer;

(C) manipulated manure; or

(D) specialty fertilizer; or

(2) be used to determine whether animal manure, plant remains, or mixtures of those substances are commercial fertilizers under Section 63.002(c).

HB 1758 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Rodriguez called up with senate amendments for consideration at this time,

HB 1758, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

Representative Rodriguez moved to concur in the senate amendments to **HB 1758**.

The motion to concur in the senate amendments to **HB 1758** prevailed by (Record 1475): 133 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; 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, 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; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Aycock; Carter; Creighton; Kolkhorst; Miller, S.; Riddle; Sheffield.

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

Absent, Excused — Anchia; Strama.

Absent — Allen; Branch; Gonzales, L.; Martinez Fischer; Nash; Veasey.

STATEMENTS OF VOTE

When Record No. 1475 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

I was shown voting yes on Record No. 1475. I intended to vote no.

V. Taylor

Senate Committee Substitute

CSHB 1758, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 3; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8377 to read as follows:

CHAPTER 8377. PILOT KNOB MUNICIPAL UTILITY DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8377.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental

Quality.

(3) "Director" means a board member.

(4) "District" means the Pilot Knob Municipal Utility District No. 3.

(5) "Municipality" means a municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8377.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8377.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect permanent directors as provided by Section 8377.051 of this code and Section 49.102, Water Code.

Sec. 8377.004. CONSENT OF MUNICIPALITY REQUIRED. (a) The temporary directors may not hold an election under Section 8377.003 until each municipality has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

(b) If a municipality does not consent to the creation of the district or if the district does not enter into an agreement required by the terms of the municipal ordinance or resolution consenting to the creation of the district under this section before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to the municipality or another local governmental entity to be used for a public purpose; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

Sec. 8377.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, or improvement of macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

Sec. 8377.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8377.007-8377.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8377.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (b), the district is governed by a board of five elected directors.

(b) If required under the terms of the agreement, ordinance, or resolution by which a municipality consents to the creation of the district, the board consists of:

(1) four elected directors; and

(2) one director appointed by the governing body of the municipality.

(c) A director appointed under Subsection (b)(2) is not required to be a qualified voter of the district or to own land subject to taxation in the district.

(d) Except as provided by Section 8377.052, directors serve staggered four-year terms. A permanent director may not serve more than two four-year terms.

(e) The common law doctrine of incompatibility does not disqualify an official or employee of a municipality from being appointed a director by the governing body of a municipality under Subsection (b)(2), and a director appointed to the board may continue to serve in a public office of or be employed by the municipality.

Sec. 8377.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8377.003; or

(2) the fourth anniversary of the effective date of the Act enacting this chapter.

(c) If permanent directors have not been elected under Section 8377.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8377.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8377.053-8377.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8377.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8377.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8377.103. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the commission as required by Section 54.234, Water Code.

Sec. 8377.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8377.103 unless:

(1) each municipality or county that will operate and maintain the road has approved the plans and specifications of the road project, if a municipality or county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8377.105. COMPLIANCE WITH AND ENFORCEABILITY OF MUNICIPAL CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION.

(a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) Any agreement between the district and a municipality related to the municipality's consent to the creation of the district is valid and enforceable.

(c) On the issuance of bonds by the district, the district is considered to have waived sovereign immunity to suit by a municipality for the purpose of adjudicating a claim for breach of an agreement described by this section.

Sec. 8377.106. CONTRACT TO FURTHER REGIONAL COOPERATION. The district and a municipality may contract on terms that the board and governing body of the municipality agree will further regional cooperation between the district and the municipality.

Sec. 8377.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8377.108-8377.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8377.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8377.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8377.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8377.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

(c) If required by an agreement between the district and a municipality under Section 8377.105, the total ad valorem tax rate of the district may not be less than the total ad valorem tax rate of the municipality.

Sec. 8377.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8377.154-8377.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8377.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8377.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8377.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

[Sections 8377.204-8377.250 reserved for expansion]

SUBCHAPTER F. STRATEGIC PARTNERSHIP AGREEMENT; MUNICIPAL ANNEXATION AND NOTICE

Sec. 8377.251. STRATEGIC PARTNERSHIP; CONTINUATION OF DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) The district may continue to exist as a limited district after full-purpose annexation by a municipality if the district and the annexing municipality state the terms of the limited district's existence in a strategic partnership agreement under Section 43.0751, Local Government Code.

(b) The strategic partnership agreement may provide for a term of any number of years. The limitation in Section 43.0751(g)(2), Local Government Code, on the length of the term does not apply to a limited district created under this section.

Sec. 8377.252. MUNICIPAL ANNEXATION; NOTICE. (a) Sections 43.0561 and 43.0562, Local Government Code, do not apply to the annexation of the district by a municipality that consents to the creation of the district under Section 8377.004.

(b) Not later than the 30th day after the date a municipality adopts a resolution or ordinance consenting to the creation of the district, the municipality shall file, in the real property records of the county in which the land to be included in the district is located, a notice to a purchaser of real property in the district that describes:

- (1) the municipality's authority and intention to annex the district; and
- (2) the anticipated date of the annexation.

(c) After the notice is filed, a person who proposes to sell or otherwise convey real property in the district must include the information contained in the municipality's notice in the Notice to Purchasers required by Section 49.452, Water Code.

SECTION 2. The Pilot Knob Municipal Utility District No. 3 initially includes all the territory contained in the following area: 644.135 acres of land described below:

A DESCRIPTION OF 648.268 ACRES IN THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, BEING ALL OF AN 18.810 ACRE TRACT AND A REMAINDER OF A 37.306 ACRE TRACT BOTH DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED OCTOBER 26, 2006 AND RECORDED IN DOCUMENT NO. 2006209327 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 2820 SQUARE FOOT TRACT DESCRIBED IN A DEED WITHOUT WARRANTY TO CARMA EASTON INC., DATED DECEMBER 22, 2009 AND RECORDED IN DOCUMENT NO. 2009210291 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A REMAINDER OF A 2.6891 ACRE TRACT DESCRIBED IN A STREET DEDICATION TO THE PUBLIC, DATED JUNE 24, 1986 AND RECORDED IN VOLUME 9769, PAGE 505 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 6.934 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED

OCTOBER 26, 2006 AND RECORDED IN DOCUMENT NO. 2006209330 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF AN 82.844 ACRE TRACT AND A 25.735 ACRE TRACT BOTH DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED JANUARY 3, 2007 AND RECORDED IN DOCUMENT NO. 2007003159 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF AN 89.256 ACRE TRACT AND A 2.731 ACRE TRACT BOTH DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED JULY 9, 2007 AND RECORDED IN DOCUMENT NO. 2007126375 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, REMAINDERS OF A 61.071 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 7, 2007 AND RECORDED IN DOCUMENT NO. 2007204509 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 138.540 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MARCH 2, 2007 AND RECORDED IN DOCUMENT NO. 2007038642 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 198.302 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 20, 2006 AND RECORDED IN DOCUMENT NO. 2006244772 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 232.233 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN TO JONA ACQUISITION INC., DATED JANUARY 8, 2009 AND RECORDED IN DOCUMENT NO. 2009003190 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, All OF AN 8.282 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN TO JONA ACQUISITION INC., DATED JANUARY 8, 2009 AND RECORDED IN DOCUMENT NO. 2009003078 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 42.558 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MAY 16, 2008 AND RECORDED IN DOCUMENT NO. 2008083861 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 20.005 ACRE TRACT DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN TO JOHN T. HALDENSTEIN AND JOSHUA N. HALDENSTEIN, DATED DECEMBER 14, 2000 AND RECORDED IN DOCUMENT NO. 2000203669 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF LOT A HARRY REININGER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 65, PAGE 47 OF THE PLAT RECORDS OF TRAVIS COUNTY TEXAS, CONVEYED TO JOHN HALDENSTEIN & RUTH HALDENSTEIN IN WARRANTY DEED WITH VENDOR'S LIEN, DATED SEPTEMBER 29, 2000 AND RECORDED IN DOCUMENT NO. 2000161977 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS, A PORTION OF A 37.390 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED OCTOBER 30,

2008 AND RECORDED IN DOCUMENT NO. 2008179828 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND A PORTION OF COLTON BLUFF SPRINGS ROAD (APPARENT RIGHT-OF-WAY WIDTH VARIES); SAID 648.268 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found for the northwest corner of said 89.256 acre tract, same being the east corner of a 6.997 acre tract described in a deed to Fleming Brothers Holding, recorded in Document No. 2006063521 of the Official Public Records of Travis County, Texas, also being in the southwest line of Myrtle - 29 Ac., D. G. Collins Estate, a subdivision of record in Volume 3, Page 220 of the Plat Records of Travis County, Texas;

THENCE South 48°06'08" East, with the northeast line of said 89.256 acre tract, same being the southwest line of said Myrtle - 29 Ac., and the southwest line of said John B. 18 Ac., D. G. Collins Estate, a distance of 1231.54 feet to a 1/2" rebar found in the south line of said John B. 18 Ac., for the northeast corner of said 89.256 acre tract, same being the northwest corner of said 82.844 acre tract;

THENCE South 48°20'11" East, with the northeast line of said 82.844 acre tract, same being the southwest line of said John B. 18 Ac., the southwest line of John B. 11.50 Ac., D. G. Collins Estate, and the southwest line of a 52.418 acre tract described in a deed to Ernest B. Collins and Floretta F. Collins, recorded in Document No. 2004080843 of the Official Public Records of Travis County, Texas, a distance of 1354.84 feet to a 1/2" rebar found in the southwest line of said 52.418 acre tract, for the northeast corner of said 82.844 acre tract, same being the northwest corner of a 2.899 acre tract described in a deed to Ernest B. Collins and Floretta F. Collins, recorded in Document No. 2004080843 of the Official Public Records of Travis County, Texas;

THENCE with the east line of said 82.844 acre tract, same being the west line of said 2.899 acre tract, the following four (4) courses and distances:

1. South 27°02'48" West, a distance of 87.42 feet to a 1/2" rebar with Chaparral cap found;
2. South 28°05'48" West, a distance of 57.15 feet to a 1/2" rebar with Chaparral cap found;
3. South 26°28'48" West, a distance of 262.67 feet to a 1/2" rebar with Chaparral cap found;
4. South 26°58'48" West, a distance of 2126.73 feet to a 1/2" rebar found in the north right-of-way line of Colton Bluff Springs Road, for the southeast corner of said 82.844 acre tract, same being the southwest corner of said 2.899 acre tract;

THENCE South 63°34'23" East, with the north right-of-way line of Colton Bluff Springs Road, same being the southwest line of said 2.899 acre tract, a distance of 49.99 feet to a 1/2" rebar found for the southeast corner of said 2.899 acre tract, same being the southwest corner of said 61.071 acre tract;

THENCE with the west line of said 61.071 acre tract, same being the east line of said 2.899 acre tract, the following four (4) courses and distances:

1. North 26°59'53" East, a distance of 2127.41 feet to a calculated point;

2. North 26°29'46" East, a distance of 262.27 feet to a calculated point;
3. North 28°06'46" East, a distance of 56.92 feet to a calculated point;
4. North 27°03'46" East, a distance of 74.01 feet to a 1/2" rebar found for the northwest corner of said 61.071 acre tract, same being the northeast corner of said 2.899 acre tract, also being in the southwest line of said 52.418 acre tract;

THENCE South 47°55'49" East, with the northeast line of said 61.071 acre tract, same being the southwest line of said 52.418 acre tract, a distance of 467.09 feet to a 1/2" rebar found for the southeast corner of said 52.418 acre tract, same being the southwest corner of a 26.57 acre tract described in a deed to Talfred Collins and Ella Lee Collins, recorded in Volume 2814, Page 127 of the Deed Records of Travis County, Texas;

THENCE South 46°39'23" East, continuing with the northeast line of said 61.071 acre tract, same being the southwest line of said 26.57 acre tract and the southwest line of a 29.02 acre tract described in a deed to Ernest B. Collins and Floretta F. Collins, recorded in Volume 7967, Page 611 of the Deed Records of Travis County, Texas, a distance of 600.09 feet to a 5/8" rebar found for the southeast corner of said 29.02 acre tract, same being the northwest corner of a 0.264 acre tract described in a deed to the City of Austin, recorded in Document No. 2010005414 of the Official Public Records of Travis County, Texas, also being an angle point in the west line of a 380.080 acre tract described in a deed to Ernest Collins and Floretta Collins, recorded in Volume 12791, Page 11 of the Real Property Records of Travis County, Texas;

THENCE South 27°09'17" West, crossing said 61.071 acre tract, with the west line of said 0.264 acre tract, a distance of 204.33 feet to a 1/2" rebar with Landmark cap found for the southwest corner of said 0.264 acre tract, same being the northwest corner of a 0.392 acre tract described in a deed to the City of Austin, recorded in Document No. 2010005414 of the Official Public Records of Travis County, Texas;

THENCE continuing across said 61.071 acre tract, with the west and south lines of said 0.392 acre tract, the following three (3) courses and distances:

1. South 27°11'22" West, a distance of 105.60 feet to a 1/2" rebar with Landmark cap found;
2. South 26°45'07" West, a distance of 50.71 feet to a 1/2" rebar with Landmark cap found for the southwest corner of said 0.392 acre tract;
3. South 71°13'40" East, a distance of 81.26 feet to a 1/2" rebar with Landmark cap found in the south line of said 0.392 acre tract, for the northwest corner of a 0.624 acre tract described in a deed to the City of Austin, recorded in Document No. 2010005416 of the Official Public Records of Travis County, Texas;

THENCE continuing across said 61.071 acre tract, the following two (2) courses and distances:

1. South 26°39'03" West, with the west line of said 0.624 acre tract, a distance of 899.06 feet to a calculated point for the southwest corner of said 0.624 acre tract;

2. South $47^{\circ}54'58''$ East, with the south line of said 0.624 acre tract, a distance of 31.12 feet to a calculated point in the west right-of-way line of Colton Bluff Springs Road, same being the east line of said 61.071 acre tract;

THENCE North $26^{\circ}38'45''$ East, with the east line of said 61.071 acre tract, same being the west right-of-way line of Colton Bluff Springs Road, the west line of said 138.540 acre tract, the east line of said 0.624 acre tract and the east line of said 0.392 acre tract, a distance of 1066.13 feet to a 1/2" rebar with Landmark cap found for the northeast corner of said 0.392 acre tract;

THENCE North $70^{\circ}26'53''$ West, crossing said 61.071 acre tract, with the north line of said 0.392 acre tract, a distance of 49.62 feet to a calculated point for the southeast corner of said 0.264 acre tract;

THENCE North $27^{\circ}05'31''$ East, continuing across said 61.071 acre tract, with the east line of said 0.264 acre tract, a distance of 178.95 feet to a calculated point for the northeast corner of said 0.264 acre tract, same being in the northeast line of said 61.071 acre tract, also being the southwest line of said 380.080 acre tract;

THENCE South $46^{\circ}39'23''$ East, with the northeast line of said 61.071 acre tract, same being the southwest line of said 380.080 acre tract, a distance of 49.95 feet to a calculated point for the northeast corner of said 61.071 acre tract, same being an angle point in the southwest line of said 380.080 acre tract;

THENCE South $26^{\circ}38'45''$ West, with the east line of said 61.071 acre tract, same being the southwest line of said 380.080 acre tract, a distance of 120.93 feet to a 3/4" iron pipe found for the northwest corner of said 138.540 acre tract;

THENCE with the northeast line of said 138.540 acre tract, same being the southwest line of said 380.080 acre tract, the following two (2) courses and distances:

1. South $47^{\circ}44'05''$ East, a distance of 309.95 feet to a 3/4" iron pipe found;

2. South $47^{\circ}34'32''$ East, a distance of 1131.25 feet to a calculated point; THENCE crossing said 138.540 acre tract, Colton Bluff Springs Road, said 198.302 acre tract, said 232.233 acre tract, said 37.390 acre tract, said 42.558 acre tract, said 20.005 acre tract, and said Lot A, the following fourteen (14) courses and distances:

1. South $42^{\circ}25'28''$ West, a distance of 130.83 feet to a calculated point;

2. With a curve to the left, having a radius of 750.00 feet, a delta angle of $16^{\circ}27'44''$, an arc length of 215.49 feet, and a chord which bears South $34^{\circ}11'36''$ West, a distance of 214.75 feet to a calculated point;

3. South $25^{\circ}57'45''$ West, a distance of 891.49 feet to a calculated point;

4. With a curve to the left, having a radius of 428.50 feet, a delta angle of $57^{\circ}46'46''$, an arc length of 432.12 feet, and a chord which bears South $02^{\circ}55'38''$ East, a distance of 414.04 feet to a calculated point;

5. South $70^{\circ}11'14''$ West, a distance of 260.49 feet to a calculated point;

6. With a curve to the right, having a radius of 606.85 feet, a delta angle of $50^{\circ}15'23''$, an arc length of 532.29 feet, and a chord which bears North $88^{\circ}11'02''$ West, a distance of 515.39 feet to a calculated point;

7. North $62^{\circ}55'18''$ West, a distance of 292.66 feet to a calculated point;

8. With a curve to the left, having a radius of 1466.51 feet, a delta angle of $180^{\circ}00'00''$, an arc length of 4607.18 feet, and a chord which bears South $27^{\circ}04'42''$ West, a distance of 2933.02 feet to a calculated point;

9. South $62^{\circ}55'18''$ East, a distance of 292.66 feet to a calculated point;

10. With a curve to the right, having a radius of 606.85 feet, a delta angle of $50^{\circ}15'23''$, an arc length of 532.29 feet, and a chord which bears South $37^{\circ}39'34''$ East, a distance of 515.39 feet to a calculated point;

11. South $16^{\circ}01'51''$ East, a distance of 256.62 feet to a calculated point;

12. With a curve to the left, having a radius of 431.98 feet, a delta angle of $53^{\circ}14'32''$, an arc length of 401.42 feet, and a chord which bears South $58^{\circ}50'30''$ West, a distance of 387.13 feet to a calculated point;

13. South $28^{\circ}11'39''$ West, a distance of 910.01 feet to a calculated point;

14. North $61^{\circ}48'21''$ West, a distance of 672.64 feet to a calculated point in the west line of said 20.005 acre tract, same being the east line of a 20.022 acre tract conveyed in a deed to Janie Diaz, recorded in Document No. 2006101103, and described in a deed recorded in Document No. 2001200503, both of the Official Public Records of Travis County, Texas;

THENCE North $27^{\circ}07'27''$ East, with the west line of said 20.005 acre tract, same being the east line of said 20.022 acre tract, a distance of 1099.13 feet to a 1/2" rebar found for the northwest corner of said 20.005 acre tract, same being the northeast corner of said 20.022 acre tract, also being in the southwest line of said 198.302 acre tract;

THENCE North $63^{\circ}21'03''$ West, with the southwest line of said 198.302 acre tract, same being the northeast line of said 20.022 acre tract, a distance of 626.61 feet to a 1/2" rebar found for the southwest corner of said 198.302 acre tract, same being the northwest corner of said 20.022 acre tract, also being in the east line of said 232.233 acre tract;

THENCE South $26^{\circ}53'42''$ West, with the east line of said 232.233 acre tract, same being the west line of said 20.022 acre tract, a distance of 1085.47 feet to a calculated point;

THENCE crossing said 232.233 acre tract, the following two (2) courses and distances:

1. With a curve to the right, having a radius of 1490.63 feet, a delta angle of $26^{\circ}48'48''$, an arc length of 697.59 feet, and a chord which bears North $52^{\circ}29'28''$ West, a distance of 691.24 feet to a calculated point;

2. North $36^{\circ}26'06''$ West, a distance of 1284.36 feet to a calculated point in the southwest line of said 232.233 acre tract, same being the northeast line of a 174.4 acre tract described in a deed to Edward J. Gillen and wife, Mildred Gillen, recorded in Volume 1549, Page 268 of the Deed Records of Travis County, Texas;

THENCE with the southwest line of said 232.233 acre tract, same being the northeast line of said 174.4 acre tract, the following four (4) courses and distances:

1. North $27^{\circ}21'05''$ East, a distance of 684.48 feet to a 1/2" rebar with Chaparral cap found;

2. North 62°42'32" West, a distance of 500.00 feet to a 4" iron pipe found;

3. North 27°21'05" East, a distance of 784.20 feet to a 1/2" rebar with Chaparral cap found;

4. North 62°42'32" West, a distance of 999.32 feet to a 1/2" rebar with cap stamped 4453 for the west corner of said 232.233 acre tract, same being the southeast corner of a 120.321 acre tract described in a deed to Noble Capital Servicing, LLC, et al., recorded in Document No. 2009151330 of the Official Public Records of Travis County, Texas;

THENCE North 26°58'58" East, with the west line of said 232.233 acre tract, same being the east line of said 120.321 acre tract, a distance of 1437.81 feet to a calculated point for the northwest corner of said 232.233 acre tract, same being the southwest corner of Lot 1, Pittman Addition, a subdivision of record in Volume 76, Page 228 of the Plat Records of Travis County, Texas;

THENCE South 62°59'36" East, with the north line of said 232.233 acre tract, same being the south line of said Lot 1 and the south line of an 11.000 acre tract described in a deed to O. D. McMarion and Ann Sibley, recorded in Document No. 1999100812 of the Official Public Records of Travis County, Texas, a distance of 857.50 feet to a 1/2" iron pipe found for the southeast corner of said 11.000 acre tract, same being the southwest corner of said 8.282 acre tract;

THENCE North 26°58'15" East, with the west line of said 8.282 acre tract, same being the east line of said 11.000 acre tract and the east line of a 5.014 acre tract described in a deed to O. D. McMarion and wife, Ann McMarion, recorded in Document No. 2007145976 of the Official Public Records of Travis County, Texas, a distance of 653.18 feet to a 1/2" rebar with Chaparral cap found in the east line of said 5.014 acre tract, for the northwest corner of said 8.282 acre tract, same being the southwest corner of a remainder of 13.93 acres conveyed in a deed to Tom Stephens and wife, Janice Stephens, recorded in Volume 7496, Page 513, and described in a deed of record in Volume 3329, Page 1038, both of the Deed Records of Travis County, Texas;

THENCE South 63°15'05" East, with the north line of said 8.282 acre tract, same being the south line of said remainder of 13.93 acres, a distance of 648.24 feet to a 1/2" rebar with Chaparral cap found for the northeast corner of said 8.282 acre tract, same being the west line of said 232.233 acre tract, also being the southeast corner of said remainder of 13.93 acres;

THENCE North 43°26'02" East, with the west line of said 232.233 acre tract, same being the east line of said remainder of 13.93 acres, a distance of 538.67 feet to a 1/2" rebar with Chaparral cap found in the south right-of-way line of Colton Bluff Springs Road, for the northwest corner of said 232.233 acre tract, same being the northeast corner of said remainder of 13.93 acres;

THENCE North 32°24'14" East, crossing Colton Bluff Springs Road, a distance of 70.31 feet to a calculated point in the north right-of-way line of Colton Bluff Springs Road, same being the south line of said 82.844 acre tract;

THENCE with the north right-of-way line of Colton Bluff Springs Road, same being the south line of said 82.844 acre tract, the following two (2) courses and distances:

1. North $63^{\circ}13'10''$ West, a distance of 197.14 feet to a 1/2" rebar found;
2. North $63^{\circ}18'06''$ West, a distance of 703.08 feet to a bolt in concrete found for the southwest corner of said 82.844 acre tract, same being the southeast corner of a 1.0 acre tract described in a deed to Donny Mack Cowan, recorded in Volume 12371, Page 662 of the Real Property Records of Travis County, Texas;

THENCE North $27^{\circ}09'21''$ East, with the west line of said 82.844 acre tract, same being the east line of said 1.0 acre tract, a distance of 290.52 feet to a 1/2" rebar found for the northeast corner of said 1.0 acre tract, same being the southeast corner of said 89.256 acre tract;

THENCE with the south line of said 89.256 acre tract, the following eight (8) courses and distances:

1. North $63^{\circ}01'00''$ West, with the north line of said 1.0 acre tract, a distance of 150.08 feet to a 1/2" rebar with cap found;

2. South $27^{\circ}11'15''$ West, with the west line of said 1.0 acre tract, a distance of 291.18 feet to a 1/2" rebar found in the north right-of-way line of Colton Bluff Springs Road;

3. North $63^{\circ}15'07''$ West, with the north right-of-way line of Colton Bluff Springs Road a distance of 508.93 feet to a calculated point;

4. North $62^{\circ}31'18''$ West, with the north right-of-way line of Colton Bluff Springs Road, a distance of 175.38 feet to a calculated point for the southeast corner of a 0.18 acre tract conveyed in a deed to Rosemary Elizabeth Schweitzer, recorded in Volume 13011 Page 32 of the Real Property Records of Travis County, Texas, and described as Lot No. 2 in a deed of record in Volume 6057, Page 415 of the Deed Records of Travis County, Texas;

5. North $26^{\circ}26'47''$ East, with the east line of said 0.18 acre tract, a distance of 130.76 feet to a calculated point for the northeast corner of said 0.18 acre tract;

6. North $63^{\circ}01'34''$ West, with the north line of said 0.18 acre tract and the north line of another 0.18 acre tract conveyed in said deed to Rosemary Elizabeth Schweitzer, recorded in Volume 13011 Page 32 of the Real Property Records of Travis County, Texas, and described as Lot No. 1 in a deed of record in Volume 6057, Page 415 of the Deed Records of Travis County, Texas, a distance of 120.03 feet to a calculated point for the northwest corner of said 0.18 acre tract described as Lot No. 1;

7. South $26^{\circ}58'40''$ West, with the west line of said 0.18 acre tract described as Lot No. 1, a distance of 129.50 feet to a calculated point in the north right-of-way line of Colton Bluff Springs Road, for the southwest corner of said 0.18 acre tract described as Lot No. 1;

8. North $62^{\circ}29'29''$ West, with the north right-of-way line of Colton Bluff Springs Road, a distance of 564.31 feet to a 1/2" rebar found for the southwest corner of said 89.256 acre tract, same being the southeast corner of said 25.735 acre tract;

THENCE continuing with the north right-of-way line of Colton Bluff Springs Road, the following three (3) courses and distances:

1. North $62^{\circ}29'18''$ West, with the south line of said 25.735 acre tract, a distance of 64.03 feet to a 1/2" rebar found for the southwest corner of said 25.735 acre tract, same being the southeast corner of said 2.731 acre tract;

2. North $62^{\circ}29'18''$ West, with the south line of said 2.731 acre tract, a distance of 237.84 feet to a 1/2" rebar found for the southwest corner of said 2.731 acre tract, same being the southeast corner of said 37.306 acre tract

3. North $63^{\circ}23'43''$ West, with the south line of said 37.306 acre tract, a distance of 420.32 feet to a calculated point;

THENCE crossing said 37.306 acre tract, with the north right-of-way line of Colton Bluff Springs Road, the following two (2) courses and distances:

1. North $27^{\circ}10'53''$ East, a distance of 6.63 feet to a calculated point;

2. North $62^{\circ}49'07''$ West, a distance of 507.44 feet to a calculated point in the east right-of-way line of McKinney Falls Parkway (right-of-way width varies);

THENCE continuing across said 37.306 acre tract, with the east right-of-way line of McKinney Falls Parkway, the following three (3) courses and distances:

1. North $27^{\circ}10'53''$ East, a distance of 424.86 feet to a calculated point;

2. With a curve to the right, having a radius of 11942.50 feet, a delta angle of $00^{\circ}21'16''$, an arc length of 73.90 feet, and a chord which bears North $27^{\circ}21'31''$ East, a distance of 73.90 feet to a calculated point;

3. North $27^{\circ}31'58''$ East, a distance of 771.23 feet to a calculated point in the west line of said 37.306 acre tract, for the south corner of said 2820 square foot tract;

THENCE continuing with the east right-of-way line of McKinney Falls Parkway, the following seven (7) courses and distances:

1. North $28^{\circ}03'14''$ East, with the west line of said 2820 square foot tract, a distance of 254.40 feet to a 1/2" rebar with Chaparral cap found for the north corner of said 2820 square foot tract, same being an angle point in the west line of said 37.306 acre tract;

2. North $27^{\circ}30'59''$ East, with the west line of said 37.306 acre tract, a distance of 144.75 feet to a 1/2" rebar with Chaparral cap found for the northwest corner of said 37.306 acre tract, same being the southwest corner of said remainder of 2.6891 acres;

3. North $32^{\circ}40'32''$ East, with the west line of said remainder of 2.6891 acres, a distance of 159.65 feet to a 1/2" rebar with Chaparral cap found for the northwest corner of said remainder of 2.6891 acres, same being the southwest corner of said 18.810 acres;

4. North $27^{\circ}32'48''$ East, with the west line of said 18.810 acre tract, a distance of 696.37 feet to a 1/2" rebar with Chaparral cap found;

5. North $25^{\circ}38'36''$ East, continuing with the west line of said 18.810 acre tract, a distance of 302.02 feet to a 1/2" rebar with Chaparral cap found for the northwest corner of said 18.810 acre tract, same being in the southwest line of said 6.934 acre tract;

6. North $48^{\circ}13'16''$ West, with the south line of said 6.934 acre tract, a distance of 15.47 feet to a 1/2" rebar with Chaparral cap found for the southwest corner of said 6.924 acre tract;

7. North 27°31'46" East, with the west line of said 6.934 acre tract, a distance of 192.99 feet to a calculated point for the northwest corner of said 6.934 acre tract, same being the southwest corner of a 6.924 acre tract described in a deed to Jose A. Espinosa and Luz A. Espinosa, recorded in Volume 12861, Page 391 of the Real Property Records of Travis County, Texas;

THENCE South 48°13'04" East, with the north line of said 6.934 acre tract, same being the south line of said 6.924 acre tract, a distance of 1617.68 feet to a 1/2" rebar found for the northeast corner of said 6.934 acre tract, same being the southeast corner of said 6.924 acre tract, also being in the west line of said 89.256 acre tract;

THENCE North 28°09'13" East, with the west line of said 89.256 acre tract , same being the east line of said 6.924 acre tract, the east line of a 2 acre tract described in a deed to Erland Burklund, recorded in Volume 6757, Page 601 of the Deed Records of Travis County, Texas, and the east line of said 6.997 acre tract, a distance of 576.68 feet to the POINT OF BEGINNING, containing 648.268 acres of land, more or less.

SAVE AND EXCEPT 4.133 ACRES:

BEING ALL OF A 4.132 ACRE TRACT DESCRIBED IN A WARRANTY DEED TO CHERYL LYNNE AND KIEKE BARRON, DATED JANUARY 1, 1985 AND RECORDED IN VOLUME 8971, PAGE 137 OF REAL PROPERTY RECORDS OF TRAVIS COUNTY TEXAS; SAID 4.133 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8" rebar found in the south right-of-way line of Colton Bluff Springs Road, for the northeast corner of said 4.132 acre tract, same being an angle point in the north line of said 232.233 acre tract;

THENCE with the common line of said 4.132 acre tract and said 232.233 acre tract, the following three (3) courses and distances:

1. South 26°46'51" West, a distance of 450.30 feet to a 5/8" rebar found;
2. North 63°15'05" West, a distance of 399.80 feet to a 1/2" rebar with Chaparral cap found;
3. North 26°46'51" East, a distance of 450.30 feet to a calculated point in the south right-of-way line of Colton Bluff Springs Road, for the northwest corner of said 4.132 acre tract, same being an angle point in the north line of said 232.233 acre tract;

THENCE South 63°15'05" East, with the south right-of-way line of Colton Bluff Springs Road, same being the north line of said 4.132 acre tract, a distance of 399.80 feet to the POINT OF BEGINNING, containing 4.133 acres of land, more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. 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.

HB 359 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Allen called up with senate amendments for consideration at this time,

HB 359, A bill to be entitled An Act relating to discipline in public schools, including the use of corporal punishment and the prosecution of certain children for school-related offenses.

Representative Allen moved to concur in the senate amendments to **HB 359**.

The motion to concur in the senate amendments to **HB 359** prevailed by (Record 1476): 80 Yeas, 64 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Bohac; Branch; Burkett; Burnam; Carter; Castro; Coleman; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Harless; Hernandez Luna; Hilderbran; Hochberg; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Nash; Oliveira; Otto; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Sheets; Shelton; Simpson; Smithee; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Brown; Button; Cain; Callegari; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Driver; Elkins; Fletcher; Flynn; Frullo; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hopson; Howard, C.; Hughes; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Miller, D.; Miller, S.; Morrison; Orr; Parker; Patrick; Paxton; Peña; Perry; Phillips; Price; Riddle; Schwertner; Scott; Sheffield; Smith, T.; Smith, W.; Solomons; Torres; Weber; White; Zedler.

Present, not voting — Mr. Speaker; Margo; Taylor, L.(C).

Absent, Excused — Anchia; Strama.

Absent — Christian.

STATEMENTS OF VOTE

- I was shown voting no on Record No. 1476. I intended to vote yes.
Creighton
- I was shown voting yes on Record No. 1476. I intended to vote no.
Geren
- I was shown voting yes on Record No. 1476. I intended to vote no.
Hunter
- I was shown voting yes on Record No. 1476. I intended to vote no.
Otto
- I was shown voting no on Record No. 1476. I intended to vote yes.
Patrick
- I was shown voting no on Record No. 1476. I intended to vote yes.
Sheffield
- I was shown voting no on Record No. 1476. I intended to vote yes.
T. Smith
- I was shown voting no on Record No. 1476. I intended to vote yes.
Torres

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 359** by striking Section 1, subsection (e), lines 13 and 14 of page 2.

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend **HB 359** (senate committee report), in SECTION 4 of the bill, by striking Section 42.01(f), Penal Code (page 2, lines 9 through 14), and substitute the following:

(f) Subsections (a)(1), (2), (3), (5), and (6) do not apply to a person who, at the time the person engaged in conduct prohibited under the applicable subdivision, was a student in the sixth grade or a lower grade level, and the prohibited conduct occurred at a public school campus during regular school hours.

Senate Amendment No. 3 (Senate Floor Amendment No. 2)

Amend **HB 359** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (b), Section 37.0021, Education Code, is amended by adding Subdivision (4) to read as follows:

(4) "Law enforcement duties" means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

SECTION _____. Section 37.0021, Education Code, is amended by amending Subsection (g) and adding Subsections (h) and (i) to read as follows:

(g) This section and any rules or procedures adopted under this section do not apply to:

(1) a peace officer [~~while~~] performing law enforcement duties, except as provided by Subsection (i);

(2) juvenile probation, detention, or corrections personnel; or

(3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

(h) This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

(1) is employed or commissioned by a school district; or

(2) provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

(i) A school district shall report electronically to the agency, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. A report submitted under this subsection must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.

SECTION _____. The commissioner of education shall adopt rules as provided by Subsection (i), Section 37.0021, Education Code, as added by this Act, as soon as practicable after the effective date of this Act.

**HB 2608 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Harper-Brown called up with senate amendments for consideration at this time,

HB 2608, A bill to be entitled An Act relating to the continuation and functions of the Texas Department of Housing and Community Affairs.

Representative Harper-Brown moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2608**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2608**: Harper-Brown, chair; J. Davis, P. King, L. Taylor, and Turner.

**HB 2734 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Madden called up with senate amendments for consideration at this time,

HB 2734, A bill to be entitled An Act relating to certain mandatory conditions of parole or mandatory supervision for illegal criminal aliens and the revocation of parole or mandatory supervision as a result of violating those conditions.

Representative Madden moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2734**.

The motion prevailed. (Beck, Carter, Keffer, P. King, S. King, Lavender, Phillips, Schwertner, and Solomons recorded voting no.)

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2734**: Madden, chair; Allen, Cain, Hunter, and Parker.

**HB 1504 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Muñoz called up with senate amendments for consideration at this time,

HB 1504, A bill to be entitled An Act relating to statutory references to the common electronic infrastructure project formerly known as TexasOnline.

Representative Muñoz moved to concur in the senate amendments to **HB 1504**.

The motion to concur in the senate amendments to **HB 1504** prevailed by (Record 1477): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; 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; Lucio; 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; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets;

Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Bohac; Pickett; Taylor, V.; Torres.

Senate Committee Substitute

CSHB 1504, A bill to be entitled An Act relating to statutory references to the common electronic infrastructure project formerly known as TexasOnline.

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

SECTION 1. Article 45.0511(c-1), Code of Criminal Procedure, is amended to read as follows:

(c-1) In this subsection, "state electronic Internet portal" [~~"TexasOnline"~~] has the meaning assigned by Section 2054.003, Government Code. As an alternative to receiving the defendant's driving record under Subsection (c)(2), the judge, at the time the defendant requests a driving safety course or motorcycle operator training course dismissal under this article, may require the defendant to pay a fee in an amount equal to the sum of the amount of the fee established by Section 521.048, Transportation Code, and the state electronic Internet portal [~~TexasOnline~~] fee and, using the state electronic Internet portal [~~TexasOnline~~], may request the Texas Department of Public Safety to provide the judge with a copy of the defendant's driving record that shows the information described by Section 521.047(b), Transportation Code. As soon as practicable and using the state electronic Internet portal [~~TexasOnline~~], the Texas Department of Public Safety shall provide the judge with the requested copy of the defendant's driving record. The fee authorized by this subsection is in addition to any other fee required under this article. If the copy of the defendant's driving record provided to the judge under this subsection shows that the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the 12 months preceding the date of the offense, the judge shall allow the defendant to complete the appropriate course as provided by this article. The custodian of a municipal or county treasury who receives fees collected under this subsection shall keep a record of the fees and, without deduction or proration, forward the fees to the comptroller, with and in the manner required for other fees and costs received in connection with criminal cases. The comptroller shall credit fees received under this subsection to the Texas Department of Public Safety.

SECTION 2. Section 32.253(b), Education Code, is amended to read as follows:

(b) The Department of Information Resources shall:

- (1) host the portal through the state electronic Internet portal project [~~known as TexasOnline~~];
- (2) organize the portal in a manner that simplifies portal use and administration;

(3) provide any necessary technical advice to the agency, including advice relating to equipment required in connection with the portal;

(4) provide a method for maintaining the information made available through the portal; and

(5) cooperate with the agency in linking the agency's Internet site to the portal.

SECTION 3. Section 103.021, Government Code, is amended to read as follows:

Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Code of Criminal Procedure if ordered by the court or otherwise required:

(1) a personal bond fee (Art. 17.42, Code of Criminal Procedure) . . . the greater of \$20 or three percent of the amount of the bail fixed for the accused;

(2) cost of electronic monitoring as a condition of release on personal bond (Art. 17.43, Code of Criminal Procedure) . . . actual cost;

(3) a fee for verification of and monitoring of motor vehicle ignition interlock (Art. 17.441, Code of Criminal Procedure) . . . not to exceed \$10;

(4) repayment of reward paid by a crime stoppers organization on conviction of a felony (Art. 37.073, Code of Criminal Procedure) . . . amount ordered;

(5) reimbursement to general revenue fund for payments made to victim of an offense as condition of community supervision (Art. 42.12, Code of Criminal Procedure) . . . not to exceed \$50 for a misdemeanor offense or \$100 for a felony offense;

(6) payment to a crime stoppers organization as condition of community supervision (Art. 42.12, Code of Criminal Procedure) . . . not to exceed \$50;

(7) children's advocacy center fee (Art. 42.12, Code of Criminal Procedure) . . . not to exceed \$50;

(8) family violence center fee (Art. 42.12, Code of Criminal Procedure) . . . \$100;

(9) community supervision fee (Art. 42.12, Code of Criminal Procedure) . . . not less than \$25 or more than \$60 per month;

(10) additional community supervision fee for certain offenses (Art. 42.12, Code of Criminal Procedure) . . . \$5 per month;

(11) for certain financially able sex offenders as a condition of community supervision, the costs of treatment, specialized supervision, or rehabilitation (Art. 42.12, Code of Criminal Procedure) . . . all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation as determined by the judge;

(12) fee for failure to appear for trial in a justice or municipal court if a jury trial is not waived (Art. 45.026, Code of Criminal Procedure) . . . costs incurred for impaneling the jury;

(13) costs of certain testing, assessments, or programs during a deferral period (Art. 45.051, Code of Criminal Procedure) . . . amount ordered;

(14) special expense on dismissal of certain misdemeanor complaints (Art. 45.051, Code of Criminal Procedure) . . . not to exceed amount of fine assessed;

(15) an additional fee:

(A) for a copy of the defendant's driving record to be requested from the Department of Public Safety by the judge (Art. 45.0511(c-1), Code of Criminal Procedure) . . . amount equal to the sum of the fee established by Section 521.048, Transportation Code, and the state electronic Internet portal [TexasOnline] fee;

(B) as an administrative fee for requesting a driving safety course or a course under the motorcycle operator training and safety program for certain traffic offenses to cover the cost of administering the article (Art. 45.0511(f)(1), Code of Criminal Procedure) . . . not to exceed \$10; or

(C) for requesting a driving safety course or a course under the motorcycle operator training and safety program before the final disposition of the case (Art. 45.0511(f)(2), Code of Criminal Procedure) . . . not to exceed the maximum amount of the fine for the offense committed by the defendant;

(16) a request fee for teen court program (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise not to exceed \$10;

(17) a fee to cover costs of required duties of teen court (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise \$10;

(18) a mileage fee for officer performing certain services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15 per mile;

(19) certified mailing of notice of hearing date (Art. 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

(20) certified mailing of certified copies of an order of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2, plus postage;

(20-a) a fee to defray the cost of notifying state agencies of orders of expungement (Art. 45.0216, Code of Criminal Procedure) . . . \$30 per application;

(20-b) a fee to defray the cost of notifying state agencies of orders of expunction (Art. 45.055, Code of Criminal Procedure) . . . \$30 per application;

(21) sight orders:

(A) if the face amount of the check or sight order does not exceed \$10 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$10;

(B) if the face amount of the check or sight order is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$15;

(C) if the face amount of the check or sight order is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$30;

(D) if the face amount of the check or sight order is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$50; and

(E) if the face amount of the check or sight order is greater than \$500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$75;

(22) fees for a pretrial intervention program:

(A) a supervision fee (Art. 102.012(a), Code of Criminal Procedure) . . . \$60 a month plus expenses; and

(B) a district attorney, criminal district attorney, or county attorney administrative fee (Art. 102.0121, Code of Criminal Procedure) . . . not to exceed \$500;

(23) parking fee violations for child safety fund in municipalities with populations:

(A) greater than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not less than \$2 and not to exceed \$5; and

(B) less than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not to exceed \$5;

(24) an administrative fee for collection of fines, fees, restitution, or other costs (Art. 102.072, Code of Criminal Procedure) . . . not to exceed \$2 for each transaction; and

(25) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due.

SECTION 4. Section 403.024(i), Government Code, is amended to read as follows:

(i) The Department of Information Resources, after consultation with the comptroller, shall prominently include a link to the database established under this section on the public home page of the state electronic Internet portal project [~~TexasOnline Project~~] described by Section 2054.252.

SECTION 5. Section 434.101(2), Government Code, is amended to read as follows:

(2) "State electronic Internet portal" [~~"TexasOnline"~~] has the meaning assigned by Section 2054.003.

SECTION 6. Section 434.102(a), Government Code, is amended to read as follows:

(a) The Department of Information Resources shall establish and maintain on the state electronic Internet portal [~~TexasOnline~~] a veterans website. The website must allow veterans to access information on state and federal veterans benefits programs.

SECTION 7. Section 441.010(c), Government Code, is amended to read as follows:

(c) The department shall provide a link on the state electronic Internet portal [TexasOnline] to the database established under Subsection (b). In this subsection, "state electronic Internet portal" ["TexasOnline"] has the meaning assigned by Section 2054.003.

SECTION 8. Section 531.0313(d), Government Code, is amended to read as follows:

(d) The Texas Information and Referral Network shall coordinate with the Department of Information Resources to maintain the Internet site through the state electronic Internet portal [TexasOnline] project established by the Department of Information Resources.

SECTION 9. Section 531.0317(b), Government Code, is amended to read as follows:

(b) The commission, in cooperation with the Department of Information Resources, shall establish and maintain through the state electronic Internet portal [TexasOnline] project established by the Department of Information Resources a generally accessible and interactive Internet site that contains information for the public regarding the services and programs provided or administered by each of the health and human services agencies throughout the state. The commission shall establish the site in such a manner that it can be located easily through electronic means.

SECTION 10. Section 2054.003(15), Government Code, is amended to read as follows:

(15) "State electronic Internet portal" ["TexasOnline"] means the electronic government project or its successor project implemented under Subchapter I.

SECTION 11. Section 2054.055(b), Government Code, is amended to read as follows:

(b) The report must:

- (1) assess the progress made toward meeting the goals and objectives of the state strategic plan for information resources management;
- (2) describe major accomplishments of the state or a specific state agency in information resources management;
- (3) describe major problems in information resources management confronting the state or a specific state agency;
- (4) provide a summary of the total expenditures for information resources and information resources technologies by the state;
- (5) make recommendations for improving the effectiveness and cost-efficiency of the state's use of information resources;
- (6) describe the status, progress, benefits, and efficiency gains of the state electronic Internet portal [TexasOnline] project, including any significant issues regarding contract performance;
- (7) provide a financial summary of the state electronic Internet portal [TexasOnline] project, including project costs and revenues;
- (8) provide a summary of the amount and use of Internet-based training conducted by each state agency and institution of higher education;

(9) provide a summary of agency and statewide results in providing access to electronic and information resources to individuals with disabilities as required by Subchapter M; and

(10) assess the progress made toward accomplishing the goals of the plan for a state telecommunications network and developing a system of telecommunications services as provided by Subchapter H.

SECTION 12. The heading to Section 2054.111, Government Code, is amended to read as follows:

Sec. 2054.111. USE OF STATE ELECTRONIC INTERNET PORTAL [TEXASONLINE] PROJECT.

SECTION 13. The heading to Section 2054.1115, Government Code, is amended to read as follows:

Sec. 2054.1115. ELECTRONIC PAYMENTS ON STATE ELECTRONIC INTERNET PORTAL [TEXASONLINE].

SECTION 14. Section 2054.1115(a), Government Code, is amended to read as follows:

(a) A state agency or local government that uses the state electronic Internet portal [TexasOnline] may use electronic payment methods, including the acceptance of credit and debit cards, for:

(1) point-of-sale transactions, including:

(A) person-to-person transactions;

(B) transactions that use an automated process to facilitate a person-to-person transaction; and

(C) transactions completed by a person at an unattended self-standing computer station using an automated process;

(2) telephone transactions; or

(3) mail transactions.

SECTION 15. Section 2054.113, Government Code, is amended to read as follows:

Sec. 2054.113. DUPLICATION WITH STATE ELECTRONIC INTERNET PORTAL [TEXASONLINE]. (a) This section does not apply to a state agency that is a university system or institution of higher education as defined by Section 61.003, Education Code.

(b) A state agency may not duplicate an infrastructure component of the state electronic Internet portal [TexasOnline], unless the department approves the duplication. In this subsection, "infrastructure" does not include the development of applications, and the supporting platform, for electronic government projects.

(c) Before a state agency may contract with a third party for Internet application development that duplicates a state electronic Internet portal [TexasOnline] function, the state agency must notify the department of its intent to bid for such services at the same time that others have the opportunity to bid. The department may exempt a state agency from this section if it determines the agency has fully complied with Section 2054.111.

SECTION 16. Section 2054.116(e), Government Code, is amended to read as follows:

(e) This section does not apply to interactive applications provided through the state electronic Internet portal [TexasOnline].

SECTION 17. Section 2054.125(d), Government Code, is amended to read as follows:

(d) Each state agency that maintains a generally accessible Internet site and that uses the state electronic Internet portal [TexasOnline] shall include a link to the state electronic Internet portal [TexasOnline] on the front page of the Internet site.

SECTION 18. Section 2054.128(a), Government Code, is amended to read as follows:

(a) State agencies that have jurisdiction over matters related to environmental protection or quality or to the development, conservation, or preservation of natural resources shall develop, in mutual cooperation with the department, a single information link, through the state electronic Internet [TexasOnline] portal, to provide electronic access to information and services related to the agencies' authority and duties, including access to agency rules and other public information.

SECTION 19. Section 2054.131(c), Government Code, is amended to read as follows:

(c) The electronic infrastructure established under Subsection (b) [~~(a)~~] may include the state electronic Internet portal [TexasOnline], the Internet, intranets, extranets, and wide area networks.

SECTION 20. The heading to Subchapter I, Chapter 2054, Government Code, is amended to read as follows:

SUBCHAPTER I. STATE ELECTRONIC INTERNET PORTAL
[TEXASONLINE] PROJECT

SECTION 21. The heading to Section 2054.252, Government Code, is amended to read as follows:

Sec. 2054.252. STATE ELECTRONIC INTERNET PORTAL
[TEXASONLINE] PROJECT.

SECTION 22. Section 2054.252(a), Government Code, is amended to read as follows:

(a) The department shall implement a state electronic Internet portal project [designated "TexasOnline"] that establishes a common electronic infrastructure through which state agencies and local governments, including licensing entities, may by any method:

- (1) send and receive documents or required payments to and from:
 - (A) members of the public;
 - (B) persons who are regulated by the agencies or local governments; and
 - (C) the agencies and local governments;
- (2) receive applications for original and renewal licenses and permits, including occupational licenses, complaints about occupational license holders, and other documents for filing from members of the public and persons who are

regulated by a state agency or local government that, when secure access is necessary, can be electronically validated by the agency, local government, member of the public, or regulated person;

(3) send original and renewal occupational licenses to persons regulated by licensing entities;

(4) send profiles of occupational license holders to persons regulated by licensing entities and to the public;

(5) store information; and

(6) provide and receive any other service to and from the agencies and local governments or the public.

SECTION 23. Sections 2054.272(a) and (b), Government Code, are amended to read as follows:

(a) A state agency that has jurisdiction over matters related to occupational licenses, including a licensing entity of this state, shall develop in cooperation with the department a link through the state electronic Internet [~~TexasOnline~~] portal.

(b) The link shall provide streamlined access to each occupational license listed on the state electronic Internet portal [~~TexasOnline~~].

SECTION 24. Section 2054.355(c), Government Code, is amended to read as follows:

(c) If the department uses the state electronic Internet portal [~~TexasOnline~~] to implement the system, the department may recover costs incurred under this section as provided by Section 2054.252[~~, as added by Chapter 342, Acts of the 77th Legislature, Regular Session, 2001~~].

SECTION 25. Section 2055.001(1), Government Code, is amended to read as follows:

(1) "Board," "department," "electronic government project," "executive director," "local government," "major information resources project," "quality assurance team," and "state electronic Internet portal" [~~"TexasOnline"~~] have the meanings assigned by Section 2054.003.

SECTION 26. Section 2055.202, Government Code, is amended to read as follows:

Sec. 2055.202. ESTABLISHMENT OF PROJECT. The department shall establish an electronic government project to develop an Internet website accessible through the state electronic Internet portal [~~TexasOnline~~] that:

(1) provides a single location for state agencies to post electronic summaries of state grant assistance opportunities with the state agencies;

(2) enables a person to search for state grant assistance programs provided by state agencies;

(3) allows, when feasible, electronic submission of state grant assistance applications;

(4) improves the effectiveness and performance of state grant assistance programs;

(5) streamlines and simplifies state grant assistance application and reporting processes; and

(6) improves the delivery of services to the public.

SECTION 27. Sections 105.003(c), (c-1), and (c-3), Health and Safety Code, are amended to read as follows:

(c) The Department of Information Resources, through the state electronic Internet portal [TexasOnline] and in consultation with the council and the Health Professions Council, shall add and label as "mandatory" the following fields on an application or renewal form for a license, certificate, or registration for a person subject to Subsection (c-2):

- (1) full name and last four digits of social security number;
- (2) full mailing address; and
- (3) educational background and training, including basic health professions degree, school name and location of basic health professions degree, and graduation year for basic health professions degree, and, as applicable, highest professional degree obtained, related professional school name and location, and related graduation year.

(c-1) The Department of Information Resources, through the state electronic Internet portal [TexasOnline] and in consultation with the council and the Health Professions Council, shall add the following fields on an application or renewal form for a license, certificate, or registration for a person subject to Subsection (c-2):

- (1) date and place of birth;
- (2) sex;
- (3) race and ethnicity;
- (4) location of high school;
- (5) mailing address of primary practice;
- (6) number of hours per week spent at primary practice location;
- (7) description of primary practice setting;
- (8) primary practice information, including primary specialty practice, practice location zip code, and county; and
- (9) information regarding any additional practice, including description of practice setting, practice location zip code, and county.

(c-3) The relevant members of the Health Professions Council shall encourage each person described by Subsection (c-2) licensed, certified, or registered under that council's authority to submit application and renewal information under Subsections (c) and (c-1) through the system developed by the Department of Information Resources and the state electronic Internet portal [TexasOnline].

SECTION 28. Section 431.202(b), Health and Safety Code, is amended to read as follows:

(b) An applicant for a license under this subchapter must submit an application to the department on the form prescribed by the department or electronically on the state electronic Internet portal [TexasOnline Internet website].

SECTION 29. Section 431.206(d), Health and Safety Code, is amended to read as follows:

(d) The notice and confirmation required by this section are deemed adequate if the licensee sends the notices by certified mail, return receipt requested, to the central office of the department or submits them electronically through the state electronic Internet portal [~~TexasOnline Internet website~~].

SECTION 30. Section 431.410(d), Health and Safety Code, is amended to read as follows:

(d) The notice and confirmation required by this section are considered adequate if the license holder sends the notices by certified mail, return receipt requested, to the central office of the department or submits the notices electronically through the state electronic Internet portal [~~TexasOnline Internet website~~].

SECTION 31. Section 548.258, Transportation Code, is amended to read as follows:

Sec. 548.258. USE OF STATE ELECTRONIC INTERNET PORTAL [~~TEXASONLINE~~]. (a) In this section, "state electronic Internet portal" [~~"TexasOnline"~~] has the meaning assigned by Section 2054.003, Government Code.

(b) The department may adopt rules to require an inspection station to use the state electronic Internet portal [~~TexasOnline~~] to:

(1) purchase inspection certificates; or

(2) send to the department a record, report, or other information required by the department.

SECTION 32. Section 55.203(a), Utilities Code, is amended to read as follows:

(a) A private for-profit publisher of a residential telephone directory that is distributed to the public at minimal or no cost shall include in the directory:

(1) a listing of any toll-free and local telephone numbers of:

(A) state agencies;

(B) state public services; and

(C) each state elected official who represents all or part of the geographical area for which the directory contains listings; and

(2) the Internet address of the state electronic Internet portal [~~TexasOnline~~] and a statement that Internet sites for state agencies may be accessed through the state electronic Internet portal [~~TexasOnline~~].

SECTION 33. 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.

HB 1658 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Y. Davis called up with senate amendments for consideration at this time,

HB 1658, A bill to be entitled An Act relating to the refund of a cash bond to a defendant in a criminal case.

Representative Y. Davis moved to concur in the senate amendments to **HB 1658**.

The motion to concur in the senate amendments to **HB 1658** prevailed by (Record 1478): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; 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; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Bohac; Coleman; Creighton.

Senate Committee Substitute

CSHB 1658, A bill to be entitled An Act relating to the refund of a cash bond to a defendant in a criminal case.

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

SECTION 1. Article 17.02, Code of Criminal Procedure, is amended to read as follows:

Art. 17.02. DEFINITION OF "BAIL BOND". A "bail bond" is a written undertaking entered into by the defendant and the defendant's [his] sureties for the appearance of the principal therein before a [some] court or magistrate to answer a criminal accusation; provided, however, that the defendant on [upon] execution of the [such] bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond in lieu of having sureties signing the same. Any cash funds deposited under this article [Article] shall be receipted for by the officer receiving the funds [same] and, on order of the court, [shall] be refunded, after [to] the defendant [if and when the defendant] complies with the conditions of the defendant's [his] bond, to:

(1) any person in the name of whom a receipt was issued, in the amount reflected on the face of the receipt, including the defendant if a receipt was issued to the defendant; or

(2) the defendant, if no other person is able to produce a receipt for the funds[, and upon order of the court].

SECTION 2. The change in law made by this Act applies only to a cash bond that is executed on or after the effective date of this Act. A cash bond executed before the effective date of this Act is governed by the law in effect when the cash bond was executed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.

HB 1907 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Madden called up with senate amendments for consideration at this time,

HB 1907, A bill to be entitled An Act relating to notification requirements concerning offenses committed by students and school district discretion over admission or placement of certain students.

Representative Madden moved to concur in the senate amendments to **HB 1907**.

The motion to concur in the senate amendments to **HB 1907** prevailed by (Record 1479): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; 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; 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; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Bohac; Deshotel; Frullo.

Senate Committee Substitute

CSHB 1907, A bill to be entitled An Act relating to notification requirements concerning offenses committed by students and school district discretion over admission or placement of certain students.

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

SECTION 1. Article 15.27, Code of Criminal Procedure, is amended by amending Subsections (a), (a-1), (b), and (c) and adding Subsections (k), (l), (m), (n), and (o) to read as follows:

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or before ~~on~~ the next school day, whichever is earlier. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or before ~~on~~ the next school day, whichever is earlier. If the individual is a student, the superintendent or the superintendent's designee shall immediately ~~promptly~~ notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the head of the law enforcement agency or the person designated by the head of the agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must include the facts contained in the oral notification, the name of the person who was orally notified, and the date and time of the oral notification. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information contained in the notice shall ~~may~~ be considered by the superintendent or the superintendent's designee in making such a determination.

(a-1) The superintendent or a person designated by the superintendent in the school district shall ~~may~~ send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice under Subsection (a) ~~if the superintendent or the person~~

~~designated by the superintendent determines that the employee needs the information for educational purposes or for the protection of the person informed or others].~~

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or before ~~on~~ the next school day, whichever is earlier. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the paroles division of the Texas Department of Criminal Justice, and the Texas Youth Commission, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier, notify the superintendent or a person designated by the superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal or a school employee designated by the principal of the school to which the student transfers or is returned of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal of the school to which the student transfers or is returned shall, within 24 hours of receiving notification under this subsection or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

(k) Oral or written notice required under this article must include all pertinent details of the offense or conduct, including details of any:

(1) assaultive behavior or other violence;

(2) weapons used in the commission of the offense or conduct; or

(3) weapons possessed during the commission of the offense or conduct.

(l) If a school district board of trustees learns of a failure by the superintendent of the district or a district principal to provide a notice required under Subsection (a), (a-1), or (b), the board of trustees shall report the failure to the State Board for Educator Certification. If the governing body of a private primary or secondary school learns of a failure by the principal of the school to provide a notice required under Subsection (e), and the principal holds a certificate issued under Subchapter B, Chapter 21, Education Code, the governing body shall report the failure to the State Board for Educator Certification.

(m) If the superintendent of a school district in which the student is enrolled learns of a failure of the head of a law enforcement agency or a person designated by the head of the agency to provide a notification under Subsection (a), the superintendent or principal shall report the failure to notify to the Commission on Law Enforcement Officer Standards and Education.

(n) If a juvenile court judge or official designated by the juvenile board learns of a failure by the office of the prosecuting attorney to provide a notification required under Subsection (b) or (g), the official shall report the failure to notify to the elected prosecuting attorney responsible for the operation of the office.

(o) If the supervisor of a parole, probation, or community supervision department officer learns of a failure by the officer to provide a notification under Subsection (c), the supervisor shall report the failure to notify to the director of the entity that employs the officer.

SECTION 2. Article 15.27(e)(3), Code of Criminal Procedure, is amended to read as follows:

(3) The principal of a private school in which the student is enrolled or a school employee designated by the principal shall ~~may~~ send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice, for the same purposes as described by Subsection (a-1) ~~(d)~~ of this article.

SECTION 3. The changes in law made by this Act apply only to an offense committed or conduct that occurs on or after the effective date of this Act. An offense committed or conduct that occurs before the effective date of this Act is governed by the law in effect when the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed or conduct occurs before the effective date of this Act if any element of the offense or conduct occurs before that date.

SECTION 4. This Act takes effect September 1, 2011.

HB 2015 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 2015, A bill to be entitled An Act relating to certain conduct indicating a need for supervision and the sealing of records related to that conduct.

Representative Thompson moved to concur in the senate amendments to **HB 2015**.

The motion to concur in the senate amendments to **HB 2015** prevailed by (Record 1480): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; 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, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Driver; Miller, S.; Veasey.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1480. I intended to vote no.

Carter

Senate Committee Substitute

CSHB 2015, A bill to be entitled An Act relating to certain conduct indicating a need for supervision and the sealing of records related to that conduct.

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

SECTION 1. Section 51.03(b), Family Code, is amended to read as follows:

(b) Conduct indicating a need for supervision is:

(1) subject to Subsection (f), conduct, other than a traffic offense, that violates:

(A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

- (B) the penal ordinances of any political subdivision of this state;
- (2) the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school;
- (3) the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return;
- (4) conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in Section 485.001, Health and Safety Code;
- (5) an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under Section 37.007(c), Education Code; ~~or~~
- (6) conduct that violates a reasonable and lawful order of a court entered under Section 264.305; or
- (7) notwithstanding Subsection (a)(1), conduct described by Section 43.02(a)(1) or (2), Penal Code.

SECTION 2. Section 58.003, Family Code, is amended by adding Subsections (c-3) and (c-4) and amending Subsection (d) to read as follows:

(c-3) Notwithstanding Subsections (a) and (c) and subject to Subsection (b), a juvenile court, on the court's own motion and without a hearing, shall order the sealing of records concerning a child found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(7) or taken into custody to determine whether the child engaged in conduct indicating a need for supervision described by Section 51.03(b)(7). This subsection applies only to records related to conduct indicating a need for supervision described by Section 51.03(b)(7).

(c-4) A prosecuting attorney or juvenile probation department may maintain until a child's 17th birthday a separate record of the child's name and date of birth and the date on which the child's records are sealed, if the child's records are sealed under Subsection (c-3). The prosecuting attorney or juvenile probation department, as applicable, shall send the record to the court as soon as practicable after the child's 17th birthday to be added to the child's other sealed records.

(d) The court may grant to a child the relief authorized in Subsection (a), ~~or~~ (c-1), or (c-3) at any time after final discharge of the child ~~[person]~~ or after the last official action in the case if there was no adjudication, subject, if applicable, to Subsection (e). If the child is referred to the juvenile court for conduct constituting any offense and at the adjudication hearing the child is found to be not guilty of each offense alleged, the court shall immediately and without any additional hearing order the sealing of all files and records relating to the case.

SECTION 3. The changes in law made by this Act apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the

conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date.

SECTION 4. This Act takes effect September 1, 2011.

HB 805 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Callegari called up with senate amendments for consideration at this time,

HB 805, A bill to be entitled An Act relating to the requirement that certain water service providers ensure emergency operations during an extended power outage.

Representative Callegari moved to concur in the senate amendments to **HB 805**.

The motion to concur in the senate amendments to **HB 805** prevailed by (Record 1481): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Senate Committee Substitute

CSHB 805, A bill to be entitled An Act relating to the requirement that certain water service providers ensure emergency operations during an extended power outage.

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

SECTION 1. Section 13.1395(a)(1), Water Code, is amended to read as follows:

(1) "Affected utility" means a retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer:

(A) in a county with a population of 3.3 million or more; or

(B) in a county with a population of 550,000 [~~400,000~~] or more adjacent to a county with a population of 3.3 million or more.

SECTION 2. (a) Not later than November 1, 2011, each affected utility described by Section 13.1395(a)(1)(B), Water Code, as amended by this Act, shall submit the information required by Section 13.1396, Water Code, to:

(1) each appropriate county judge and office of emergency management;

(2) the Public Utility Commission of Texas; and

(3) the division of emergency management of the governor.

(b) Not later than February 1, 2012, each affected utility described by Section 13.1395(a)(1)(B), Water Code, as amended by this Act, shall submit to the Texas Commission on Environmental Quality the emergency preparedness plan required by Section 13.1395, Water Code, as amended by this Act.

(c) Not later than June 1, 2012, each affected utility described by Section 13.1395(a)(1)(B), Water Code, as amended by this Act, shall implement the emergency preparedness plan approved by the Texas Commission on Environmental Quality under Section 13.1395, Water Code, as amended by this Act.

(d) An affected utility described by Section 13.1395(a)(1)(B), Water Code, as amended by this Act, may file with the Texas Commission on Environmental Quality a written request for an extension, not to exceed 90 days, of the date by which the affected utility is required under Subsection (b) of this section to submit the affected utility's emergency preparedness plan or of the date by which the affected utility is required under Subsection (c) of this section to implement the affected utility's emergency preparedness plan. The Texas Commission on Environmental Quality shall approve the requested extension for good cause shown.

SECTION 3. 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.

HB 1981 - HOUSE CONCURS IN SENATE AMENDMENTS

TEXT OF SENATE AMENDMENTS

Representative W. Smith called up with senate amendments for consideration at this time,

HB 1981, A bill to be entitled An Act relating to measuring, monitoring, and reporting emissions.

Representative W. Smith moved to concur in the senate amendments to **HB 1981**.

The motion to concur in the senate amendments to **HB 1981** prevailed by (Record 1482): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; 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; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Callegari.

Senate Committee Substitute

CSHB 1981, A bill to be entitled An Act relating to measuring, monitoring, and reporting emissions.

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

SECTION 1. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.0161 to read as follows:

Sec. 382.0161. AIR POLLUTANT WATCH LIST. (a) The commission shall establish and maintain an air pollutant watch list. The air pollutant watch list must identify:

(1) each air contaminant that the commission determines, on the basis of federal or state ambient air quality standards for the contaminant, should be included on the air pollutant watch list; and

(2) each geographic area of the state for which ambient air quality monitoring data indicates that the individual or cumulative emissions of one or more air contaminants identified by the commission under Subdivision (1) may cause short-term or long-term adverse human health effects or odors in that area.

(b) The commission shall publish notice of and allow public comment on:

(1) an addition of an air contaminant to or removal of an air contaminant from the air pollutant watch list; or

(2) an addition of an area to or removal of an area from the air pollutant watch list.

(c) When considering the addition or removal of an area to or from the air pollutant watch list, the commission shall provide the monitoring data related to the area to the state senator and representative who represent the area.

(d) The commission may hold a public meeting in an area listed on the air pollutant watch list to provide residents of the area with information regarding:

(1) the reasons for the area's inclusion on the air pollutant watch list;
and

(2) commission actions to reduce the emissions of air contaminants contributing to the area's inclusion on the air pollutant watch list.

(e) The air pollutant watch list and the addition or removal of a pollutant or area to or from the list are not matters subject to the requirements of Subchapter B, Chapter 2001, Government Code.

SECTION 2. Sections 382.0215(e) and (g), Health and Safety Code, are amended to read as follows:

(e) The commission shall develop the capacity for electronic reporting and shall incorporate reported emissions events into a permanent online centralized database for emissions events. The commission shall develop a mechanism whereby the reporting entity shall be allowed to review the information relative to its reported emissions events prior to such information being included in the database. The database shall be easily searchable and accessible to the public. The commission shall evaluate information in the database to identify persons who repeatedly fail to report reportable emissions events. The commission shall enforce against such persons pursuant to Section 382.0216(i). The commission shall describe such enforcement actions in the report required in Subsection (g).

(g) The commission annually, or at the request of a member of the legislature, shall assess the information received under this section, including actions taken by the commission in response to the emissions events, and shall include the assessment in the report required by Section 5.126, Water Code.

SECTION 3. Chapter 505, Health and Safety Code, is amended by adding Section 505.017 to read as follows:

Sec. 505.017. NOTICE ISSUED UNDER EMERGENCIES. (a) When immediate notification of a release by a facility to the state emergency response commission is required in accordance with EPCRA, the state agency responsible for the information submitted to the state emergency response commission, on receipt of the required notification, shall make a determination as to whether the release reported will substantially endanger human health or the environment.

(b) If the responsible state agency determines that a release will substantially endanger human health or the environment, the agency shall, on request, notify the state senator or representative who represents the area in which the facility is located of the release within four hours of receipt of the original notification.

SECTION 4. This Act takes effect September 1, 2011.

HB 2136 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Guillen called up with senate amendments for consideration at this time,

HB 2136. A bill to be entitled An Act relating to regional contracted brokers and subcontractors of regional contracted brokers providing Medicaid nonemergency medical transportation services.

Representative Guillen moved to concur in the senate amendments to **HB 2136.**

The motion to concur in the senate amendments to **HB 2136** prevailed by (Record 1483): 139 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; 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; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Burkett; Taylor, L.(C).

Absent, Excused — Anchia; Strama.

Absent — Crownover; Hartnett; King, P.; Madden; Sheffield; Weber.

Senate Committee Substitute

CSHB 2136, A bill to be entitled An Act relating to regional contracted brokers and subcontractors of regional contracted brokers providing Medicaid nonemergency medical transportation services.

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

SECTION 1. Section 531.02414, Government Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) In this section:

(1) "Medical [~~],~~ ~~medical~~ transportation program" means the program that provides nonemergency transportation services:

(A) to and from covered health care services, based on medical necessity, to recipients under the Medicaid program, the children with special health care needs program, and the transportation for indigent cancer patients program, who have no other means of transportation; and

(B) that do not include emergency transportation services provided by ambulance.

(2) "Regional contracted broker" means an entity that contracts with the commission to provide or arrange for the provision of nonemergency transportation services under the medical transportation program.

(e) The executive commissioner shall adopt rules to ensure the safe and efficient provision of nonemergency transportation services under the medical transportation program by regional contracted brokers and subcontractors of regional contracted brokers. The rules must include:

(1) minimum standards regarding the physical condition and maintenance of motor vehicles used to provide the services, including standards regarding the accessibility of motor vehicles by persons with disabilities;

(2) a requirement that a regional contracted broker verify that each motor vehicle operator providing the services or seeking to provide the services has a valid driver's license;

(3) a requirement that a regional contracted broker check the driving record information maintained by the Department of Public Safety under Subchapter C, Chapter 521, Transportation Code, of each motor vehicle operator providing the services or seeking to provide the services;

(4) a requirement that a regional contracted broker check the public criminal record information maintained by the Department of Public Safety and made available to the public through the department's Internet website of each motor vehicle operator providing the services or seeking to provide the services; and

(5) training requirements for motor vehicle operators providing the services through a regional contracted broker, including training on the following topics:

(A) passenger safety;

(B) passenger assistance;

(C) assistive devices, including wheelchair lifts, tie-down equipment, and child safety seats;

(D) sensitivity and diversity;

(E) customer service;

(F) defensive driving techniques; and

(G) prohibited behavior by motor vehicle operators.

(f) The commission shall require compliance with the rules adopted under Subsection (e) in any contract entered into with a regional contracted broker to provide nonemergency transportation services under the medical transportation program.

SECTION 2. (a) Not later than August 31, 2013, the executive commissioner of the Health and Human Services Commission shall adopt rules as required by Section 531.02414(e), Government Code, as added by this Act.

(b) The Health and Human Services Commission shall, in a contract between the commission and a regional contracted broker under Section 531.02414, Government Code, as amended by this Act, that is entered into or renewed on or after the date the rules required by that section take effect, require that the regional contracted broker comply with those rules.

SECTION 3. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2136** (senate committee printing) as follows:

In SECTION 1 strike added Section 531.02414(a)(1)(B), Government Code, in its entirety.

HB 2313 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 2313, A bill to be entitled An Act relating to certain notice requirements for municipalities and counties under the open meetings law.

Representative Coleman moved to concur in the senate amendments to **HB 2313**.

The motion to concur in the senate amendments to **HB 2313** prevailed by (Record 1484): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — King, S.

Senate Committee Substitute

CSHB 2313, A bill to be entitled An Act relating to certain notice requirements for municipalities and counties under the open meetings law.

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

SECTION 1. Section 551.0415, Government Code, is amended to read as follows:

Sec. 551.0415. GOVERNING BODY OF MUNICIPALITY OR COUNTY: REPORTS ABOUT ITEMS OF COMMUNITY INTEREST REGARDING WHICH NO ACTION WILL BE TAKEN. (a) Notwithstanding Sections 551.041 and 551.042, a quorum of the governing body of a municipality or county may receive from [~~municipal~~] staff of the political subdivision and a member of the governing body may make a report about items of community interest during a meeting of the governing body without having given notice of the subject of the report as required by this subchapter if no action is taken and, except as provided by Section 551.042, possible action is not discussed regarding the information provided in the report.

(b) For purposes of Subsection (a), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolence;
- (2) information regarding holiday schedules;
- (3) an honorary or salutory recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutory recognition for purposes of this subdivision;
- (4) a reminder about an upcoming event organized or sponsored by the governing body;
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision [~~municipality~~]; and
- (6) announcements involving an imminent threat to the public health and safety of people in the political subdivision [~~municipality~~] that has arisen after the posting of the agenda.

SECTION 2. Section 551.050, Government Code, is amended to read as follows:

Sec. 551.050. MUNICIPAL GOVERNMENTAL BODY: PLACE OF POSTING NOTICE. (a) In this section, "electronic bulletin board" means an electronic communication system that includes a perpetually illuminated screen on which the governmental body can post messages or notices viewable without manipulation by the public.

(b) A municipal governmental body shall post notice of each meeting on a physical or electronic bulletin board at a place convenient to the public in the city hall.

SECTION 3. 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.

**HB 630 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Pickett called up with senate amendments for consideration at this time,

HB 630, A bill to be entitled An Act relating to the authority of the Texas Department of Transportation, counties, regional tollway authorities, and regional mobility authorities to enter into funding agreements to expedite the entity's environmental review duties related to certain transportation projects.

Representative Pickett moved to concur in the senate amendments to **HB 630**.

The motion to concur in the senate amendments to **HB 630** prevailed by (Record 1485): 139 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, S.; Davis, Y.; Deshotel; 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, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Taylor, L.(C); Woolley.

Absent, Excused — Anchia; Strama.

Absent — Davis, J.; Farrar; King, S.; Kuempel; Miles; Weber.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1485. I intended to vote no.

Kolkhorst

Senate Committee Substitute

CSHB 630, A bill to be entitled An Act relating to the environmental review process for transportation projects.

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

SECTION 1. Section 201.607, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Not later than January 1, 1997, and every fifth year after that date, the department and each state agency that is responsible for the protection of the natural environment or for the preservation of historical or archeological resources shall examine and revise their memorandum of understanding that:

(1) describes the responsibilities of each agency entering into the memorandum relating to the review of the potential environmental, historical, or archeological effect of a highway project;

(2) specifies the responsibilities of each agency entering into the memorandum relating to the review of a highway project;

(3) specifies the types of information the department must provide to the reviewing agency and the period during which the department must provide the information;

(4) specifies the period during which the reviewing agency must review the highway project and provide comments to the department, as negotiated by the department and the agency but which may not exceed 45 days after the date the agency receives a request for comments from the department; ~~and~~

(5) specifies that comments submitted to the department later than the period specified under Subdivision (4) will be considered by the department to the extent possible; and

(6) includes any other agreement necessary for the effective coordination of the review of the environmental, historical, or archeological effect of a highway project.

(c) The department by rule shall establish procedures concerning coordination with agencies in carrying out responsibilities under agreements under this section.

SECTION 2. (a) Chapter 201, Transportation Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS

Sec. 201.751. DEFINITIONS. In this subchapter:

(1) "Day" means a calendar day.

(2) "Federal Highway Administration" means the United States Department of Transportation Federal Highway Administration.

(3) "Highway project" means a highway or related improvement that is:
(A) part of the state highway system; or
(B) not part of the state highway system but funded wholly or partly by federal money.

(4) "Local government sponsor" means a political subdivision of the state that:

(A) elects to participate in the planning, development, design, funding, or financing of a highway project; and

(B) is a municipality or a county, a group of adjoining counties, a county acting under Chapter 284, a regional tollway authority operating under Chapter 366, a regional mobility authority operating under Chapter 370, a local government corporation, or a transportation corporation created under Chapter 431.

Sec. 201.752. STANDARDS. (a) The commission by rule shall establish standards for processing an environmental review document for a highway project. The standards must increase efficiency, minimize delays, and encourage collaboration and cooperation by the department with a local government sponsor, with a goal of prompt approval of legally sufficient documents.

(b) The standards apply regardless of whether the environmental review document is prepared by the department or a local government sponsor. The standards apply to work performed by the sponsor and to the department's review process and environmental decision.

(c) The standards must address, for each type of environmental review document:

(1) the issues and subject matter to be included in the project scope prepared under Section 201.754;

(2) the required content of a draft environmental review document;

(3) the process to be followed in considering each type of environmental review document; and

(4) review deadlines, including the deadlines in Section 201.759.

(d) The standards must include a process for resolving disputes arising under this subchapter, provided that the dispute resolution process must be concluded not later than the 60th day after the date either party requests dispute resolution.

(e) For highway projects described in Section 201.753(a), the standards may provide a process and criteria for the prioritization of environmental review documents in the event the department makes a finding that it lacks adequate resources to timely process all documents it receives. Standards established pursuant to this subsection must provide for notification to a local government sponsor if processing of an environmental review document is to be delayed due to prioritization, and must ensure that the environmental review document for each highway project will be completed no later than one year prior to the date planned for publishing notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a commission order under Section 201.753(a)(2).

Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN PROJECTS. (a) A local government sponsor or the department may prepare an environmental review document for a highway project only if the highway project is:

(1) identified in the financially constrained portion of the approved state transportation improvement program or the financially constrained portion of the approved unified transportation program; or

(2) identified by the commission as being eligible for participation under this subchapter.

(b) Notwithstanding Subsection (a), a local government sponsor may prepare an environmental review document for a highway project that is not identified by the commission or in a program described by Subsection (a) if the sponsor submits with its notice under Section 201.755 a fee in an amount established by commission rule, but not to exceed the actual cost of reviewing the environmental review document.

(c) A fee received by the department under Subsection (b) must be deposited in the state highway fund and used to pay costs incurred under this subchapter.

Sec. 201.754. SCOPE OF PROJECT. If an environmental review document is prepared by a local government sponsor, the local government sponsor must prepare a detailed scope of the project in collaboration with the department before the department may process the environmental review document.

Sec. 201.755. NOTICE TO DEPARTMENT. (a) A local government sponsor may submit notice to the department proposing that the local government sponsor prepare the environmental review document for a highway project.

(b) The notice must include:

- (1) the project scope prepared under Section 201.754; and
- (2) a request for classification of the project.

Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. A local government sponsor that submits notice under Section 201.755 is responsible for preparing all materials for:

- (1) project scope determination;
- (2) environmental reports;
- (3) the environmental review document;
- (4) environmental permits and conditions;
- (5) coordination with resource agencies; and
- (6) public participation.

Sec. 201.757. DETERMINATION OF ADMINISTRATIVELY COMPLETE ENVIRONMENTAL REVIEW DOCUMENT. (a) A local government sponsor's submission of an environmental review document must include a statement from the local government sponsor that the document is administratively complete, ready for technical review, and compliant with all applicable requirements.

(b) Not later than the 20th day after the date the department receives a local government sponsor's environmental review document, the department shall either:

- (1) issue a letter confirming that the document is administratively complete and ready for technical review; or
- (2) decline to issue a letter confirming that the document is administratively complete and ready for technical review, in accordance with Section 201.758.

Sec. 201.758. DEPARTMENT DECLINES TO CONFIRM THAT DOCUMENT IS ADMINISTRATIVELY COMPLETE. (a) The department may decline to issue a letter confirming that an environmental review document is administratively complete and ready for technical review only if the department

sends a written response to the local government sponsor specifying in reasonable detail the basis for its conclusions, including a listing of any required information determined by the department to be missing from the document.

(b) If the department provides notice under Subsection (a), the department shall undertake all reasonable efforts to cooperate with the local government sponsor in a timely manner to ensure that the environmental review document is administratively complete.

(c) The local government sponsor may resubmit any environmental review document determined by the department under Section 201.757 not to be administratively complete, and the department shall issue a determination letter on the resubmitted document not later than the 20th day after the date the document is resubmitted.

Sec. 201.759. REVIEW DEADLINES. (a) The following deadlines must be included in the standards adopted under Section 201.752:

(1) the department shall issue a classification letter not later than the 30th day after the date the department receives notice from a local government sponsor under Section 201.755;

(2) for a project classified as a programmatic categorical exclusion, the environmental decision must be rendered not later than the 60th day after the date the supporting documentation is received by the department;

(3) for a project classified as a categorical exclusion, the environmental decision must be rendered not later than the 90th day after the date the supporting documentation is received by the department;

(4) for a project that requires the preparation of an environmental assessment:

(A) the department must provide all department comments on a draft environmental assessment not later than the 90th day after the date the draft is received by the department; and

(B) the department must render the environmental decision on the project not later than the 60th day after the later of:

(i) the date the revised environmental assessment is submitted to the department; or

(ii) the date the public involvement process concludes;

(5) the department must render the environmental decision on any reevaluation not later than the 120th day after the date the supporting documentation is received by the department; and

(6) for a project that requires the preparation of an environmental impact statement, the department shall render the environmental decision not later than the 120th day after the date the draft final environmental impact statement is submitted.

(b) Review deadlines under this section specify the date by which the department will render the environmental decision on a project or the time frames by which the department will make a recommendation to the Federal Highway Administration, as applicable.

(c) A deadline that falls on a weekend or official state holiday is considered to occur on the next business day.

Sec. 201.760. SUSPENSION OF TIME PERIODS. The computation of review deadlines under Section 201.759 does not begin until an environmental review document is determined to be administratively complete, and is suspended during any period in which:

(1) the document that is the subject of the review is being revised by or on behalf of the local government sponsor in response to department comments;

(2) the highway project is the subject of additional work, including a change in design of the project, and during the identification and resolution of new significant issues; or

(3) the local government sponsor is preparing a response to any issue raised by legal counsel for the department concerning compliance with applicable law.

Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR AND DEPARTMENT. Notwithstanding any provision of this subchapter or any other law, a local government sponsor and the department may enter into an agreement that defines the relative roles and responsibilities of the parties in the preparation and review of environmental review documents for a specific project. For a project for which an environmental decision requires the approval of the Federal Highway Administration and to the extent otherwise permitted by law, the Federal Highway Administration may also be a party to an agreement between a local government sponsor and the department under this section.

Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE.

(a) Not later than June 30 and December 31 of each year, the department shall submit a report to the commission at a regularly scheduled commission meeting identifying projects being processed under the procedures of this subchapter and the status of each project, including:

(1) how the project was classified for environmental review;

(2) the current status of the environmental review;

(3) the date on which the department is required to make an environmental decision under applicable deadlines;

(4) an explanation of any delays; and

(5) any deadline under Section 201.759 missed by the department.

(b) Not later than December 1 of each year, the department shall submit a report to the members of the standing legislative committees with primary jurisdiction over matters related to transportation regarding the implementation of this subchapter, including a status report for the preceding 12-month period that contains the information described in Subsection (a).

(c) The department shall post copies of the reports required under this section on its Internet website and shall provide a copy of the report required by Subsection (b) to each member of the legislature who has at least one project covered by the report in the member's district.

(d) The department shall make available on its Internet website and update regularly the status of projects being processed under this subchapter.

(b) The Texas Transportation Commission shall adopt rules to implement Subchapter I-1, Chapter 201, Transportation Code, as added by this Act, not later than March 1, 2012.

(c) Subchapter I-1, Chapter 201, Transportation Code, as added by this Act, applies only to a notice of a local government sponsor proposing the sponsor's preparation of an environmental review document that is received by the Texas Department of Transportation on or after the effective date of this Act. Submissions to the Texas Department of Transportation received before the effective date of this Act are governed by the law in effect on the date the submission was received, and that law is continued in effect for that purpose.

SECTION 3. Subchapter A, Chapter 222, Transportation Code, is amended by adding Sections 222.005 and 222.006 to read as follows:

Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a regional tollway authority operating under Chapter 366, or a regional mobility authority operating under Chapter 370 may enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for the applicable entity's transportation projects, including those listed in the applicable metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134.

(b) Except as provided by Subsection (c), an agreement entered into under this section:

(1) may specify transportation projects the applicable entity considers to be priorities for review; and

(2) must require the agency receiving money to complete the environmental review in less time than is customary for the completion of environmental review by that agency.

(c) The department may enter into a separate agreement for a transportation project that the department determines has regional importance.

(d) An agreement entered into under this section does not diminish or modify the rights of the public regarding review and comment on transportation projects.

(e) An entity entering into an agreement under this section shall make the agreement available on the entity's Internet website.

Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS. The department by rule shall establish a process to certify department district environmental specialists to work on all documents related to state and federal environmental review processes. The certification process must:

(1) be available to department employees; and

(2) require continuing education for recertification.

SECTION 4. Section 12.0011, Parks and Wildlife Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Recommendations and information submitted by the department under Subsection (b) in response to a request for comments from the Texas Department of Transportation must be submitted not later than the 45th day after the date the department receives the request.

SECTION 5. Subsection (a), Section 201.607, Transportation Code, as amended by this Act, and Subsection (b-1), Section 12.0011, Parks and Wildlife Code, as added by this Act, apply only to a request for comments from the Texas Department of Transportation received by a state agency on or after the effective date of this Act. As necessary, the Texas Department of Transportation and each affected state agency shall promptly revise the memorandum of understanding required by Section 201.607, Transportation Code, to implement the change made by this Act to Subsection (a), Section 201.607, Transportation Code.

SECTION 6. This Act takes effect September 1, 2011.

HB 2330 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative P. King called up with senate amendments for consideration at this time,

HB 2330, A bill to be entitled An Act relating to the statutory county courts in Wise County.

Representative P. King moved to concur in the senate amendments to **HB 2330**.

The motion to concur in the senate amendments to **HB 2330** prevailed by (Record 1486): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Dutton; Eiland; Miles; Miller, D.; Weber.

STATEMENT OF VOTE

When Record No. 1486 was taken, I was in the house but away from my desk. I would have voted yes.

Eiland

Senate Committee Substitute

CSHB 2330, A bill to be entitled An Act relating to the statutory county courts in Wise County.

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

SECTION 1. Section 25.2511, Government Code, is amended to read as follows:

Sec. 25.2511. WISE COUNTY. (a) Wise County has the following ~~[one]~~ statutory county courts:

(1) ~~[court, the]~~ County Court at Law No. 1 of Wise County; and

(2) County Court at Law No. 2 of Wise County.

(b) ~~[The]~~ County Court at Law No. 1 of Wise County sits in Decatur or at another location in the county determined by the judge of County Court at Law No. 1 of Wise County and approved by the commissioners court.

(c) County Court at Law No. 2 of Wise County sits in Decatur or at another location in the county determined by the judge of County Court at Law No. 2 of Wise County and approved by the commissioners court.

SECTION 2. Section 25.2512(a), Government Code, as amended by Chapters 518 (**SB 1491**) and 746 (**HB 66**), Acts of the 72nd Legislature, Regular Session, 1991, is reenacted and amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Wise County has:

(1) concurrent with the county court, the probate jurisdiction provided by general law for county courts; and

(2) concurrent jurisdiction with the district court in:

(A) ~~[(+)]~~ eminent domain cases; ~~[and]~~

(B) civil cases in which the amount in controversy exceeds \$500, but does not exceed \$200,000 ~~[\$100,000]~~, excluding interest and attorney's fees; and

(C) ~~[(2)]~~ family law cases and proceedings.

SECTION 3. Section 25.2512, Government Code, is amended by amending Subsections (e) and (h) and adding Subsections (j) and (k) to read as follows:

(e) In addition to the qualifications required by Section 25.0014, a regular judge of a county court at law must have the qualifications of a district judge as required by Section 7, Article V, Texas Constitution. A special judge of a county court at law with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. A special judge is entitled to the same rate of compensation as the regular judge.

(h) The laws governing the drawing, selection, service, and pay of jurors for county courts apply to a county court at law. Jurors regularly impaneled for a week by the district court may, on request of the judge of a county court at law, be made available and shall serve for the week in a county court at law [~~Practice in a county court at law is that prescribed by law for county courts~~].

(j) The jury in all matters shall be composed of 12 members, except that in misdemeanor criminal cases and in any other cases in which the amount in controversy is not more than \$100,000, excluding interest and attorney's fees, the jury shall be composed of six members unless the constitution or other law requires a 12-member jury.

(k) A judge of a county court at law and a judge of a district court or another county court at law with concurrent jurisdiction may transfer cases between the courts in the same manner judges of district courts transfer cases under Section 24.303.

SECTION 4. The changes in law made to the qualifications of a judge of a statutory county court in Wise County by this Act apply only to a judge elected or appointed on or after the effective date of this Act. A judge elected or appointed 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 5. This Act takes effect September 1, 2011.

HB 788 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Kuempel called up with senate amendments for consideration at this time,

HB 788, A bill to be entitled An Act relating to the establishment and use of a private family cemetery by certain organizations.

Representative Kuempel moved to concur in the senate amendments to **HB 788**.

The motion to concur in the senate amendments to **HB 788** prevailed by (Record 1487): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Darby; Miles; Weber.

Senate Committee Substitute

CSHB 788, A bill to be entitled An Act relating to the establishment and use of a private family cemetery by certain organizations in certain counties.

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

SECTION 1. Section 711.008(b), Health and Safety Code, is amended to read as follows:

(b) Subsection (a) does not apply to:

(1) a cemetery heretofore established and operating;

(2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;

(3) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(A) is owned by the society or sect; and

(B) is part of the campus on which an existing principal church building is located;

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus; [ø]

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect; or

(6) the establishment and use of a private family cemetery by an organization that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that is:

(A) owned by the organization; and

(B) located in a county:

(i) with a population of more than 125,000; and

(ii) that is adjacent to a county that has a population of more than 1.5 million and in which more than 75 percent of the population lives in a single municipality.

SECTION 2. This Act takes effect September 1, 2011.

HB 336 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Marquez called up with senate amendments for consideration at this time,

HB 336, A bill to be entitled An Act relating to the filing and posting on the Internet of reports of political contributions and expenditures required in connection with the office of member of the board of trustees of certain school districts.

Representative Marquez moved to concur in the senate amendments to **HB 336**.

The motion to concur in the senate amendments to **HB 336** prevailed by (Record 1488): 140 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddock; 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; Lucio; 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; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Walle; Weber; Woolley; Workman; Zerwas.

Nays — White; Zedler.

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

Absent, Excused — Anchia; Strama.

Absent — Brown; Patrick; Quintanilla; Vo.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 336** (senate committee printing) on page 1 by striking lines 17-20 and substituting the following:

Sec. 254.04011. AVAILABILITY OF REPORTS OF SCHOOL TRUSTEES ON INTERNET. (a) This section applies only to a school district:

(1) located wholly or partly in a municipality with a population of more than 500,000; and

(2) with a student enrollment of more than 15,000.

HB 2172 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Torres called up with senate amendments for consideration at this time,

HB 2172, A bill to be entitled An Act relating to the eligibility of certain children under group life insurance policies.

Representative Torres moved to concur in the senate amendments to **HB 2172**.

The motion to concur in the senate amendments to **HB 2172** prevailed by (Record 1489): 143 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycok; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Hochberg; Marquez.

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

Absent, Excused — Anchia; Strama.

Absent — Orr.

Senate Committee Substitute

CSHB 2172, A bill to be entitled An Act relating to the eligibility of certain children under group life insurance policies.

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

SECTION 1. Section 1131.802, Insurance Code, is amended to read as follows:

Sec. 1131.802. EXTENSION OF GROUP LIFE INSURANCE TO SPOUSES AND CHILDREN; ELIGIBLE CHILDREN. Insurance under a group life insurance policy may be extended to cover:

(1) the spouse of each individual eligible to be insured under the policy;

(2) a natural or adopted child of each individual eligible to be insured under the policy if the child is:

(A) ~~unmarried and~~ younger than 25 years of age or an older age stated in the policy; or

(B) physically or mentally disabled and under the parents' supervision; or

(3) a natural or adopted grandchild of each individual eligible to be insured under the policy if the child is[:

~~(A) unmarried;~~

~~(B)~~ younger than 25 years of age or an older age stated in the policy ~~]; and~~

~~[(C) a dependent of the insured for federal income tax purposes at the time the application for coverage of the child is made].~~

SECTION 2. The change in law made by this Act applies only to an insurance policy that is delivered, issued for delivery, renewed, or amended on or after January 1, 2012. A policy that is delivered, issued for delivery, renewed, or amended 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.

SECTION 3. This Act takes effect September 1, 2011.

**HB 1301 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Guillen called up with senate amendments for consideration at this time,

HB 1301, A bill to be entitled An Act relating to making a voluntary contribution to the Parks and Wildlife Department when registering a motor vehicle or renewing a motor vehicle registration.

Representative Guillen moved to concur in the senate amendments to **HB 1301**.

The motion to concur in the senate amendments to **HB 1301** prevailed by (Record 1490): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — King, S.

Senate Committee Substitute

CSHB 1301, A bill to be entitled An Act relating to making a voluntary contribution to the Parks and Wildlife Department when registering a motor vehicle or renewing a motor vehicle registration.

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

SECTION 1. Subchapter D, Chapter 502, Transportation Code, is amended by adding Sections 502.1747 and 502.1748 to read as follows:

Sec. 502.1747. VOLUNTARY CONTRIBUTION TO PARKS AND WILDLIFE DEPARTMENT. (a) When a person registers or renews the registration of a motor vehicle under this chapter, the person may contribute \$5 or more to the Parks and Wildlife Department.

(b) The department shall:

(1) include space on each motor vehicle registration renewal notice, on the page that states the total fee for registration renewal, that allows a person renewing a registration to indicate the amount that the person is voluntarily contributing to the state parks account;

(2) provide an opportunity to contribute to the state parks account similar to the opportunity described by Subsection (a) and in the manner described by Subdivision (1) in any registration renewal system that succeeds the system in place on September 1, 2011; and

(3) provide an opportunity for a person to contribute to the state parks account during the registration renewal process on the department's Internet website.

(c) If a person makes a contribution under this section and does not pay the full amount of a registration fee, the county assessor-collector may credit all or a portion of the contribution to the person's registration fee.

(d) The county assessor-collector shall send any contribution made under this section to the comptroller for deposit to the credit of the state parks account under Section 11.035, Parks and Wildlife Code. Money received by the Parks and Wildlife Department under this section may be used only for the operation and maintenance of state parks, historic sites, or natural areas under the jurisdiction of the Parks and Wildlife Department.

(e) The department shall consult with the Parks and Wildlife Department in performing the department's duties under this section.

Sec. 502.1748. DISPOSITION OF CERTAIN VOLUNTARY CONTRIBUTIONS. If a person makes a voluntary contribution under Section 502.1746 or 502.1747 at the time the person registers or renews the registration of a motor vehicle under this chapter but the person does not clearly specify the entity to which the person intends to contribute, the county assessor-collector shall divide the contribution between the entities authorized to receive contributions under those sections.

SECTION 2. Sections 502.1747 and 502.1748, Transportation Code, as added by this Act, apply only to a motor vehicle registration renewal notice issued for a registration that expires on or after January 1, 2012.

SECTION 3. 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.

HB 1451 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 1451, A bill to be entitled An Act relating to the licensing and regulation of certain dog and cat breeders; providing penalties.

Representative Thompson moved to concur in the senate amendments to **HB 1451**.

The motion to concur in the senate amendments to **HB 1451** prevailed by (Record 1491): 103 Yeas, 40 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Branch; Brown; Burnam; Button; Castro; Chisum; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison;

Muñoz; Murphy; Naishtat; Nash; Oliveira; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Scott; Sheets; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Burkett; Cain; Callegari; Carter; Christian; Cook; Craddick; Creighton; Darby; Flynn; Frullo; Garza; Hardcastle; Harper-Brown; Hughes; King, P.; King, S.; King, T.; Larson; Lewis; Madden; Miller, D.; Miller, S.; Orr; Otto; Parker; Paxton; Ritter; Shelton; Taylor, V.; Weber; White; Workman; Zedler.

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

Absent, Excused — Anchia; Strama.

Absent — Coleman; Riddle; Sheffield.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1491. I intended to vote no.

Hopson

I was shown voting yes on Record No. 1491. I intended to vote no.

Landtroop

I was shown voting yes on Record No. 1491. I intended to vote no.

Lavender

I was shown voting yes on Record No. 1491. I intended to vote no.

Perry

When Record No. 1491 was taken, I was in the house but away from my desk. I would have voted no.

Riddle

I was shown voting no on Record No. 1491. I intended to vote yes.

Ritter

I was shown voting yes on Record No. 1491. I intended to vote no.

Schwertner

REASON FOR VOTE

Although this piece of legislation has some issues, I voted to support **HB 1451** because it is good policy. Viewed by some as over burdensome, I feel this bill will assist the State of Texas in identifying and eliminating the bad actors in the animal breeding community. As a pet owner and animal lover, I am happy to support this legislation.

Huberty

Senate Committee Substitute

CSHB 1451, A bill to be entitled An Act relating to the licensing and regulation of certain dog and cat breeders; providing penalties.

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

SECTION 1. The heading to Title 4, Occupations Code, is amended to read as follows:

TITLE 4. PROFESSIONS RELATED TO ANIMALS [~~ANIMAL HEALTH~~]

SECTION 2. Title 4, Occupations Code, is amended by adding Chapter 802 to read as follows:

CHAPTER 802. DOG OR CAT BREEDERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 802.001. SHORT TITLE. This chapter may be cited as the Dog or Cat Breeders Act.

Sec. 802.002. DEFINITIONS. In this chapter:

(1) "Adult animal" means an animal six months of age or older.

(2) "Animal" means a dog or a cat.

(3) "Cat" means a mammal that is wholly or partly of the species Felis domesticus.

(4) "Commission" means the Texas Commission of Licensing and Regulation under Chapter 51.

(5) "Controlling person" means an individual who:

(A) is a partner, manager, director, officer, or member of a dog or cat breeder;

(B) possesses the authority to set policy or direct management of a dog or cat breeder; or

(C) possesses a direct or indirect control of 25 percent or more of a dog or cat breeder.

(6) "Department" means the Texas Department of Licensing and Regulation under Chapter 51.

(7) "Dog" means a mammal that is wholly or partly of the species Canis familiaris.

(8) "Dog or cat breeder" means a person who possesses 11 or more adult intact female animals and is engaged in the business of breeding those animals for direct or indirect sale or for exchange in return for consideration.

(9) "Facility" means the premises used by a dog or cat breeder for keeping or breeding animals. The term includes all buildings, property, and confinement areas used to conduct the breeding business.

(10) "Federal regulations" means the specifications for the humane handling, care, treatment, and transportation of dogs and cats set forth in 9 C.F.R. Part 3, Subpart A.

(11) "Intact female animal" means a female animal that has not been spayed and is capable of reproduction.

(12) "Kitten" means a cat less than six months old.

(13) "Licensed breeder" means a dog or cat breeder who holds a license issued under this chapter.

(14) "Possess" means to have custody of or control over.

(15) "Primary enclosure" means any structure used to restrict an animal to a limited amount of space. The term includes a room, pen, run, cage, or compartment.

(16) "Puppy" means a dog less than six months old.

(17) "Third-party inspector" means any of the following entities with which the department contracts under Section 802.062, including an employee of the entity:

(A) a state agency; or

(B) a local law enforcement agency or fire department.

(18) "Veterinarian" means a veterinarian in good standing and licensed to practice veterinary medicine in this state.

Sec. 802.003. APPLICABILITY OF CHAPTER. (a) This chapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of the federal government, this state, or a political subdivision of this state.

(b) This chapter does not prevent a municipality or county from prohibiting or further regulating by order or ordinance the possession, breeding, or selling of dogs or cats.

(c) This chapter does not apply to an animal regulated under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

Sec. 802.004. PRESUMPTION OF USE FOR BREEDING. For purposes of this chapter, each adult intact female animal possessed by a person engaged in the business of breeding animals for direct or indirect sale or for exchange in return for consideration is presumed to be used for breeding purposes unless the person establishes to the satisfaction of the department, based on the person's breeding records or other evidence reasonably acceptable to the department, that the animal is not used for breeding.

Sec. 802.005. EXEMPTION FOR CERTAIN PERSONS WHO BREED DOGS. (a) This section applies only to a dog bred to be used exclusively for:

(1) herding livestock, as defined by Section 1.003, Agriculture Code, or other agricultural uses;

(2) hunting, including pointing, flushing, or retrieving game; or

(3) competing in field trials.

(b) This chapter does not apply to a person to the extent the person breeds dogs described by Subsection (a) for:

(1) personal use; and

(2) incidental direct or indirect sale or exchange in return for consideration.

(c) Notwithstanding Subsection (b), a person described by Subsection (b) may be subject to the requirements of this chapter based on the person's activities with respect to animals other than dogs that are bred and used as described by this section.

[Sections 802.006-802.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 802.051. GENERAL POWERS AND DUTIES; RULES. (a) The department shall administer and enforce this chapter.

(b) The commission shall adopt rules necessary to administer and enforce this chapter.

Sec. 802.052. FEES. The commission by rule shall establish reasonable and necessary fees in amounts sufficient to cover the costs of administering and enforcing this chapter. In setting the fee for inspecting or licensing a facility, the commission may consider the number of adult intact female animals used for breeding at the facility.

Sec. 802.053. PERSONNEL. The department may employ personnel necessary to carry out the functions and duties of the department under this chapter.

Sec. 802.054. EXPENSES. The department may authorize disbursements necessary to implement this chapter, including disbursements for office expenses, equipment costs, and other necessary facilities.

Sec. 802.055. CRIMINAL BACKGROUND CHECKS. The department shall conduct a criminal background check on each applicant who submits an application for a license under this chapter and on any controlling person of the applicant. The department may, as permitted by law:

(1) examine any criminal conviction, guilty plea, or deferred adjudication of the applicant or controlling person; and

(2) obtain any criminal history or record of the applicant or controlling person.

Sec. 802.056. DIRECTORY. (a) The department shall maintain a directory of licensed breeders and of third-party inspectors registered under this chapter.

(b) The department shall make the directory available to the public.

Sec. 802.057. DISCIPLINARY DATABASE. (a) The department shall maintain a database of dog or cat breeders who have been subject to disciplinary action as provided by Subchapter F.

(b) The department shall make the information maintained in the database available to the public.

Sec. 802.058. CONSUMER INTEREST INFORMATION. (a) The department shall prepare information of consumer interest describing:

(1) the functions performed by the department under this chapter; and

(2) the rights of a consumer affected by this chapter.

(b) The information must describe the procedure by which a consumer complaint is filed with and resolved by the department.

(c) The department shall make the information available to the public.

Sec. 802.059. DOG OR CAT BREEDER TRAINING AND ENFORCEMENT ACCOUNT. (a) The dog or cat breeder training and enforcement account is an account in the general revenue fund. Administrative penalties collected under Subchapter F shall be deposited to the credit of the account.

(b) Funds in the account may be appropriated only to the department for:

(1) promoting consumer awareness of this chapter and rules adopted under this chapter;

(2) supporting educational seminars, training activities, or other projects designed to benefit the department's ability to administer this chapter;

(3) paying for information resulting in disciplinary action under Subchapter F against a person for acting as a dog or cat breeder without holding a license issued under this chapter; and

(4) taking any other action to improve the department's ability to investigate violations of and enforce this chapter.

(c) The commission by rule may provide for a system to pay for information described by Subsection (b)(3). Rules adopted under this subsection must ensure that a public purpose is accomplished through the use of the payment system.

(d) The department may solicit and accept gifts, grants, and other donations from any source for deposit into the account.

(e) The account is exempt from the application of Section 403.095, Government Code.

Sec. 802.060. REGULATION OF THIRD-PARTY INSPECTORS. The commission by rule shall establish:

(1) training requirements for a third-party inspector;

(2) registration procedures for a third-party inspector; and

(3) policies governing the acts of a third-party inspector in conducting an inspection or investigation.

Sec. 802.061. REGISTRATION OF CERTAIN EMPLOYEES OF LICENSED BREEDERS. The commission by rule may establish registration procedures for any person whose duties and responsibilities include the handling of or caring for an animal in a licensed breeder's facility.

Sec. 802.062. CONTRACTS FOR ENFORCEMENT. The department may contract with a third-party inspector to enforce or assist in the enforcement of this chapter and rules adopted under this chapter, including the performance of inspections and investigations required under this chapter.

Sec. 802.063. INSPECTIONS. (a) The department shall inspect each facility of a licensed breeder at least once in every 18-month period and at other times as necessary to ensure compliance with this chapter and rules adopted under this chapter.

(b) The inspection must be conducted during the facility's normal business hours, and the licensed breeder or a representative of the licensed breeder may be present during the inspection.

(c) The department or third-party inspector may not provide advance notice to the licensed breeder or a representative of the licensed breeder before arriving at the facility. The licensed breeder or its representative shall, on request of an inspector, assist the inspector in performing the inspection.

(d) In conducting an inspection under this section, an inspector may not enter or access any portion of a private residence of a licensed breeder except as necessary to access animals, documents, records, or other property relevant to the inspection.

(e) The inspector shall submit an inspection report to the department not later than the 10th day after the date of the inspection on a form prescribed by the department and provide a copy of the report to the licensed breeder or its representative.

Sec. 802.064. INVESTIGATIONS. On receipt of a complaint alleging a violation of this chapter or a rule adopted under this chapter, the department or a third-party inspector designated by the department shall investigate the alleged violation.

Sec. 802.065. REPORTING ANIMAL CRUELTY. A person conducting an inspection under Section 802.063 or 802.103 or an investigation under Section 802.064 shall notify the appropriate local law enforcement agency not later than 24 hours after discovering evidence of animal cruelty or neglect during the inspection or investigation.

Sec. 802.066. ADVISORY COMMITTEE. (a) The commission shall establish an advisory committee to advise the commission and make recommendations on matters related to the administration and enforcement of this chapter, including licensing fees and standards adopted under Subchapter E.

(b) The advisory committee consists of nine members appointed by the presiding officer of the commission with the approval of the commission as follows:

- (1) two members who are licensed breeders;
- (2) two members who are veterinarians;
- (3) two members who represent animal welfare organizations;
- (4) two members who represent the public; and
- (5) one member who is an animal control officer as defined in Section

829.001, Health and Safety Code.

(c) Members of the advisory committee serve staggered four-year terms. The terms of four or five members expire on February 1 of each odd-numbered year. If a vacancy occurs during a member's term, the presiding officer of the commission, with the approval of the commission, shall appoint a replacement member to serve for the remainder of the unexpired term.

(d) The presiding officer of the commission shall designate one member of the advisory committee to serve as presiding officer of the advisory committee for a two-year term. A member may serve more than one term as presiding officer.

(e) The advisory committee shall meet annually and at the call of the presiding officer of the advisory committee, the presiding officer of the commission, or the executive director of the department.

(f) Except for the members described by Subsection (b)(1), a person may not be a member of the advisory committee if the person or a member of the person's household:

- (1) is required to be licensed under this chapter;
- (2) is an officer, employee, or paid consultant of an entity required to be licensed under this chapter;
- (3) owns or controls, either directly or indirectly, more than a 10 percent interest in an entity required to be licensed under this chapter; or
- (4) is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of an entity required to be licensed under this chapter.

(g) The presiding officer of the commission may remove from the advisory committee a member who is ineligible for membership under Subsection (f).

(h) A member may not receive compensation for service on the advisory committee. Subject to the department's budget and any limitation provided by the General Appropriations Act, a committee member may receive reimbursement for the actual and necessary expenses incurred while performing advisory committee duties.

(i) A decision of the advisory committee is effective only on a majority vote of the members present.

(j) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

[Sections 802.067-802.100 reserved for expansion]

SUBCHAPTER C. LICENSING OF DOG OR CAT BREEDERS

Sec. 802.101. LICENSE REQUIRED. (a) A person may not act as, offer to act as, or represent that the person is a dog or cat breeder in this state unless the person holds a license under this chapter for each facility that the person owns or operates in this state. A license for a single facility may cover more than one building on the same premises.

(b) The commission by rule may establish requirements for issuance or renewal of a license issued to a dog or cat breeder under this chapter.

Sec. 802.102. APPLICATION. An applicant for a license under this chapter must:

(1) submit to the department a completed application on a form prescribed by the department;

(2) submit to the department the information regarding the applicant's facilities and operations requested by the department;

(3) demonstrate that the applicant has satisfied the requirements of this chapter and rules adopted under this chapter; and

(4) pay to the department the required fee.

Sec. 802.103. PRELICENSE INSPECTION. (a) Except as provided by Subsection (e), the department must inspect a facility before a license is issued for the facility.

(b) The department may not issue a license to a dog or cat breeder until the department receives a prelicense inspection report from the inspector in a format approved by the department certifying that the facility meets the requirements of this chapter and rules adopted under this chapter.

(c) Before the prelicense inspection may be conducted, each applicant must pay to the department the required inspection fee to be used to pay third-party inspectors and the reasonable expenses of the department related to its licensing and inspection duties under this chapter.

(d) An applicant whose facility does not meet the requirements of this chapter and rules adopted under this chapter as revealed by a prelicense inspection may, after correcting deficiencies noted in the inspection report, request another prelicense inspection by paying the required fee to the department.

(e) The department may not require a prelicense inspection of a facility for an applicant who:

(1) holds a current Class A animal dealers license issued under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.); and

(2) submits to the department:

(A) a copy of the license; and

(B) on a form prescribed by the department, a statement certifying that the facility meets the requirements of this chapter and rules adopted under this chapter.

Sec. 802.104. INITIAL LICENSE. The department shall issue a license to each dog or cat breeder who:

(1) meets the requirements of this chapter and rules adopted under this chapter;

(2) applies to the department on the form prescribed by the department; and

(3) pays the required fee.

Sec. 802.105. TERM; NONTRANSFERABILITY. A license issued under this chapter is valid until the first anniversary of the date of issuance and is nontransferable. The department shall include the expiration date on each license issued under this chapter.

Sec. 802.106. LICENSE RENEWAL. (a) A licensed breeder may renew the person's license by:

(1) submitting a renewal application to the department on the form prescribed by the department;

(2) complying with any other renewal requirements adopted by the department; and

(3) paying the required fee.

(b) A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(c) The department may not renew the license of a person if the person is in violation of this chapter or any rule adopted under this chapter at the time of renewal.

Sec. 802.107. LICENSE DENIAL, REVOCATION, AND SUSPENSION.

(a) The department shall deny issuance of a license to, or refuse to renew the license of, a person if the person or a controlling person of the dog or cat breeder has pled guilty to, been convicted of, or received deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction in the five years preceding the person's initial or renewal application for a license.

(b) The department shall revoke a license if, after the license is issued, the person or a controlling person of the dog or cat breeder pleads guilty to, is convicted of, or receives deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction.

(c) The department may deny issuance of a license to, refuse to renew the license of, or revoke or suspend a license held by a person who:

(1) fails to meet the requirements of this chapter and rules adopted under this chapter;

(2) has had a similar license issued by a federal, state, or local authority denied, revoked, or suspended;

(3) has falsified any material information requested by the department;
(4) has failed to meet a standard adopted by rule under this chapter; or
(5) has failed to comply with any corrective action required under an inspection report in the time provided by the report.

[Sections 802.108-802.150 reserved for expansion]

SUBCHAPTER D. PRACTICE BY LICENSED BREEDER

Sec. 802.151. DISPLAY OF LICENSE; APPLICABLE LAWS AND RULES; INCLUSION OF LICENSE NUMBER AND DEPARTMENT INFORMATION. A licensed breeder shall:

- (1) prominently display a copy of the license at the breeder's facility;
- (2) maintain at the breeder's facility a printed copy of this chapter and rules adopted under this chapter as made available by the department;
- (3) include the license number in each advertisement of the licensed breeder; and
- (4) include in each contract for the sale or transfer of an animal by the licensed breeder:

(A) the license number; and

(B) the following statement: "Dog and cat breeders are regulated by the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599, www.license.state.tx.us" or a similar statement adopted by commission rule that includes the department's name, mailing address, telephone numbers, and Internet website address.

Sec. 802.152. CHANGE IN LICENSE INFORMATION. A licensed breeder shall notify the department in a manner prescribed by the department not later than the 10th day after the date any change occurs in the address, name, management, or controlling person of the business or operation.

Sec. 802.153. ANNUAL INVENTORY. (a) Not later than February 1 of each year, a licensed breeder shall submit to the department, on a form prescribed by the department, an accounting of all animals held at the facility at any time during the preceding calendar year.

(b) The licensed breeder shall keep copies of the items described by Subsection (a) at the licensed breeder's facility and shall make them available on request to the department or a third-party inspector designated by the department.

(c) A licensed breeder that has more than one facility shall:

- (1) keep separate records for each facility; and
- (2) submit a separate accounting of animals for each facility.

Sec. 802.154. ANIMAL RECORDS. (a) A licensed breeder shall maintain a separate record for each animal in the breeder's facility documenting the animal's care.

(b) The record must include:

- (1) the date the animal entered the facility;
- (2) if applicable, the name, address, and telephone number of the person from whom the animal was purchased or obtained;
- (3) a description of the animal, including the animal's breed, sex, color, identifying marks, and weight;

- (4) the date of birth of the animal or approximate age if the date of birth is unknown;
- (5) any tattoo, microchip, or other identification number carried by or appearing on the animal;
- (6) if the animal is a breeding female:
 - (A) breeding dates;
 - (B) dates the animal gave birth to a litter;
 - (C) number of puppies or kittens for each litter of the animal; and
 - (D) the name and identification of the sire or tom for each litter;
- (7) all veterinary care provided for the animal, including a record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the licensed breeder; and
- (8) for an animal that was at the facility but is no longer at the facility:
 - (A) the date of disposition or death of the animal; and
 - (B) as applicable:
 - (i) the name and address of the person to whom the animal was transferred; or
 - (ii) the animal's cause of death.

(c) The licensed breeder shall make the animal records available on request to the department or a third-party inspector designated by the department.

(d) The commission by rule shall establish the retention period for records required under this section.

[Sections 802.155-802.200 reserved for expansion]

SUBCHAPTER E. STANDARDS OF CARE AND CONFINEMENT

Sec. 802.201. ADOPTION OF STANDARDS. (a) The commission shall adopt rules establishing minimum standards for the humane handling, care, housing, and transportation of dogs and cats by a dog or cat breeder to ensure the overall health, safety, and well-being of each animal in the breeder's possession.

(b) The standards adopted under this section must:

- (1) at a minimum, meet federal regulations;
- (2) require that, unless otherwise certified by a veterinarian in the manner prescribed by the department, a licensed breeder, if applicable, provide each dog 12 weeks of age and older with at least one hour of daily exercise in an area that:
 - (A) has a surface that has adequate drainage and that will not adversely affect the dog's health or well-being, and that may be composed of natural turf or soil;
 - (B) provides adequate protection against harsh weather, including exposure to the sun; and
 - (C) has at least three times more square feet than the dog's primary enclosure;
- (3) require that an adequate period consistent with breed standards elapse between the breeding cycles of each adult intact female animal;
- (4) require that a dog or cat breeder provide basic grooming to each animal, including bathing and nail trimming, as needed to prevent any condition that adversely affects the animal's health and cleanliness;

(5) require that all primary enclosures:

(A) be composed of materials that are safe for the animal based on the animal's breed, size, and age;

(B) have adequate space to allow the animal to comfortably stand, sit, turn around, and lie down in a natural position;

(C) have adequate drainage; and

(D) if any portion of the floor surface is composed of wire or a slatted material, be free from any protruding, sharp surfaces and be designed so the animal's paws are unable to extend through, or become caught in, the floor;

(6) prohibit the placement of a primary enclosure of an animal on top of the primary enclosure of another animal, unless an impervious barrier designed to prevent the transfer of any liquid or animal waste from one enclosure to the other is placed between the enclosures;

(7) prohibit the stacking of the primary enclosures of dogs above three vertical levels;

(8) require at least one regular veterinary examination a year for a breeding animal;

(9) require that a dog or cat breeder maintain at each of the breeder's facilities a written health care management protocol that addresses routine and preventive care;

(10) ensure that necessary routine and preventive care is provided to each animal and that each animal receives appropriate care and treatment for any disease or illness that affects the animal's health or well-being;

(11) prohibit a person from euthanizing an animal or performing a surgical birth of an animal unless the person is a veterinarian;

(12) require appropriate training for any person whose duties and responsibilities include the handling of or caring for an animal in a dog or cat breeder's facility; and

(13) prohibit a dog or cat breeder from selling, trading, or giving away an animal before the animal is eight weeks of age.

(c) The commission by rule may modify existing standards as necessary to protect or improve the health and well-being of animals or to protect the health and safety of the public.

[Sections 802.202-802.250 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

Sec. 802.251. DISCIPLINARY ACTION; ADMINISTRATIVE PENALTY.

If a person violates this chapter or a rule adopted under this chapter, the person is subject to any action or penalty under Subchapter F or G, Chapter 51.

SECTION 3. Not later than January 1, 2012, the presiding officer of the Texas Commission of Licensing and Regulation shall appoint the members of the advisory committee established under Section 802.066, Occupations Code, as added by this Act.

SECTION 4. Not later than March 31, 2012, the Texas Commission of Licensing and Regulation shall adopt the rules, standards, procedures, and fees necessary to implement Chapter 802, Occupations Code, as added by this Act, and Section 5 of this Act.

SECTION 5. Notwithstanding Chapter 802, Occupations Code, as added by this Act, a dog or cat breeder is not required to:

(1) hold a license under that chapter to act as a dog or cat breeder before September 1, 2012; or

(2) comply with the standards adopted under Subchapter E, Chapter 802, Occupations Code, as added by this Act, before September 1, 2012.

SECTION 6. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1451** (senate committee report) as follows:

(1) In SECTION 2 of the bill, in proposed Section 802.002(8), Occupations Code (page 1, line 44), between "consideration" and the period, insert "and who sells or exchanges, or offers to sell or exchange, not fewer than 20 animals in a calendar year"

(2) In SECTION 2 of the bill, strike proposed Section 802.005, Occupations Code (page 2, lines 26 through 42), and substitute the following:

Sec. 802.005. EXEMPTION FOR CERTAIN PERSONS WHO BREED SPECIAL PURPOSE DOGS. (a) This section applies only to a dog bred with the intent that it be used primarily for:

(1) herding livestock, as defined by Section 1.003, Agriculture Code, or other agricultural uses;

(2) hunting, including tracking, chasing, pointing, flushing, or retrieving game; or

(3) competing in field trials, hunting tests, or similar organized performance events.

(b) This chapter does not apply to a person to the extent the person breeds dogs described by Subsection (a) for personal use. A person described by this subsection may conduct direct or indirect sales or exchanges in return for consideration of dogs described by Subsection (a).

(c) Notwithstanding Subsection (b), a person described by Subsection (b) may be subject to the requirements of this chapter based on the person's activities with respect to animals other than dogs that are bred and used as described by this section.

(d) Dogs described by Subsection (a) may not be counted for purposes of determining the number of adult intact female animals possessed by a person as described by Section 802.002(8).

(3) In SECTION 2 of the bill, in proposed Section 802.059(b)(2), Occupations Code (page 3, line 32), strike "projects" and substitute "actions".

(4) In SECTION 2 of the bill, in proposed Section 802.059(b)(2), Occupations Code (page 3, line 33), strike "this chapter;" and substitute "and enforce this chapter; and".

(5) In SECTION 2 of the bill, in proposed Section 802.059(b)(3), Occupations Code (page 3, lines 36 and 37), strike "; and" and substitute an underlined period.

(6) In SECTION 2 of the bill, strike proposed Section 802.059(b)(4), Occupations Code (page 3, lines 38 through 40).

(7) In SECTION 2 of the bill, following proposed Section 802.059(e), Occupations Code (page 3, between lines 48 and 49), insert the following:

(f) The executive director of the department must approve any expenditure from the account.

(g) The department shall report its use of the account in its quarterly financial report to the commission.

(8) In SECTION 2 of the bill, strike proposed Section 802.061, Occupations Code (page 3, lines 57 through 61), and renumber subsequent proposed sections of Subchapter B, Chapter 802, Occupations Code, accordingly.

(9) In SECTION 2 of the bill, in proposed Section 802.063(b), Occupations Code (page 4, line 4), strike "may" and substitute "must be given a reasonable opportunity to".

(10) In SECTION 2 of the bill, in proposed Section 802.063(c), Occupations Code (page 4, line 5), strike "The department or third-party inspector may not" and substitute "If necessary to adequately perform the inspection, the department or third-party inspector may determine it is appropriate to not".

(11) In SECTION 2 of the bill, strike proposed Section 802.063(d), Occupations Code (page 4, lines 10 through 13), and substitute the following:

(d) In conducting an inspection under this section, an inspector may not enter or access any portion of a private residence of a licensed breeder except as necessary to access animals or other property relevant to the care of the animals. The inspector may request that relevant documents or records be provided for inspection.

(12) In SECTION 2 of the bill, in proposed Section 802.066(b)(3), Occupations Code (page 4, line 39), between "organizations" and the underlined semicolon, insert "each of which has an office based in this state".

(13) In SECTION 2 of the bill, in proposed Section 802.154(a), Occupations Code (page 7, line 16), between "(a)" and "A", insert "The commission shall adopt rules establishing the minimum information that a licensed breeder must maintain for each animal in the breeder's facility.".

(14) In SECTION 2 of the bill, strike proposed Section 802.154(b), Occupations Code (page 7, lines 19 through 47), and renumber subsequent proposed subsections of Section 802.154, Occupations Code, accordingly.

(15) In SECTION 2 of the bill, in proposed Section 802.201(b)(4), Occupations Code (page 8, lines 8 through 10), strike "as needed to prevent any condition that adversely affects the animal's health and cleanliness" and substitute "to the extent required to maintain the animal in a state of good health".

(16) In SECTION 2 of the bill, in proposed Section 802.201(b)(10), Occupations Code (page 8, lines 36 through 37), strike "that affects the animal's health or well-being" and substitute ", to the extent required to maintain the animal in a state of good health".

Senate Amendment No. 2 (Senate Floor Amendment No. 4)

Amend **CSHB 1451** (senate committee printing) in SECTION 2 of the bill, in Section 802.021(b)(11), Occupations Code (page 8, line 38), between "an" and "animal", insert "adult".

**HB 1495 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Muñoz called up with senate amendments for consideration at this time,

HB 1495, A bill to be entitled An Act relating to the application of the Information Resources Management Act to public junior colleges and public junior college districts.

Representative Muñoz moved to concur in the senate amendments to **HB 1495**.

The motion to concur in the senate amendments to **HB 1495** prevailed by (Record 1492): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; 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; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Strama.

Absent — Branch; Jackson; Kolkhorst.

STATEMENTS OF VOTE

When Record No. 1492 was taken, my vote failed to register. I would have voted yes.

Branch

When Record No. 1492 was taken, I was in the house but away from my desk. I would have voted yes.

Kolkhorst

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1495** (senate committee report) as follows:

(1) At the end of Section 1 of the bill (page 1, line 1-16) between "Subchapter I" and the period, insert "and except as to Section 2054.119, Government Code"

(Strama now present)

**HB 2173 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Torres called up with senate amendments for consideration at this time,

HB 2173, A bill to be entitled An Act relating to a pilot program allowing certain military overseas voters to receive and cast a ballot electronically.

Representative Torres moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2173**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2173**: Torres, chair; L. Taylor, Hernandez Luna, Burkett, and P. King.

**HB 2903 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Zerwas called up with senate amendments for consideration at this time,

HB 2903, A bill to be entitled An Act relating to the program of all-inclusive care for the elderly.

Representative Zerwas moved to concur in the senate amendments to **HB 2903**.

The motion to concur in the senate amendments to **HB 2903** prevailed by (Record 1493): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harcastle; 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; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia.

Absent — Gonzales, L.

Senate Committee Substitute

CSHB 2903, A bill to be entitled An Act relating to the program of all-inclusive care for the elderly.

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

SECTION 1. Section 32.053, Human Resources Code, is amended by amending Subsections (a), (b), and (e) and adding Subsections (f), (g), and (h) to read as follows:

(a) The department, as an integral [a] part of the medical assistance program, shall develop and implement a program of all-inclusive care for the elderly (PACE) in accordance with Section 4802 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33), as amended. The department shall provide medical assistance to a participant in the PACE program in the manner and to the extent authorized by federal law.

(b) The executive commissioner of the Health and Human Services Commission [department] shall adopt rules as necessary to implement this section. In adopting rules, the executive commissioner [department] shall:

(1) use the Bienvivir Senior Health Services of El Paso initiative as a model for the program; ~~and~~

(2) ensure that a person is not required to hold a certificate of authority as a health maintenance organization under Chapter 843, Insurance Code, [the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code)] to provide services under the PACE program;

(3) ensure that participation in the PACE program is available as an alternative to enrollment in a Medicaid managed care plan under Chapter 533, Government Code, for eligible recipients, including recipients eligible for assistance under both the medical assistance and Medicare programs;

(4) ensure that managed care organizations that contract under Chapter 533, Government Code, consider the availability of the PACE program when considering whether to refer a recipient to a nursing home or other long-term care facility; and

(5) establish protocols for the referral of eligible persons to the PACE program.

(e) The ~~department, with the cooperation of the Texas~~ Department of ~~[on]~~ Aging and Disability Services and area agencies on aging[~~]~~ shall develop and implement a coordinated plan to promote PACE program sites operating under this section. The department shall adopt policies and procedures, including operating guidelines, to ensure that caseworkers and any other appropriate department staff discuss the benefits of participating in the PACE program with long-term care clients.

(f) The department shall consider the PACE program as a community-based service option under any "Money Follows the Person" demonstration project or other initiative that is designed to eliminate barriers or mechanisms that prevent or restrict the flexible use of funds under the medical assistance program to enable a recipient to receive long-term services or supports in a setting of the recipient's choice.

(g) A PACE program site may coordinate with entities that are eligible to obtain discount prescription drug prices under Section 340B, Public Health Service Act (42 U.S.C. Section 256b), as necessary to enable the PACE program site to obtain those discounts.

(h) The commission shall adopt a standard reimbursement methodology for the payment of all PACE organizations for purposes of encouraging a natural increase in the number of PACE program sites throughout the state.

SECTION 2. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0531 to read as follows:

Sec. 32.0531. PACE PROGRAM TEAM. (a) The Department of Aging and Disability Services shall establish a PACE program team composed of experienced personnel. The team is responsible for:

(1) increasing public attention and awareness of the availability of PACE program sites;

(2) increasing the number of PACE program sites operating in this state; and

(3) serving as a liaison with the state and federal agencies responsible for administering the PACE program, participants in the program, and PACE program sites.

(b) The PACE program team shall conduct a study to evaluate the feasibility of implementing a statewide standard reimbursement rate for all PACE organizations. Not later than September 1, 2012, the PACE program team shall submit to the Health and Human Services Commission a written report containing the findings of the study conducted under this subsection and the team's recommendations. This subsection expires September 2, 2012.

SECTION 3. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4. This Act takes effect September 1, 2011.

**HB 174 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Jackson called up with senate amendments for consideration at this time,

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.

Representative Jackson moved to concur in the senate amendments to **HB 174**.

The motion to concur in the senate amendments to **HB 174** prevailed by (Record 1494): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; 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.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia.

Absent — Alonzo; Naishtat; Smith, W.

Senate Committee Substitute

CSHB 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.

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

SECTION 1. Section 16.001, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Each month the local registrar of deaths shall prepare an abstract of each death certificate issued in the month for a decedent 18 years of age or older who was a resident of the state at the time of death. The local registrar of deaths shall file each abstract with the voter registrar of the decedent's county of residence and the secretary of state not later than the 10th day of the month following the month in which the abstract is prepared.

(b) Each month the clerk of each court having probate jurisdiction shall prepare an abstract of each application for probate of a will, administration of a decedent's estate, or determination of heirship, and each affidavit under Section 137, Texas Probate Code, that is filed in the month with a court served by the clerk. The clerk shall file each abstract with the voter registrar and the secretary of state not later than the 10th day of the month following the month in which the abstract is prepared.

(d) The secretary of state shall quarterly obtain from the United States Social Security Administration available information specified by the secretary relating to deceased residents of the state.

SECTION 2. Section 16.031(b), Election Code, is amended to read as follows:

(b) The registrar shall cancel a voter's registration immediately if the registrar:

(1) determines from information received under Section 16.001(c) that the voter is deceased;

(2) has personal knowledge that the voter is deceased; ~~or~~

(3) receives from a person related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to the voter a sworn statement by that person indicating that the voter is deceased; or

(4) receives notice from the secretary of state under Section 18.068 that the voter is deceased.

SECTION 3. Section 16.0332(a), Election Code, is amended to read as follows:

(a) After the registrar receives a list under Section 18.068 of this code or Section 62.113, Government Code, of persons excused or disqualified from jury service because of citizenship status, the registrar shall deliver to each registered voter whose name appears on the list a written notice requiring the voter to submit to the registrar proof of United States citizenship in the form of a certified copy of the voter's birth certificate, United States passport, or certificate of naturalization or any other form prescribed by the secretary of state. The notice shall be delivered by forwardable mail to the mailing address on the voter's registration application and to any new address of the voter known to the registrar.

SECTION 4. Subchapter C, Chapter 18, Election Code, is amended by adding Section 18.068 to read as follows:

Sec. 18.068. COMPARISON OF INFORMATION REGARDING INELIGIBILITY. The secretary of state shall quarterly compare the information received under Section 16.001 of this code and Section 62.113, Government Code, to the statewide computerized voter registration list. If the secretary determines that a voter on the registration list is deceased or has been excused or disqualified from jury service because the voter is not a citizen, the secretary shall send notice of the determination to the voter registrar of the counties considered appropriate by the secretary.

SECTION 5. Section 62.0132, Government Code, is amended by adding Subsection (h) to read as follows:

(h) The questionnaire must notify a person that if the person states that the person is not a citizen, the person will no longer be eligible to vote if the person fails to provide proof of citizenship.

SECTION 6. Section 62.0142, Government Code, is amended to read as follows:

Sec. 62.0142. NOTICE ON WRITTEN SUMMONS. If a written summons for jury duty allows a person to claim a disqualification or exemption by signing a statement and returning it to the clerk of the court, the form must notify the person that by claiming a disqualification or exemption based on:

(1) the lack of citizenship, the person will no longer be eligible to vote if the person fails to provide proof of citizenship; or

(2) lack of residence in the county, the person might no longer be eligible to vote in the county.

SECTION 7. Sections 62.113(b) and (c), Government Code, are amended to read as follows:

(b) On the third business day of each month, the clerk shall send a copy of the list of persons excused or disqualified because of citizenship in the previous month to:

(1) the voter registrar of the county;

(2) the secretary of state; and

(3) the county or district attorney, as applicable, for an investigation of whether the person committed an offense under Section 13.007, Election Code, or other law.

(c) A list compiled under this section may not be used for a purpose other than a purpose described by Subsection (b) or Section 16.0332 or 18.068, Election Code.

SECTION 8. The changes in law made by this Act to Sections 62.0132 and 62.0142, Government Code, apply only to a written summons or questionnaire printed on or after the effective date of this Act. A written summons or questionnaire printed 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.

SECTION 9. This Act takes effect September 1, 2011.

**HB 360 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Jackson called up with senate amendments for consideration at this time,

HB 360, A bill to be entitled An Act relating to ballot language for a proposition to approve the imposition or increase of a tax or the issuance of bonds.

Representative Jackson moved to concur in the senate amendments to **HB 360**.

The motion to concur in the senate amendments to **HB 360** prevailed by (Record 1495): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; Legler; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Nash; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia.

Absent — Lavender; Lewis; Menendez; Murphy; Naishtat; Riddle.

Senate Committee Substitute

CSHB 360, A bill to be entitled An Act relating to ballot language for a proposition to approve the imposition, increase, or reduction of a tax or the issuance of bonds.

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

SECTION 1. Section 52.072, Election Code, is amended by adding Subsection (e) to read as follows:

(e) In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the issuance of bonds or the imposition, increase, or reduction of a tax shall specifically state, as applicable:

(1) with respect to a proposition seeking voter approval of the issuance of bonds:

(A) the total principal amount of the bonds to be authorized, if approved; and

(B) a general description of the purposes for which the bonds are to be authorized, if approved;

(2) with respect to a proposition that only seeks voter approval of the imposition or increase of a tax, the amount of or maximum tax rate of the tax or tax increase for which approval is sought; or

(3) with respect to a proposition that only seeks voter approval of the reduction of a tax, the amount of tax rate reduction or the tax rate for which approval is sought.

SECTION 2. The change in law made by this Act applies only to an election ordered on or after the effective date of this Act. An election ordered before the effective date of this Act is governed by the law in effect when the election was ordered.

SECTION 3. This Act takes effect September 1, 2011.

HB 2469 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Phillips called up with senate amendments for consideration at this time,

HB 2469, A bill to be entitled An Act relating to a memorial sign program for victims of motorcycle accidents.

Representative Phillips moved to concur in the senate amendments to **HB 2469**.

The motion to concur in the senate amendments to **HB 2469** prevailed by (Record 1496): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia.

Absent — Callegari; Creighton; Murphy.

Senate Committee Substitute

CSHB 2469, A bill to be entitle An Act relating to a memorial sign program for victims of motorcycle accidents.

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

SECTION 1. This Act shall be known as the Mike Grove Motorcycle Fatality Awareness Act.

SECTION 2. Subchapter K, Chapter 201, Transportation Code, is amended by adding Section 201.911 to read as follows:

Sec. 201.911. MEMORIAL SIGN PROGRAM FOR MOTORCYCLISTS.

(a) In this section, "victim" means a person killed in a highway accident while operating or riding on a motorcycle.

(b) The commission by rule shall establish and administer a memorial sign program to publicly memorialize the victims of motorcycle accidents.

(c) A sign designed and posted under this section shall include:

(1) a red cross;

(2) the phrase "In Memory Of" and the name of one or more victims in accordance with the commission rule; and

(3) the date of the accident that resulted in the victim's death.

(d) The sign may include the names of more than one victim if the total length of the names does not exceed one line of text.

(e) A person may request that a sign be posted under this section by:

(1) making an application to the department on a form prescribed by the department; and

(2) submitting a fee to the department in an amount determined by the department to cover the costs of posting the memorial sign.

(f) If the application meets the department's requirements and the applicant pays the memorial sign fee, the department shall erect a sign. A sign posted under this section may remain posted for one year. At the end of the one-year period, the department may release the sign to the applicant. The department is not required to release a sign that has been damaged.

(g) The department shall remove a sign posted under this section that is damaged. Except as provided by Subsection (h), the department may post a new sign if less than one year has passed from the posting of the original sign and a person:

(1) submits a written request to the department to replace the sign; and

(2) submits a replacement fee in the amount provided by Subsection

(e)(2).

(h) During the one-year posting period, the department shall replace a sign posted under this section if the sign is damaged because of the department's negligence.

(i) This section does not authorize the department to remove an existing privately funded memorial that conforms to state law and department rules. A privately funded memorial may remain indefinitely as long as the memorial conforms to state law and department rules.

(j) The commission shall adopt rules to implement this section.

SECTION 3. 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.

HB 2636 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 2636, A bill to be entitled An Act relating to a commission to study neonatal intensive care units.

Representative Kolkhorst moved to concur in the senate amendments to **HB 2636**.

The motion to concur in the senate amendments to **HB 2636** prevailed by (Record 1497): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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.; 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; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lucio; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia.

Absent — Bonnen; Dutton; Miles; Naishtat.

STATEMENT OF VOTE

When Record No. 1497 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

Senate Committee Substitute

CSHB 2636, A bill to be entitled An Act relating to a council to study neonatal intensive care units.

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

SECTION 1. (a) In this section:

(1) "Council" means the Neonatal Intensive Care Unit Council established under this section.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(b) The executive commissioner shall create and appoint the members of the Neonatal Intensive Care Unit Council as provided by Subsection (d) of this section to study and make recommendations regarding neonatal intensive care unit operating standards and reimbursement through the Medicaid program for services provided to an infant admitted to a neonatal intensive care unit.

(c) The council shall:

(1) develop standards for operating a neonatal intensive care unit in this state;

(2) develop an accreditation process for a neonatal intensive care unit to receive reimbursement for services provided through the Medicaid program; and

(3) study and make recommendations regarding best practices and protocols to lower admissions to a neonatal intensive care unit.

(d) The executive commissioner shall appoint the following as members of the council:

(1) four neonatologists, at least two of whom must practice in a Level III neonatal intensive care unit;

(2) one general pediatrician;

(3) two general obstetrician-gynecologists;

(4) two maternal fetal medicine specialists;

(5) one family practice physician who provides obstetrical care and practices in a rural community;

(6) one representative from a children's hospital;

(7) one representative from a hospital with a Level II neonatal intensive care unit; and

(8) one representative from a rural hospital.

(e) The executive commissioner shall designate a member of the council to serve as presiding officer. The members of the council shall elect any other necessary officers.

(f) The council shall meet at the call of the executive commissioner.

(g) A member of the council serves at the will of the executive commissioner.

(h) A member of the council is not entitled to reimbursement of expenses or to compensation.

(i) The council may accept gifts and grants from any source to be used to carry out a function of the council.

(j) Not later than January 1, 2013, the council shall submit a report to the executive commissioner, the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate legislative committees on its findings and recommendations required by this section.

SECTION 2. Not later than December 1, 2011, the executive commissioner of the Health and Human Services Commission shall appoint the members of the Neonatal Intensive Care Unit Council as required by Section 1 of this Act.

SECTION 3. This Act expires June 1, 2013.

SECTION 4. This Act takes effect September 1, 2011.

HB 1797 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Naishtat called up with senate amendments for consideration at this time,

HB 1797, A bill to be entitled An Act relating to a person's eligibility to obtain a license in social work.

Representative Naishtat moved to concur in the senate amendments to **HB 1797**.

The motion to concur in the senate amendments to **HB 1797** prevailed by (Record 1498): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; Lucio; 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; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker, Taylor, L.(C).

Absent, Excused — Anchia.

Absent — Solomons.

STATEMENT OF VOTE

When Record No. 1498 was taken, I was in the house but away from my desk. I would have voted yes.

Solomons

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1797** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 505.003, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) A person who teaches social work at an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, is not required to hold a license under this chapter to the extent the person confines the person's activities to teaching and does not otherwise engage in the practice of social work.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a conference committee meeting:

Crownover on motion of Naishtat.

HB 2869 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Harper-Brown called up with senate amendments for consideration at this time,

HB 2869, A bill to be entitled An Act relating to the powers and duties of certain master mixed-use property owners' associations.

Representative Harper-Brown moved to concur in the senate amendments to **HB 2869**.

The motion to concur in the senate amendments to **HB 2869** prevailed by (Record 1499): 145 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Aliseda; Taylor, L.(C).

Absent, Excused — Anchia; Crownover.

Senate Committee Substitute

CSHB 2869, A bill to be entitled An Act relating to the powers and duties of certain master mixed-use property owners' associations.

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

SECTION 1. Title 11, Property Code, is amended by adding Chapter 215 to read as follows:

CHAPTER 215. MASTER MIXED-USE PROPERTY OWNERS' ASSOCIATIONS

Sec. 215.001. DEFINITIONS. In this chapter:

(1) "Appraised value" means the property value determined by the appraisal district that establishes property values for taxing entities levying taxes on property in a mixed-use development.

(2) "Property owners' association" or "association" means, unless otherwise indicated, a master mixed-use property owners' association.

(3) "Dedicatory instrument" has the meaning assigned by Section 209.002.

(4) "Self-help" means the process by which a property owners' association takes remedial action with regard to property governed by the association.

Sec. 215.002. APPLICABILITY OF CHAPTER. (a) This chapter applies to a property owners' association that:

(1) includes:

(A) commercial properties, including hotel and retail properties, that constitute at least 35 percent of the total appraised property value of the mixed-use development governed by the association;

(B) single-family attached and detached properties that constitute at least 25 percent of the total appraised property value of the mixed-use development governed by the association; and

(C) multifamily properties that constitute at least 10 percent of the total appraised property value of the mixed-use development governed by the association;

(2) governs at least 6,000 acres of deed-restricted property;

(3) has at least 10 incorporated residential or commercial property owners' associations that are members of and subject to the dedicatory instruments of the master mixed-use property owners' association;

(4) has at least 3,400 platted and developed single-family residential properties and at least 400 separately platted commercial properties, including office, industrial, hotel, and retail properties, which together constitute at least 30 million square feet of building area available for rental; and

(5) participates in the maintenance of public space, including parks, medians, and lakefronts, owned by local, including county, or state governmental entities.

(b) This chapter applies to property that is:

(1) governed by a property owners' association described by Subsection (a);

(2) located in a master mixed-use development; and

(3) subject to a provision, including a restriction, in a declaration that:

(A) requires mandatory membership in the association; and

(B) authorizes the association to collect a regular or special assessment on all or a majority of the property in the development.

(c) Except as otherwise provided by this chapter, this chapter applies only to a master mixed-use property owners' association and not to the independent property owners' associations that are members of the master mixed-use property owners' association.

Sec. 215.003. APPLICABILITY OF CHAPTER 209. Sections 209.007, 209.008, 209.011, and 209.012 apply only to single-family residential properties governed by a property owners' association subject to this chapter.

Sec. 215.004. CONFLICTS OF LAW. Notwithstanding any other provision of law, the provisions of this chapter prevail over a conflicting or inconsistent provision of law relating to independent property owners' associations.

Sec. 215.005. BOARD POWERS. In addition to any other powers provided by applicable law and this chapter, and unless otherwise provided by the dedicatory instruments of the property owners' association, the association, acting through its board of directors, may:

(1) adopt and amend bylaws;

(2) adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from property owners;

(3) adopt reasonable rules;

(4) hire and terminate managing agents and other agents, employees, and independent contractors;

(5) institute, defend, intervene in, settle, or compromise litigation or administrative proceedings on matters affecting a property governed by the association;

(6) make contracts and incur liabilities relating to the operation of the association;

(7) regulate the use, maintenance, repair, replacement, modification, and appearance of the property governed by the association;

(8) make improvements to be included as a part of the common area;

(9) acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property;

(10) purchase an investment property that is not part of the common area;

(11) grant easements, leases, licenses, and concessions through or over the common elements;

(12) impose and receive payments, fees, or charges for the use, rental, or operation of the common area and for services provided to property owners;

(13) impose interest, late charges, and, if applicable, returned check charges for late payments of regular assessments or special assessments;

(14) charge costs to an owner's assessment account and collect the costs in any manner provided in the restrictions for the collection of assessments;

(15) adopt and amend rules regulating the collection of delinquent assessments;

(16) impose reasonable charges for preparing, recording, or copying amendments to resale certificates or statements of unpaid assessments;

(17) purchase insurance and fidelity bonds, including directors' and officers' liability insurance, that the board considers appropriate or necessary;

(18) subject to the requirements of the provisions described by Section 1.008(d), Business Organizations Code, and by majority vote of the board, indemnify a director or officer of the association who was, is, or may be made a named defendant or respondent in a proceeding because the person is or was a director or officer;

(19) if the restrictions vest the architectural control authority in the association:

(A) implement written architectural control guidelines for its own use, or record the guidelines in the real property records of the applicable county; and

(B) modify the guidelines as the needs of the development change;

(20) exercise self-help with regard to property governed by the association;

(21) exercise other powers conferred by the dedicatory instruments;

(22) exercise other powers necessary and proper for the governance and operation of the association; and

(23) exercise any other powers that may be exercised in this state by a corporation of the same type as the association.

Sec. 215.006. ANNUAL MEETING OF ASSOCIATION MEMBERS; NOTICE OF ANNUAL OR SPECIAL MEETING. (a) An annual meeting of members of a property owners' association must be conducted in accordance with the association's dedicatory instruments.

(b) Unless otherwise provided by a dedicatory instrument, an annual meeting of the property owners' association members is open to association members and must be held in a county in which all or part of the property governed by the association is located or in a county adjacent to that county.

(c) Unless otherwise provided by a dedicatory instrument, the board shall give members notice of the date, time, place, and subject of an annual or special meeting of the members. The notice must be delivered to each member not later than the 10th day and not earlier than the 60th day before the date of the meeting.

(d) A notice under Subsection (c) must be posted in a conspicuous manner reasonably designed to provide notice to association members:

(1) in a place located outside the corporate offices of the association that is accessible by the general membership during normal business hours; or

(2) on any Internet website maintained by the association.

(e) Unless otherwise provided by a dedicatory instrument, any number of the members may attend the meeting by use of videoconferencing or a similar telecommunication method for purposes of establishing full participation in the meeting.

Sec. 215.007. BOARD MEETINGS. (a) A meeting of the board of directors of a property owners' association must be conducted in accordance with the association's dedicatory instruments.

(b) Unless otherwise provided by a dedicatory instrument, elected directors who represent the commercial and residential membership attend and conduct the business of the property owners' association at a meeting under this section.

(c) In this section, a board meeting has the meaning assigned by a dedicatory instrument. Notwithstanding this subsection, the term does not include the gathering of a quorum of the board at any other venue, including at a social function unrelated to the business of the association, or the attendance by a quorum of the board at a regional, state, or national convention, workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of association business is incidental to the social function, convention, workshop, ceremonial event, or press conference.

(d) Unless otherwise provided by a dedicatory instrument, the board shall keep a record of each regular, emergency, or special board meeting in the form of written minutes or an audio recording of the meeting. A record of a meeting must state the subject of each motion or inquiry, regardless of whether the board takes action on the motion or inquiry, and indicate each vote, order, decision, or other action taken by the board. The board shall make meeting records, including approved minutes, available to a member for inspection and copying, at the member's expense, during the normal business hours of the association on the member's written request to the board or the board's representative. The board shall approve the minutes of a board meeting not later than the next regular board meeting.

(e) Unless otherwise provided by a dedicatory instrument, before the board calls an executive session, the board shall convene in a regular or special board meeting for which notice has been given as provided by this section. During that board meeting, the presiding board member may call an executive session by announcing that an executive session will be held to deliberate a matter described by Subsection (f) and identifying the specific subdivision of Subsection (f) under which the executive session will be held. A vote or other action item may not be taken in executive session. An executive session is not subject to the requirements of Subsection (d).

(f) Unless otherwise provided by a dedicatory instrument, a property owners' association board may meet in executive session to deliberate:

- (1) anticipated or pending litigation, settlement offers, or interpretations of the law with the association's legal counsel;
- (2) complaints or charges against or issues regarding a board member or an agent, employee, contractor, or other representative of the association;
- (3) all financial matters concerning a specific property owner;
- (4) a payment plan for an association member who has a financial obligation to the association;
- (5) a foreclosure of a lien;
- (6) an enforcement action against an association member, including for nonpayment of amounts due;
- (7) the purchase, exchange, lease, or value of real property, if the board determines in good faith that deliberation in an open board meeting may have a detrimental effect on the association;
- (8) business and financial issues relating to the negotiation of a contract, if the board determines in good faith that deliberation in an open board meeting may have a detrimental effect on the position of the association;
- (9) matters involving the invasion of privacy of an individual owner;
- (10) an employee matter; and
- (11) any other matter the board considers necessary or reasonable to further assist the association's operation.

Sec. 215.008. VOTING. (a) The number of votes to which an individual or corporation who is a member of a property owners' association is entitled is determined by the dedicatory instruments of the association.

(b) Each corporation or individual who is a member of the property owners' association may vote by proxy as provided for nonprofit corporations under Sections 22.160(b) and (c), Business Organizations Code.

(c) Notwithstanding any provision of the certificate of formation or bylaws to the contrary, a member vote on any matter may be conducted by mail, by facsimile transmission, by e-mail, or by any combination of those methods.

Sec. 215.009. RESTRICTIVE COVENANTS. (a) A property owners' association may enforce its restrictive covenants as follows:

(1) by exercising discretionary authority relating to a restrictive covenant unless a court has determined by a preponderance of the evidence that the exercise of discretionary authority was arbitrary, capricious, or discriminatory; and

(2) by initiating, defending, or intervening in litigation or an administrative proceeding affecting the enforcement of a restrictive covenant or the protection, preservation, or operation of property subject to the association's dedicatory instruments.

(b) If the association prevails in an action to enforce restrictive covenants, the association may recover reasonable attorney's fees and costs incurred.

(c) An association may use self-help to enforce its restrictive covenants against a residential or commercial property owner as necessary to prevent immediate harm to a person or property, or as otherwise reasonable. If a property

owner commits a subsequent repeat violation of the restrictive covenants within 12 months of the initial violation, the association is not required to provide the property owner with advance notice before the association implements self-help.

(d) For purposes of Subsection (c), an advance, annual notice of maintenance requirements is considered notice to the extent notice is required.

Sec. 215.010. ATTORNEY'S FEES IN BREACH OF RESTRICTIVE COVENANT ACTION. In an action based on breach of a restrictive covenant, the prevailing party is entitled to reasonable attorney's fees, costs, and actual damages.

Sec. 215.011. COMMON AREAS. A property owners' association may adopt reasonable rules regulating common areas.

Sec. 215.012. RESALE CERTIFICATES. A property owners' association shall provide resale certificates only for residential properties and in the manner provided by Section 207.003.

Sec. 215.013. MANAGEMENT CERTIFICATE. (a) A property owners' association shall record in each county in which any portion of the development governed by the association is located a management certificate, signed and acknowledged by an officer of the association, stating:

(1) the name of the development;

(2) the name of the association;

(3) the recording data for the declaration and all supplementary declarations;

(4) the applicability of any supplementary declarations to residential communities;

(5) the name and mailing address of the association; and

(6) other information the association considers appropriate.

(b) A property owners' association shall record an amended management certificate not later than the 30th day after the date the association has notice of a change in information in the recorded certificate required by Subsection (a).

(c) The association and its officers, directors, employees, and agents are not liable to any person or corporation for delay in recording or failure to record a management certificate unless the delay or failure is willful or caused by gross negligence.

Sec. 215.014. PRIORITY OF PAYMENTS. Unless otherwise provided in writing by the property owner at the time payment is made, a payment received by a property owners' association from the owner shall be applied to the owner's debt in the following order of priority:

(1) any delinquent assessment;

(2) any current assessment;

(3) any attorney's fees incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;

(4) any fines assessed by the association;

(5) any attorney's fees incurred by the association that are not subject to Subdivision (3); and

(6) any other amount owed to the association.

Sec. 215.015. FORECLOSURE. A property owners' association may not foreclose an association assessment lien unless the association first obtains a court order of sale.

SECTION 2. This Act takes effect September 1, 2011.

**HB 2477 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Harless called up with senate amendments for consideration at this time,

HB 2477, A bill to be entitled An Act relating to the provision of bilingual election materials.

Representative Harless moved to concur in the senate amendments to **HB 2477**.

The motion to concur in the senate amendments to **HB 2477** prevailed by (Record 1500): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; 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; Lucio; 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; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Crownover.

Absent — Creighton; Schwertner.

STATEMENT OF VOTE

When Record No. 1500 was taken, my vote failed to register. I would have voted yes.

Schwertner

Senate Committee Substitute

CSHB 2477, A bill to be entitled An Act relating to provision of bilingual election materials.

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

SECTION 1. Section 142.010, Election Code, is amended by adding Subsection (d) to read as follows:

(d) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or in a specific county by the director of the census under 42 U.S.C. Section 1973aa-1a.

SECTION 2. Section 161.008, Election Code, is amended by adding Subsection (d) to read as follows:

(d) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or in a specific county by the director of the census under 42 U.S.C. Section 1973aa-1a.

SECTION 3. Section 192.033, Election Code, is amended by adding Subsection (d) to read as follows:

(d) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or in a specific county by the director of the census under 42 U.S.C. Section 1973aa-1a.

SECTION 4. Section 274.003, Election Code, is amended by adding Subsection (c) to read as follows:

(c) In conjunction with the certification required under Subsection (a), the secretary of state shall include appropriate ballot translation language, as applicable, for each language certified statewide or for a specific county by the director of the census under 42 U.S.C. Section 1973aa-1a.

SECTION 5. Chapter 272, Election Code, is amended by adding Section 272.011 to read as follows:

Sec. 272.011. BILINGUAL ELECTION MATERIALS REQUIRED IN CERTAIN POLITICAL SUBDIVISIONS. (a) If the director of the census determines under 42 U.S.C. Section 1973aa-1a that a political subdivision must provide election materials in a language other than English or Spanish, the political subdivision shall provide election materials in that language in the same manner in which the political subdivision would be required to provide materials in Spanish under this chapter, to the extent applicable.

(b) The secretary of state shall prepare the translation for election materials required to be provided in a language other than English or Spanish for the following state prescribed voter forms:

- (1) voter registration application form required by Section 13.002;
- (2) the confirmation form required by Section 15.051;
- (3) the voting instruction poster required by Section 62.011;
- (4) the statement of residence form required by Section 63.0011;
- (5) the provisional ballot affidavit required by Section 63.011;
- (6) the application for a ballot by mail required by Section 84.011;

(7) the carrier envelope and voting instructions required by Section 86.013; and

(8) any other voter forms that the secretary of state identifies as frequently used and for which state resources are otherwise available.

SECTION 6. This Act takes effect September 1, 2011.

**HB 308 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Menendez called up with senate amendments for consideration at this time,

HB 308, A bill to be entitled An Act relating to life preserving devices on recreational vessels.

Representative Menendez moved to concur in the senate amendments to **HB 308**.

The motion to concur in the senate amendments to **HB 308** prevailed by (Record 1501): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycocck; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Crownover.

Absent — Eiland.

Senate Committee Substitute

CSHB 308, A bill to be entitled An Act relating to life preserving devices on recreational vessels.

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

SECTION 1. Section 31.003, Parks and Wildlife Code, is amended by adding Subdivision (17) to read as follows:

(17) "Coast Guard" means the United States Coast Guard.

SECTION 2. Section 31.066, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.066. LIFE PRESERVING DEVICES. (a) A motorboat, including a motorboat carrying passengers for hire, must carry ~~have~~ at least one wearable personal flotation ~~[life preserver, life belt, ring buoy, or other]~~ device of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board, so placed as to be readily accessible.

(b) ~~[A motorboat carrying passengers for hire must have a readily accessible life preserver of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board.]~~

~~[(e)]~~ The operator of a ~~[class A or class I]~~ motorboat less than 26 feet in length, while underway, shall require every passenger under 13 years of age to wear a wearable personal flotation device ~~[life preserver]~~ of the sort prescribed by the regulations of the commandant of the Coast Guard. A life belt or ring buoy does not satisfy this requirement.

(c) A person may not operate a recreational vessel 16 feet or more in length unless the vessel is equipped with:

(1) the number of wearable personal flotation devices required under Subsection (a); and

(2) additionally, at least one immediately accessible Type IV throwable flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

(d) A person under 13 years of age on board a vessel described by Section 31.073(a) or (b) must wear a wearable personal flotation device of the sort prescribed by the commandant of the Coast Guard while the vessel is under way.

(e) An adult operator of a vessel described by Section 31.073 may not permit a person under 13 years of age to be on board the vessel while the vessel is under way if the person under 13 years of age is not wearing a wearable personal flotation device required by Subsection (d).

SECTION 3. The heading to Section 31.073, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.073. CANOES, PUNTS, ROWBOATS, SAILBOATS, RUBBER RAFTS, RACING SHELLS, ROWING SCULLS, ~~[AND RACING]~~ KAYAKS, AND OTHER PADDLE CRAFT; EQUIPMENT EXEMPTIONS.

SECTION 4. Section 31.073, Parks and Wildlife Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) All canoes, kayaks, punts, rowboats, sailboats, ~~[and]~~ rubber rafts, and other paddle craft when paddled, poled, oared, or windblown are exempt from all safety equipment requirements except each vessel must have the following:

(1) one Coast Guard approved wearable personal flotation ~~[lifesaving]~~ device for each person aboard; and

(2) the lights prescribed by the commandant of the Coast Guard for ~~[class A]~~ vessels and required under Section 31.064.

(a-1) Notwithstanding Subsection (a), a vessel described by that subsection, except a canoe or kayak, that is 16 feet or more in length must be equipped with at least one Type IV personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.

(b) Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race are exempt from all safety equipment requirements except the lights prescribed by the commandant of the Coast Guard for ~~class A~~ vessels and required under Section 31.064.

SECTION 5. 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.

HB 3002 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hughes called up with senate amendments for consideration at this time,

HB 3002, A bill to be entitled An Act relating to certain conservation and reclamation districts exempted from filing a full audit.

Representative Hughes moved to concur in the senate amendments to **HB 3002**.

The motion to concur in the senate amendments to **HB 3002** prevailed by (Record 1502): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; 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; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Crownover.

Absent — Creighton; Villarreal.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1502. I intended to vote no.

Berman

I was shown voting yes on Record No. 1502. I intended to vote no.

Flynn

Senate Committee Substitute

CSHB 3002, A bill to be entitled An Act relating to certain conservation and reclamation districts exempted from filing a full audit.

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

SECTION 1. Section 49.198(a), Water Code, is amended to read as follows:

(a) A district may elect to file annual financial reports with the executive director in lieu of the district's compliance with Section 49.191 provided:

(1) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(2) the district did not have gross receipts from operations, loans, taxes, or contributions in excess of \$250,000 [~~\$100,000~~] during the fiscal period; and

(3) the district's cash and temporary investments were not in excess of \$250,000 [~~\$100,000~~] during the fiscal period.

SECTION 2. Section 49.198(a), Water Code, as amended by this Act, applies to a district that files its annual financial report on or after the effective date of this Act. A district that files its annual financial report before the effective date of this Act is governed by the law in effect on the date the report is filed, and that law is continued in effect for that purpose.

SECTION 3. 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.

**HB 2717 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Darby called up with senate amendments for consideration at this time,

HB 2717, A bill to be entitled An Act relating to the duties and responsibilities of certain county officials and the functions of county government.

Representative Darby moved to concur in the senate amendments to **HB 2717**.

The motion to concur in the senate amendments to **HB 2717** prevailed by (Record 1503): 145 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter.

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

Absent, Excused — Anchia; Crownover.

Senate Committee Substitute

CSHB 2717, A bill to be entitled An Act relating to the duties and responsibilities of certain county officials and the functions of county government.

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

SECTION 1. Section 51.605(c), Government Code, is amended to read as follows:

(c) A clerk must each year [~~annually~~] complete 20 hours of continuing education courses. A clerk must, during the first year of each term of office, complete:

(1) [~~including~~] at least one hour of continuing education courses regarding registry funds handled under Chapter 117, Local Government Code, in the performance of the duties of office; and

(2) [~~The 20 hours of required continuing education courses must include~~] at least one hour of continuing education courses regarding fraudulent court documents and fraudulent document filings.

SECTION 2. Section 62.106(a), Government Code, is amended to read as follows:

(a) A person qualified to serve as a petit juror may establish an exemption from jury service if the person:

(1) is over 70 years of age;

(2) has legal custody of a child younger than 12 [~~15~~] years of age and the person's service on the jury requires leaving the child without adequate supervision;

(3) is a student of a public or private secondary school;

(4) is a person enrolled and in actual attendance at an institution of higher education;

(5) is an officer or an employee of the senate, the house of representatives, or any department, commission, board, office, or other agency in the legislative branch of state government;

(6) is summoned for service in a county with a population of at least 200,000, unless that county uses a jury plan under Section 62.011 and the period authorized under Section 62.011(b)(5) exceeds two years, and the person has served as a petit juror in the county during the 24-month period preceding the date the person is to appear for jury service;

(7) is the primary caretaker of a person who is an invalid unable to care for himself;

(8) except as provided by Subsection (b), is summoned for service in a county with a population of at least 250,000 and the person has served as a petit juror in the county during the three-year period preceding the date the person is to appear for jury service; or

(9) is a member of the United States military forces serving on active duty and deployed to a location away from the person's home station and out of the person's county of residence.

SECTION 3. Section 191.0045, Health and Safety Code, is amended by amending Subsection (h) and adding Subsection (i) to read as follows:

(h) In addition to other fees collected under this section, a local registrar or county clerk may collect a fee not to exceed \$1 for:

(1) preserving [the preservation of] vital statistics records maintained by the registrar or county clerk, including birth, death, fetal death, marriage, divorce, and annulment records;

(2) training registrar or county clerk employees regarding vital statistics records; and

(3) ensuring the safety and security of vital statistics records.

(i) A fee under this section shall be collected by the registrar or county clerk on the issuance of a vital statistics record, including a record issued through a Remote Birth Access site.

SECTION 4. Section 132.002(a), Local Government Code, is amended to read as follows:

(a) The commissioners court of a county may authorize a county or precinct officer who collects fees, fines, court costs, or other charges on behalf of the county or the state to accept payment by credit card or electronic means of a fee, fine, court costs, or other charge. The commissioners court may also authorize a county or precinct officer to collect and retain a fee for processing the payment by credit card or electronic means.

SECTION 5. Section 191.030, Health and Safety Code, is repealed.

SECTION 6. 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.

**HB 274 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Creighton called up with senate amendments for consideration at this time,

HB 274, A bill to be entitled An Act relating to the reform of certain remedies and procedures in civil actions and family law matters.

Representative Creighton moved to concur in the senate amendments to **HB 274**.

The motion to concur in the senate amendments to **HB 274** prevailed by (Record 1504): 130 Yeas, 13 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; 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; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Paxton; Peña; Perry; Phillips; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Alvarado; Burnam; Davis, Y.; Dukes; Gonzales, V.; Gutierrez; Hernandez Luna; Lucio; Marquez; McClendon; Menendez; Reynolds.

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

Absent, Excused — Anchia; Crownover.

Absent — Patrick; Pickett; Walle.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1504. I intended to vote no.

Guillen

I was shown voting no on Record No. 1504. I intended to vote yes.

Reynolds

Senate Committee Substitute

CSHB 274, A bill to be entitled An Act relating to the reform of certain remedies and procedures in civil actions and family law matters.

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

ARTICLE 1. EARLY DISMISSAL OF ACTIONS

SECTION 1.01. Section 22.004, Government Code, is amended by adding Subsection (g) to read as follows:

(g) The supreme court shall adopt rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence. The rules shall provide that the motion to dismiss shall be granted or denied within 45 days of the filing of the motion to dismiss. The rules shall not apply to actions under the Family Code.

SECTION 1.02. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.021 to read as follows:

Sec. 30.021. AWARD OF ATTORNEY'S FEES IN RELATION TO CERTAIN MOTIONS TO DISMISS. In a civil proceeding, on a trial court's granting or denial, in whole or in part, of a motion to dismiss filed under the rules adopted by the supreme court under Section 22.004(g), Government Code, the court shall award costs and reasonable and necessary attorney's fees to the prevailing party. This section does not apply to actions by or against the state, other governmental entities, or public officials acting in their official capacity or under color of law.

ARTICLE 2. EXPEDITED CIVIL ACTIONS

SECTION 2.01. Section 22.004, Government Code, is amended by adding Subsection (h) to read as follows:

(h) The supreme court shall adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions. The rules shall apply to civil actions in district courts, county courts at law, and statutory probate courts in which the amount in controversy, inclusive of all claims for damages of any kind, whether actual or exemplary, a penalty, attorney's fees, expenses, costs, interest, or any other type of damage of any kind, does not exceed \$100,000. The rules shall address the need for lowering discovery costs in these actions and the procedure for ensuring that these actions will be expedited in the civil justice system. The supreme court may not adopt rules under this subsection that conflict with a provision of:

- (1) Chapter 74, Civil Practice and Remedies Code;
- (2) the Family Code;
- (3) the Property Code; or
- (4) the Tax Code.

ARTICLE 3. APPEAL OF CONTROLLING QUESTION OF LAW

SECTION 3.01. Section 51.014, Civil Practice and Remedies Code, is amended by amending Subsections (d), (d-1), and (e) and adding Subsection (f) to read as follows:

(d) On a party's motion or on its own initiative, a trial court in a civil action [A district court, county court at law, or county court] may, by [issue a] written order, permit an appeal from an order that is [for interlocutory appeal in a civil action] not otherwise appealable [under this section] if:

(1) [the parties agree that] the order to be appealed involves a controlling question of law as to which there is a substantial ground for difference of opinion; and

(2) an immediate appeal from the order may materially advance the ultimate termination of the litigation~~[- and~~
~~[(3) the parties agree to the order].~~

(d-1) Subsection (d) does not apply to an action brought under the Family Code.

(e) An appeal under Subsection (d) does not stay proceedings in the trial court unless:

(1) the parties agree to a stay; or

(2) [and] the trial or appellate court[~~, the court of appeals, or a judge of the court of appeals~~] orders a stay of the proceedings pending appeal.

(f) An appellate court may accept an appeal permitted by Subsection (d) if the appealing party, not later than the 15th day after the date the trial court signs the order to be appealed, files in the court of appeals having appellate jurisdiction over the action an application for interlocutory appeal explaining why an appeal is warranted under Subsection (d). If the court of appeals accepts the appeal, the appeal is governed by the procedures in the Texas Rules of Appellate Procedure for pursuing an accelerated appeal. The date the court of appeals enters the order accepting the appeal starts the time applicable to filing the notice of appeal.

SECTION 3.02. Section 22.225(d), Government Code, is amended to read as follows:

(d) A petition for review is allowed to the supreme court for an appeal from an interlocutory order described by Section 51.014(a)(3), (6), or (11), or (d), Civil Practice and Remedies Code.

ARTICLE 4. ALLOCATION OF LITIGATION COSTS

SECTION 4.01. Sections 42.001(5) and (6), Civil Practice and Remedies Code, are amended to read as follows:

(5) "Litigation costs" means money actually spent and obligations actually incurred that are directly related to the action ~~[case]~~ in which a settlement offer is made. The term includes:

(A) court costs;

(B) reasonable deposition costs;

(C) reasonable fees for not more than two testifying expert witnesses; and

(D) [(C)] reasonable attorney's fees.

(6) "Settlement offer" means an offer to settle or compromise a claim made in compliance with Section 42.003 ~~[this chapter]~~.

SECTION 4.02. Sections 42.002(b), (d), and (e), Civil Practice and Remedies Code, are amended to read as follows:

(b) This chapter does not apply to:

(1) a class action;

(2) a shareholder's derivative action;

(3) an action by or against a governmental unit;

(4) an action brought under the Family Code;

(5) an action to collect workers' compensation benefits under Subtitle A, Title 5, Labor Code; or

(6) an action filed in a justice of the peace court or a small claims court.

(d) This chapter does not limit or affect the ability of any person to:

(1) make an offer to settle or compromise a claim that does not comply with Section 42.003 ~~[this chapter]~~; or

(2) offer to settle or compromise a claim in an action to which this chapter does not apply.

(e) An offer to settle or compromise that does not comply with Section 42.003 ~~[is not made under this chapter]~~ or an offer to settle or compromise made in an action to which this chapter does not apply does not entitle any ~~[the offering]~~ party to recover litigation costs under this chapter.

SECTION 4.03. Section 42.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 42.003. MAKING SETTLEMENT OFFER. (a) A settlement offer must:

(1) be in writing;

(2) state that it is made under this chapter;

(3) state the terms by which the claims may be settled;

(4) state a deadline by which the settlement offer must be accepted; and

(5) be served on all parties to whom the settlement offer is made.

(b) The parties are not required to file a settlement offer with the court.

SECTION 4.04. Section 42.004(d), Civil Practice and Remedies Code, is amended to read as follows:

(d) The litigation costs that may be awarded under this chapter to any party may not be greater than the total amount that the claimant recovers or would recover before adding an award of litigation costs under this chapter in favor of the claimant or subtracting as an offset an award of litigation costs under this chapter in favor of the defendant. [an amount computed by:

~~(1) determining the sum of:~~

~~[(A) 50 percent of the economic damages to be awarded to the claimant in the judgment;~~

~~[(B) 100 percent of the noneconomic damages to be awarded to the claimant in the judgment; and~~

~~[(C) 100 percent of the exemplary or additional damages to be awarded to the claimant in the judgment; and~~

~~[(2) subtracting from the amount determined under Subdivision (1) the amount of any statutory or contractual liens in connection with the occurrences or incidents giving rise to the claim.]~~

ARTICLE 5. DESIGNATION OF RESPONSIBLE THIRD PARTIES

SECTION 5.01. Section 33.004, Civil Practice and Remedies Code, is amended by adding subsection (d) to read as follows:

(d) A defendant may not designate a person as a responsible third party with respect to a claimant's cause of action after the applicable limitations period on the cause of action has expired with respect to the responsible third party if the defendant has failed to comply with its obligations, if any, to timely disclose that the person may be designated as a responsible third party under the Texas Rules of Civil Procedure.

SECTION 5.02. Section 33.004(e), Civil Practice and Remedies Code, is repealed.

Article 6. EFFECTIVE DATE

SECTION 6.01. The changes in law made by this Act apply only to a civil action commenced on or after the effective date of the change in law as provided by this article. A civil action commenced before the effective date of the change in law as provided by this article is governed by the law in effect immediately before the effective date of the change in law, and that law is continued in effect for that purpose.

SECTION 6.02. This Act takes effect September 1, 2011.

**HB 326 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Guillen called up with senate amendments for consideration at this time,

HB 326, A bill to be entitled An Act relating to the reporting requirements of, and certain unfunded mandates related to the functions of, a state agency that is undergoing review by the Sunset Advisory Commission.

Representative Guillen moved to concur in the senate amendments to **HB 326**.

The motion to concur in the senate amendments to **HB 326** prevailed by (Record 1505): 102 Yeas, 44 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, R.; Berman; Branch; Brown; Burnam; Button; Castro; Chisum; Christian; Coleman; Cook; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Lavender; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Patrick; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Aycock; Beck; Bohac; Bonnen; Burkett; Cain; Callegari; Carter; Craddick; Creighton; Darby; Deshotel; Frullo; Geren; Gooden; Hamilton; Harless; Harper-Brown; Hughes; Jackson; King, P.; Kolkhorst; Landtroop; Laubenberg; Legler; Lewis; Madden; Miller, D.; Miller, S.; Morrison; Nash; Parker; Paxton; Peña; Perry; Phillips; Riddle; Sheets; Sheffield; Shelton; Weber; White; Zedler.

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

Absent, Excused — Anchia; Crownover.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1505. I intended to vote no.

Cook

I was shown voting yes on Record No. 1505. I intended to vote no.

Huberty

I was shown voting yes on Record No. 1505. I intended to vote no.

Orr

Senate Committee Substitute

CSHB 326, A bill to be entitled An Act relating to the reporting requirements of a state agency that is undergoing review by the Sunset Advisory Commission.

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

SECTION 1. Chapter 325, Government Code, is amended by adding Section 325.0075 to read as follows:

Sec. 325.0075. REPORTING REQUIREMENTS OF AGENCY BEING REVIEWED. Before September 1 of the odd-numbered year before the year in which a state agency subject to this chapter is abolished, the agency shall submit to the commission, the governor, the lieutenant governor, and each member of the legislature a report that:

(1) lists each report that the agency is required by a statute to prepare;
and

(2) evaluates the need for each report listed in Subdivision (1) based on whether factors or conditions have changed since the date the statutory requirement to prepare the report was enacted.

SECTION 2. 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.

**HB 3133 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Rodriguez called up with senate amendments for consideration at this time,

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.

Representative Rodriguez moved to concur in the senate amendments to **HB 3133**.

The motion to concur in the senate amendments to **HB 3133** prevailed by (Record 1506): 107 Yeas, 38 Nays, 2 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anderson, R.; Aycock; Beck; Branch; Burnam; Carter; Castro; Chisum; Christian; Coleman; Cook; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Legler; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Otto; Patrick; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Craddick; Creighton; Darby; Davis, S.; Elkins; Flynn; Frullo; Gooden; Harper-Brown; Hughes; Kolkhorst; Landtroop; Laubenberg; Lavender; Lewis; Madden; Miller, D.; Miller, S.; Orr; Parker; Paxton; Perry; Phillips; Sheffield; Shelton; Solomons; Weber; White; Zedler.

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

Absent, Excused — Anchia; Crownover.

Absent — Allen.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1506. I intended to vote no.

Fletcher

I was shown voting yes on Record No. 1506. I intended to vote no.

Schwertner

Senate Committee Substitute

CSHB 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 or rent to a low-income individual or family.

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

SECTION 1. Section 11.181(b), Tax Code, is amended to read as follows:

(b) Property may not be exempted under Subsection (a) after the fifth anniversary of the date the organization acquires the property. Property that received an exemption under Section 11.1825 and that was subsequently transferred by the organization described by that section that qualified for the exemption to an organization described by this section may not be exempted under Subsection (a) after the fifth anniversary of the date the transferring organization acquired the property.

SECTION 2. Section 11.1825, Tax Code, is amended by amending Subsections (f) and (g) and adding Subsection (p-1) to read as follows:

(f) For property to be exempt under this section, the organization must own the property for the purpose of constructing or rehabilitating a housing project on the property and:

(1) renting the housing, regardless of whether the housing project consists of multifamily or single-family dwellings, to individuals or families whose median income is not more than 60 percent of the greater of:

(A) the area median family income for the household's place of residence, as adjusted for family size and as established by the United States Department of Housing and Urban Development; or

(B) the statewide area median family income, as adjusted for family size and as established by the United States Department of Housing and Urban Development; or

(2) selling single-family dwellings to individuals or families whose median income is not more than the greater of:

(A) the area median family income for the household's place of residence, as adjusted for family size and as established by the United States Department of Housing and Urban Development; or

(B) the statewide area median family income, as adjusted for family size and as established by the United States Department of Housing and Urban Development.

(p-1) Notwithstanding the other provisions of this section, the transfer of property from an organization described by this section to a nonprofit organization that claims an exemption for the property under Section 11.181(a) is a proper use of and purpose for owning the property under this section and does not affect the eligibility of the property for an exemption under this section.

(q) If property qualifies for an exemption under this section, the chief appraiser shall use the income method of appraisal as described [provided] by Section 23.012 to determine the appraised value of the property. The chief appraiser shall use that method regardless of whether the chief appraiser considers that method to be the most appropriate method of appraising the property. In appraising the property, the chief appraiser shall:

(1) consider the restrictions provided by this section on the income of the individuals or families to whom the dwelling units of the housing project may be rented and the amount of rent that may be charged for purposes of computing the actual rental income from the property or projecting future rental income; and

(2) use the same capitalization rate that the chief appraiser uses to appraise other rent-restricted properties.

SECTION 3. Section 23.21, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) In appraising real property that was previously owned by an organization that received an exemption for the property under Section 11.181(a) and that was sold to a low-income individual or family meeting income eligibility standards established by the organization under regulations or restrictions limiting to a percentage of the individual's or the family's income the amount that the individual or family was required to pay for purchasing the property, the chief

appraiser shall take into account the extent to which that use and limitation and any resale restrictions or conditions applicable to the property established by the organization reduce the market value of the property.

SECTION 4. (a) The changes in law made by this Act to Sections 11.181 and 11.1825, Tax Code, apply to the taxation of real property beginning with the 2011 tax year.

(b) The change in law made by this Act to Section 23.21, Tax Code, applies only to an appraisal of real property on or after the effective date of this Act. An appraisal of real property 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.

SECTION 5. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3133** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 23.55, Tax Code, is amended by adding Subsection (p) to read as follows:

(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.

SECTION _____. Section 23.55(p), Tax Code, as added by this Act, applies only to a transfer of real property that occurs on or after the effective date of this Act. A transfer of real property that occurs 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.

HB 90 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Cook called up with senate amendments for consideration at this time,

HB 90, A bill to be entitled An Act relating to eligibility to obtain a driver's license.

Representative Cook moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 90**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 90**: Cook, chair; Lavender, S. Miller, Phillips, and Hartnett.

**HB 1904 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Sheffield called up with senate amendments for consideration at this time,

HB 1904, A bill to be entitled An Act relating to the deadlines for write-in candidates for the office of county or precinct chair of a political party.

Representative Sheffield moved to concur in the senate amendments to **HB 1904**.

The motion to concur in the senate amendments to **HB 1904** prevailed by (Record 1507): 144 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; McClendon; Taylor, L.(C).

Absent, Excused — Anchia; Crownover.

Absent — Carter.

Senate Committee Substitute

CSHB 1904, A bill to be entitled An Act relating to the deadlines for write-in candidates for the office of county or precinct chair of a political party.

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

SECTION 1. Section 171.0231(d), Election Code, is amended to read as follows:

(d) A declaration of write-in candidacy must be filed not later than 6 [5] p.m. of the fifth [62nd] day after the date of the regular filing deadline for the general primary election [~~before general primary election day~~]. ~~However, if a candidate whose name is to appear on the ballot for the office of county chair or precinct chair dies or is declared ineligible after the third day before the date of the regular filing deadline prescribed by this subsection, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5 p.m. of the 59th day before election day.~~

SECTION 2. This Act takes effect September 1, 2011.

HB 2284 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hardcastle called up with senate amendments for consideration at this time,

HB 2284, A bill to be entitled An Act relating to the practice of architecture and engineering.

Representative Hardcastle moved to concur in the senate amendments to **HB 2284**.

The motion to concur in the senate amendments to **HB 2284** prevailed by (Record 1508): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, S.; Morrison; Muñoz; Murphy; Naishat; 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.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Crownover.

Absent — Howard, C.; Miller, D.; Smith, W.

Senate Committee Substitute

CSHB 2284, A bill to be entitled An Act relating to the practice of architecture and engineering.

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

SECTION 1. Subchapter A, Chapter 1001, Occupations Code, is amended by adding Section 1001.0031 to read as follows:

Sec. 1001.0031. PRACTICES OF ENGINEERING AND ARCHITECTURE. (a) Except as provided by Subsection (d) or (e), the practice of engineering does not include, and engineers may not engage in or offer to engage in, the practice of architecture as defined by Sections 1051.001(7)(A), (B), and (C), as that definition existed on April 1, 2011, and by Section 1051.0016(a).

(b) An engineer may not prepare or provide a complete, comprehensive set of building plans for a building designed for human use or occupancy unless:

(1) the plans and specifications as described by Section 1051.001(7)(A) or (B) are prepared by, or under the supervision of, an architect;

(2) the building is part of a project described by Section 1051.601(b) or a building described by Section 1051.606(a)(4); or

(3) the engineer has received administrative approval by the Texas Board of Architectural Examiners to practice architecture under Section 1051.607.

(c) An engineer is responsible for the engineering plans and specifications of a building unless the work is exempt under Section 1001.053 or 1001.056. In this section, the term "engineering plans and specifications" means:

(1) plans for a structural, mechanical, electrical, electronic, fire suppression, or geotechnical system in a building;

(2) specifications of structural elements and connections of a building;

(3) foundation design;

(4) hydrologic management calculations and design of surface water control and detention necessary for compliance with ordinances and regulations;

(5) design of building drain and waste system plumbing, fresh water plumbing, graywater systems, and mechanical aspects of moving water in and out of a structure, other than simple roof drainage;

(6) evaluation of structural framing members before the addition of roof-mounted equipment or a heavier roof covering;

(7) design of changes in roof pitch by the addition of structural framing members;

(8) evaluation and repair of damaged roof structural framing;

(9) design of electrical and signal and control systems;

(10) shop drawings by manufacturers or fabricators of materials and products to be used in the building features designed by the engineer; and

(11) specifications listing the nature and quality of materials and products for construction of features of the building elements or systems designed by an engineer.

(d) The preparation of engineering plans and specifications for the following tasks is within the scope of practice of both engineering and architecture:

(1) site plans depicting the location and orientation of a building on the site based on:

(A) a determination of the relationship of the intended use with the environment, topography, vegetation, climate, and geographic aspects; and

(B) the legal aspects of site development, including setback requirements, zoning and other legal restrictions, and surface drainage;

(2) the depiction of the building systems, including structural, mechanical, electrical, and plumbing systems, in:

(A) plan views;

(B) cross-sections depicting building components from a hypothetical cut line through a building; and

(C) the design of details of components and assemblies, including any part of a building exposed to water infiltration or fire-spread considerations;

(3) life safety plans and sheets, including accessibility ramps and related code analyses; and

(4) roof plans and details depicting the design of roof system materials, components, drainage, slopes, and directions and location of roof accessories and equipment not involving structural engineering calculations.

(e) The following activities may be performed by either an engineer or an architect:

(1) programming for construction projects, including:

(A) identification of economic, legal, and natural constraints; and

(B) determination of the scope of functional elements;

(2) recommending and overseeing appropriate construction project delivery systems;

(3) consulting with regard to, investigating, and analyzing the design, form, materials, and construction technology used for the construction, enlargement, or alteration of a building or its environment; and

(4) providing expert opinion and testimony with respect to issues within the responsibility of the engineer or architect.

SECTION 2. Subchapter A, Chapter 1051, Occupations Code, is amended by adding Section 1051.0016 to read as follows:

Sec. 1051.0016. PRACTICES OF ARCHITECTURE AND ENGINEERING. (a) In this chapter, "architectural plans and specifications" include:

(1) floor plans and details:

(A) depicting the design of:

(i) internal and external walls and floors, including simple foundations;

(ii) internal spaces of a building; and

(iii) vertical circulation systems, including accessibility ramps, stair systems, elevators, and escalators; and

(B) implementing programming, regulatory, and accessibility requirements for a building;

(2) general cross-sections and detailed wall sections depicting building components from a hypothetical cut line through a building to include the building's mechanical, electrical, plumbing, or structural systems;

(3) reflected ceiling plans and details depicting:

(A) the design of the location, materials, and connections of the ceiling to the structure; and

(B) the integration of the ceiling with electrical, mechanical, lighting, sprinkler, and other building systems;

(4) finish plans or schedules depicting surface materials on the interior and exterior of the building;

(5) interior and exterior elevations depicting the design of materials, locations, and relationships of components and surfaces;

(6) partition, door, window, lighting, hardware, and fixture schedules;

(7) manufacturer or fabricator drawings that are integrated into the construction documents; and

(8) specifications describing the nature, quality, and execution of materials for construction of the elements of the building depicted in the plans prepared by the architect.

(b) The preparation of architectural plans and specifications for the following tasks is within the scope of practice of both engineering and architecture:

(1) site plans depicting the location and orientation of a building on the site based on:

(A) a determination of the relationship of the intended use with the environment, topography, vegetation, climate, and geographic aspects; and

(B) the legal aspects of site development, including setback requirements, zoning and other legal restrictions, and surface drainage;

(2) the depiction of the building systems, including structural, mechanical, electrical, and plumbing systems, in:

(A) plan views;

(B) cross-sections depicting building components from a hypothetical cut line through a building; and

(C) the design of details of components and assemblies, including any part of a building exposed to water infiltration or fire-spread considerations;

(3) life safety plans and sheets, including accessibility ramps and related code analyses; and

(4) roof plans and details depicting the design of roof system materials, components, drainage, slopes, and directions and location of roof accessories and equipment not involving structural engineering calculations.

(c) The following activities may be performed by either an engineer or an architect:

(1) programming for construction projects, including:

(A) identification of economic, legal, and natural constraints; and

(B) determination of the scope of functional elements;

(2) recommending and overseeing appropriate construction project delivery systems;

(3) consulting with regard to, investigating, and analyzing the design, form, materials, and construction technology used for the construction, enlargement, or alteration of a building or its environment; and

(4) providing expert opinion and testimony with respect to issues within the responsibility of the engineer or architect.

SECTION 3. Subchapter F, Chapter 1051, Occupations Code, is amended by adding Section 1051.308 to read as follows:

Sec. 1051.308. INTERN DEVELOPMENT PROGRAM. The board shall allow a graduate student engineer enrolled in an accredited architectural professional degree program in this state to enroll concurrently in the intern development program required by board rules before an applicant may take the examination under this chapter.

SECTION 4. Subchapter L, Chapter 1051, Occupations Code, is amended by adding Section 1051.607 to read as follows:

Sec. 1051.607. LIST OF ENGINEERS PERMITTED TO ENGAGE IN PRACTICE OF ARCHITECTURE. (a) The board shall maintain a list of engineers licensed under Chapter 1001 who are authorized to engage in the practice of architecture based on an administrative finding of experience under this section. The board shall post the list on the board's Internet website.

(b) An engineer may not engage or offer to engage in the practice of architecture unless:

(1) the engineer is listed under Subsection (a); and

(2) the engineer is in good standing with the Texas Board of Professional Engineers.

(c) The board shall list each engineer who:

(1) applies for placement on the list not later than April 1, 2012;

(2) was licensed to practice engineering under Chapter 1001 before January 1, 2011; and

(3) provides to the board documentation of at least three projects that:

(A) were prepared by the engineer;

(B) were adequately and safely built before January 1, 2011; and

(C) are described by Section 1051.703(a) or were not exempt under

Section 1051.606(a)(4).

(d) Documentation that is sufficient to satisfy the requirement of Subsection (c)(3) includes plans, specifications, photographs, and other records establishing that the architectural design work was performed by the engineer. The documentation is subject to verification by the board. The board shall complete the verification not later than the 120th day after the date the board receives the documentation.

(e) The board shall issue written confirmation to each engineer listed under this section that, notwithstanding the requirements of Section 1051.701, the engineer may lawfully engage and offer to engage in the practice of architecture without a license under this chapter.

(f) If the board declines to list an engineer who applies under this section, the engineer may request a contested case hearing to be conducted under Chapter 2001, Government Code. The motion for rehearing required by Chapter 2001, Government Code, shall be filed with the State Office of Administrative Hearings. The decision of the administrative law judge in the contested case is final and may be appealed in a Travis County district court.

(g) The board and the Texas Board of Professional Engineers shall pay equally the costs of a contested case.

(h) The Texas Board of Professional Engineers has exclusive regulatory oversight over an engineer listed under Subsection (a).

SECTION 5. Section 1051.703(b), Occupations Code, is amended to read as follows:

(b) This section does not prohibit an owner of a building from contracting with ~~choosing~~ an architect or engineer as the prime design professional for a building construction, alteration, or addition project. Designation as the prime design professional does not expand the scope of practice of an architect or engineer beyond the scope of practice that the architect or engineer is authorized to practice under Chapter 1001 or 1051.

SECTION 6. (a) The Texas Board of Professional Engineers and the Texas Board of Architectural Examiners shall establish a joint task force of members of each board and license and registration holders regulated by each board to make recommendations to the boards regarding whether certain activities should be within the scope of practice of architecture or engineering, or both.

(b) This section expires August 31, 2013.

SECTION 7. An engineer who applies for listing under Section 1051.607, Occupations Code, as added by this Act, may continue to practice under the law as it existed immediately before the effective date of this Act until the date the application is finally approved or denied, or if appealed after denial, a final decision is entered by an administrative law judge, and the former law is continued in effect for that purpose.

SECTION 8. Sections 1001.216 and 1051.212, Occupations Code, are repealed.

SECTION 9. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2284** (senate committee printing) on page 4, line 3 by striking "April" and inserting "January"

HB 1040 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 1040, A bill to be entitled An Act relating to the validation of the creation of, and certain acts related to, a venue project.

Representative Gallego moved to concur in the senate amendments to **HB 1040**.

The motion to concur in the senate amendments to **HB 1040** prevailed by (Record 1509): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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.; 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; Lucio; Lyne; 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; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Crownover.

Absent — Bohac; Gonzalez; Madden; Pitts; Smith, T.; Villarreal.

STATEMENT OF VOTE

When Record No. 1509 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

Senate Committee Substitute

CSHB 1040, A bill to be entitled An Act relating to the validation of the creation of, and certain acts related to, a venue project, and the dissolution of certain venue districts.

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

SECTION 1. (a) The legislature validates and confirms:

(1) the creation of, and election on, a venue project to finance the restoration and renovation of a venue as of the date of an election held before the effective date of this Act at which the voters of a municipality approved the creation of the venue project and the levy of a two percent increase in the local hotel occupancy tax; and

(2) the levy and collection of a two percent increase in the local hotel occupancy tax for a venue project that occurred before the effective date of this Act.

(b) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(2) has been held invalid by a final court judgment.

(c) This Act does not validate any governmental act or proceeding that, under the law in effect at the time the act or proceeding occurred, would constitute a criminal offense punishable as a misdemeanor or felony.

SECTION 2. Chapter 335, Local Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. DISSOLUTION OF DISTRICTS IN LESS POPULOUS COUNTIES

Sec. 335.151. APPLICABILITY. This subchapter applies only to a district wholly located in a county with a population of less than 15,000.

Sec. 335.152. DISSOLUTION. The governing body of each political subdivision that created a district may dissolve the district by adopting a concurrent order.

Sec. 335.153. ASSETS AND LIABILITIES. (a) The assets and liabilities of a district dissolved under this subchapter shall be transferred to the county in which the district is located.

(b) After payment of district liabilities, the county shall use the district assets that remain for an approved venue project of the county.

SECTION 3. 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.

**HB 2999 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Lewis called up with senate amendments for consideration at this time,

HB 2999, A bill to be entitled An Act relating to a fixed tuition rate program for certain students who transfer to a state university after completing an associate degree program.

Representative Lewis moved to concur in the senate amendments to **HB 2999**.

The motion to concur in the senate amendments to **HB 2999** prevailed by (Record 1510): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; 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; Lozano; Lucio; Lyne; 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; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Crownover.

Absent — Allen; Bohac; Frullo; Lewis; Madden; Pitts; Villarreal.

STATEMENT OF VOTE

When Record No. 1510 was taken, I was in the house but away from my desk. I would have voted yes.

Lewis

Senate Committee Substitute

CSHB 2999, A bill to be entitled An Act relating to a fixed tuition rate program for certain students who transfer to a state university after completing an associate degree program.

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

SECTION 1. Subchapter A, Chapter 54, Education Code, is amended by adding Section 54.016 to read as follows:

Sec. 54.016. FIXED TUITION RATE PROGRAM FOR CERTAIN TRANSFER STUDENTS AT GENERAL ACADEMIC TEACHING INSTITUTIONS. (a) In this section:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "General academic teaching institution" has the meaning assigned by Section 61.003.

(3) "Lower-division institution of higher education" means a public junior college, public state college, or public technical institute.

(b) A general academic teaching institution may develop a fixed tuition rate program for qualified students who agree to transfer to the institution within 12 months after successfully earning an associate degree at a lower-division institution of higher education. Under a program developed under this section, a general academic teaching institution must:

(1) guarantee to a participating student enrolled in an associate degree program at a lower-division institution of higher education, on successful completion of the associate degree program, transfer admission to the general academic teaching institution within the period prescribed above; and

(2) notwithstanding any other provision of this chapter, charge tuition to a participating student for any semester or other academic term during a period of at least 24 months following the student's initial enrollment in the institution at the same rate the general academic teaching institution would have charged to the student during the later of:

(A) the fall semester of the student's freshman year at another institution of higher education had the student entered the general academic teaching institution as a freshman student; or

(B) the fall semester of the second academic year preceding the academic year of the student's initial enrollment in the general academic teaching institution.

(c) A general academic teaching institution that develops a fixed tuition rate program under this section shall prescribe eligibility requirements for participation in the program and notify applicants for transfer admission from lower-division institutions of higher education regarding the program.

SECTION 2. 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.

HB 3831 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Marquez called up with senate amendments for consideration at this time,

HB 3831, A bill to be entitled An Act relating to the creation of the Montecillo Municipal Management District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.

Representative Marquez moved to concur in the senate amendments to **HB 3831**.

The motion to concur in the senate amendments to **HB 3831** prevailed by (Record 1511): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Crownover.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3831** (engrossed) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

HB 3033 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Naishtat called up with senate amendments for consideration at this time,

HB 3033, A bill to be entitled An Act relating to retirement under public retirement systems for employees of certain municipalities.

Representative Naishtat moved to concur in the senate amendments to **HB 3033**.

The motion to concur in the senate amendments to **HB 3033** prevailed by (Record 1512): 130 Yeas, 15 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Carter; Castro; Chisum; Christian; Coleman; Cook; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; 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; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Aycock; Berman; Cain; Callegari; Craddick; Elkins; Flynn; Landtroop; Laubenberg; Miller, S.; Parker; Perry; Sheets; White; Zedler.

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

Absent, Excused — Anchia; Crownover.

Absent — Geren.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1512. I intended to vote no.

Branch

When Record No. 1512 was taken, I was in the house but away from my desk. I would have voted no.

Geren

Senate Committee Substitute

CSHB 3033, A bill to be entitled An Act relating to retirement under public retirement systems for employees of certain municipalities.

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

SECTION 1. Section 1, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. SCOPE. (a) A retirement system is established by this Act for employees of each municipality having a population of more than 760,000 [~~600,000~~] and less than 860,000.

(b) Any [~~700,000; provided, however, that once such pension system becomes operative in any city, any~~] right or privilege accruing to any member of a retirement system established by this Act is [~~thereunder shall be~~] a vested right according to the terms of this Act [~~and the same shall not be denied or abridged thereafter through any change in population of any such city taking such city out of the population bracket as herein prescribed, and said pension system shall continue to operate and function regardless of whether or not any future population exceeds or falls below said population bracket~~].

(c) This Act continues to apply to a municipality described by Subsection (a) and a retirement system established by this Act continues to operate regardless of any change in the municipality's population.

SECTION 2. Section 2, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. DEFINITIONS. The following words and phrases have the meanings assigned by this section unless a different meaning is plainly required by the context:

(1) "Accumulated deposits" means the amount standing to the credit of a member derived from the deposits required to be made by the member to the retirement system improved annually by interest credited at a rate determined by the retirement board from time to time upon the advice of the retirement board's actuary and credited as of December 31 to amounts standing to the credit of the member on January 1 of the same calendar year.

(2) "Actual retirement date" means the last day of the month during which a member retires.

(3) "Actuarial equivalent" means any benefit of equal present value when computed on the basis of actuarial tables adopted by the retirement board from time to time upon the advice of the retirement board's actuary. The actuarial tables adopted for this purpose shall be tables that are acceptable to the Internal Revenue Service and be clearly identified by resolution adopted by the retirement board.

(4) "Actuary" means the technical advisor of the retirement board regarding the operations which are based on mortality, service, and compensation experience.

(5) "Agency of the municipality" means any agency or instrumentality of the municipality or governmental or publicly owned legal entity created by the municipality, before or after ~~subsequent to~~ the effective date of this Act, to perform or provide a public service or function and that employs at least one employee to provide services or accomplish its public purpose.

(6) "Approved medical leave of absence" means any absence authorized in writing by the member's employer for the purpose of enabling the member to obtain medical care or treatment or to recover from any sickness or injury.

(7) "Authorized leave of absence" means military leave of absence, including a period of not more than 90 days after the date of release from active military duty, or any other leave of absence during which a member is otherwise authorized by law to continue making contributions to the system. The term does not include an approved medical leave of absence.

(8) "Average final compensation" means the average monthly compensation, as defined and limited by Subdivision (12) of this section, less overtime, incentive, and terminal pay, plus, (i) amounts picked up by the employer pursuant to Section 10(e) of this Act, and (ii) amounts that would be included in wages but for an election under Section 125(d), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the code, ~~[not otherwise included in the member's taxable income by reason of either an election under a "cafeteria" plan as described in Section 125 of the code or deferrals under a plan of deferred compensation within the scope of Section 457 of the code, to the extent not in excess of \$12,500 for persons who first become members after 1995 that is earned by a member]~~ during, as applicable:

(A) if the member has 120 months or more of membership service, the 36 months of membership service which yielded the highest average during the last 120 months of membership service;

(B) if the member has less than 120 months of membership service, but has at least 36 months of membership service, then the average during the 36 months which yield the highest average; or

(C) if the member does not have 36 months of membership service, then the average during the member's months of membership service.

The term does not include annual compensation in excess of the dollar limit under Section 401(a)(17) of the code for any employee who first becomes a member in a year commencing after 1995, and that compensation shall be disregarded in determining average final compensation. Any reduction for

overtime, incentive, and terminal pay shall not cause a member's compensation to be less than the limit under Section 401(a)(17) of the code to the extent that the compensation has already been reduced in accordance with Subdivision (12). The dollar limitation shall be adjusted for cost of living increases as provided under Section 401(a)(17) of the code.

(9) "Beneficiary" means the member's designated beneficiary. If there is no effective beneficiary designation on the date of the member's death, or if the designated beneficiary predeceases the member (or dies as a result of the same event that caused the member's death and does not survive the member by 48 hours), the member's spouse or, if the member does not have a spouse, the member's estate shall be the beneficiary.

(10) "Board" means the boards of directors of an employer that is not a municipality as described in Section 1 of this Act.

(11) "Code" means the United States Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.) and its successors.

(12) "Compensation" means, with respect to any member, such member's wages, within the meaning of Section 3401(a) of the code (for purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Section 3401(a)(2) of the code). Compensation in excess of the dollar limit under Section 401(a)(17) of the code shall be disregarded in determining the compensation of [~~\$12,500 per month for~~] any employee who first becomes a member in a year commencing after 1995 [~~shall be disregarded~~]. The dollar [~~\$12,500~~] limitation shall be adjusted for cost of living increases as provided under Section 401(a)(17) of the code.

(13) "Consumer price index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States City Average, All Items) published monthly by the Bureau of Labor Statistics, United States Department of Labor, or its successor in function.

(14) "Creditable service" means the total of prior service, membership service, redeemed service, and service purchased under Section 6 of this Act.

(15) "Current service annuity" means a series of equal monthly payments payable for the member's life after retirement for creditable [~~membership~~] service from funds of the retirement system equal to:

(A) for Group A members, one-twelfth of the product of 3.0 [~~2-7~~] percent [~~or a higher percentage established by the retirement board under Section 10(g) of this Act~~] of a member's average final compensation multiplied by the number of months of creditable [~~membership~~] service; and

(B) for Group B members, one-twelfth of the product of 2.5 percent of a member's average final compensation multiplied by the number of months of creditable service.

(16) "Deposits" means the amounts required to be paid by members in accordance with the provisions of this Act.

(17) "Designated beneficiary" means any person, trust, or estate properly designated on a form provided by the retirement system by a member to receive benefits from the system in the event of the member's death. If the member is married, an individual other than the member's spouse may be the designated beneficiary only if the spouse consents to such designation in the form and manner prescribed by the retirement board.

(18) "Disability retirement" means the termination of employment of a member because of disability with a disability retirement allowance as provided in Section 8 of this Act.

(18A) "Early retirement annuity" means an annuity that is the actuarial equivalent of a current service annuity that would otherwise be payable at age 65 under this Act but that is reduced based on the member's actual age in years and months.

(18B) "Early retirement eligible member" means a member of Group B that:

(A) is at least 55 years of age; and

(B) has at least 10 years of creditable service, excluding nonqualified permissive service credit.

(19) "Employer" means the municipality described in Section 1 of this Act, the retirement board, or an agency of the municipality.

(20) "Fund" means the trust fund containing the aggregate of the assets of Fund No. 1 and Fund No. 2.

(21) "Fund No. 1" means the fund in which shall be kept all accumulated deposits of members who have not withdrawn from the system.

(22) "Fund No. 2" means the fund in which shall be kept all money contributed by the city on behalf of city employees, by an agency of the municipality on behalf of the agency's employees, and by the retirement board on behalf of retirement board employees, interest earned thereon, and all accumulations and earnings of the system.

(23) "Governing body" means the city council of the municipality described in Section 1 and its successors as constituted from time to time.

(23A) "Group A" means the group of members of the retirement system that includes each member who:

(A) began membership service on or after January 1, 1941, and on or before December 31, 2011; or

(B) returned to full-time employment on or after January 1, 2012,
and:

(i) was previously a member of Group A;

(ii) ceased to be a member of the retirement system;

(iii) received a distribution of the member's accumulated

deposits; and

(iv) reinstated all of the member's prior membership service

credit.

(23B) "Group B" means the group of members of the retirement system that includes each member who:

(A) began membership service on or after January 1, 2012; or

(B) returned to full-time employment on or after January 1, 2012, and:

- (i) was previously a member of Group A;
- (ii) ceased to be a member of the retirement system;
- (iii) received a distribution of the member's accumulated deposits; and
- (iv) has not reinstated all of the member's prior membership service credit.

(25) "Investment consultant" means the person or entity that monitors the investment performance of the system and provides such other services as requested by the retirement board.

(26) "Investment manager" means the persons or entities that have the power to manage, acquire, or dispose of assets of the fund on behalf of the retirement system and that acknowledge fiduciary responsibility to the system in writing. An investment manager must be a person, firm, or corporation registered as an investment adviser under the Investment Advisers Act of 1940, a bank, or an insurance company qualified to manage, acquire or dispose of assets under the laws of more than one state including this state that meets the requirements of Section 802.204, Government Code.

(27) "Life annuity" means a series of equal monthly payments, payable after retirement for a member's life, consisting of a combination of prior service pension and current service annuity, or early retirement annuity, to which the member is entitled.

(28) "Life annuity (modified cash refund)" means a life annuity providing that, in the event of death of the retired member before that member has received payments under the life annuity totaling the amount of that member's accumulated deposits at the date of retirement, the excess of such accumulated deposits over the payments made shall be paid in one lump sum to the member's designated beneficiary.

(29) "Malfeasance" means willful misconduct or the knowingly improper performance of any act, duty, or responsibility under this Act, including non-performance, that interrupts, interferes with, or attempts to interfere with the administration, operation, and management of the retirement system or any person's duties under this Act.

(30) "Member" means any:

(A) regular full-time employee of an employer; and

(B) former regular full-time employee who has not withdrawn the member's accumulated deposits from the system.

In any case of doubt regarding the eligibility of any employee to become or remain a member of the retirement system, or the assignment of a member to a group, the decision of the retirement board is final.

(31) "Membership service" means the period of time on or after January 1, 1941, during which a person is or was employed as a regular full-time employee or is or was on an authorized leave of absence and who is eligible for

participation in the system and pays into and keeps on deposit the amounts of money prescribed to be paid by the member into the system. The term includes redeemed membership service.

(32) "Normal retirement age" means:

(A) for members of Group A:

(i) age 62;

(ii) [~~B~~] 55 years of age with 20 years of creditable service; or

(iii) [~~C~~] 23 years of creditable service, regardless of years of

age; and

(B) for members of Group B:

(i) 62 years of age with 30 years of creditable service, excluding nonqualified permissive service credit; or

(ii) 65 years of age with five years of creditable service, excluding nonqualified permissive service credit.

(33) "Normal retirement date" means:

(A) for members of Group A, the earlier of the date a member attains a normal retirement age or the date on which the member has completed 23 years of creditable service; and

(B) for members of Group B, the date the member reaches normal retirement age under Subdivision (32)(B) of this section [~~or a lesser number of years of creditable service established by the retirement board under Section 10(g) of this Act~~].

(34) "Prior service" means membership service as an employee of the city:

(A) rendered by a person prior to January 1, 1941, for which a pension credit is allowable under prior law governing the retirement system of that city; and

(B) which for a person after January 1, 1941, includes redeemed membership [~~prior~~] service.

(35) "Prior service pension" means a series of equal monthly payments payable from funds of the retirement system for a member's life after retirement for prior service equal to one-twelfth of the product of 3.0 [~~2-7~~] percent [~~or a greater percentage established by the retirement board under Section 10(g) of this Act~~] of the member's average monthly earnings during a period of five years preceding January 1, 1941, multiplied by the number of months of prior service. [~~On retirement at an age other than normal retirement age, the monthly prior service pension herein prescribed shall be the actuarial equivalent thereof at the member's actual retirement date, based on the schedule or schedules of payments approved by the actuary and adopted by the retirement board and in effect on the member's actual retirement date.~~]

(36) "Qualified domestic relations order" has the meaning assigned by Section 804.001, Government Code, and its subsequent amendments.

(37) "Redeemed membership service" means membership service reinstated in accordance with Section 5(e) of this Act.

(38) "Redeemed prior service" means prior service reinstated in accordance with Section 5(e) of this Act.

(39) "Regular full-time employee" means an individual who is employed by the municipality, an agency of the municipality, or the retirement board who is not a commissioned civil service police officer or fire fighter, a fire or police cadet employed under civil service procedures, the mayor, or a member of the governing body; who serves in a position that is classified in the annual budget of an employer for employment for the full calendar year; and who works or is budgeted for 30 hours or more in a normal 40-hour work week. The term does not include an individual whose position is classified as seasonal or temporary by the employer, even if the individual works 30 hours or more in a normal 40-hour work week in which the individual is employed.

(40) "Retired member" means a person who because of creditable service or age is qualified to receive and who has retired and is eligible to continue receiving a retirement allowance as provided by this Act.

(41) "Retirement" means the termination of employment of a member after the member becomes entitled to receive a retirement allowance in accordance with the provisions of this Act.

(42) "Retirement allowance" means the life annuity (modified cash refund) to which a member may be entitled under this Act, including annuities payable on disability retirement.

(43) "Retirement board" means the board of trustees of the retirement and pensioning system herein created for the purpose of administering the retirement system.

(44) "Retirement system," "retirement and pensioning system," "pension system," or "system" means the retirement and pensioning system created by this Act for a municipality governed by this Act or a retirement system established under this Act.

(45) "Year of creditable service" means a 12-month period of creditable service determined in accordance with uniform and nondiscriminatory rules established by the retirement board.

SECTION 3. Section 3, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. ESTABLISHMENT AND APPLICABILITY. Subject to the authority granted the retirement board in Section 7(d) of this Act: [5]

(1) members who retired, and the beneficiaries of members who died, prior to October 1, 2011 [~~1999~~], shall continue to receive the same retirement allowances or benefits they were entitled to receive prior to that date, together with any benefit increase authorized under this Act;

(2) members of the retirement system on or before December 31, 2011, shall be enrolled as members of Group A; and

(3) persons that first become members of the retirement system on or after January 1, 2012, shall be enrolled in Group B.

SECTION 4. Subsections (b), (c), and (e), Section 5, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Membership in the retirement system consists of Groups A and B, each of which consists of the following groups:

(1) the active-contributory members group, which consists of all members, other than those on authorized leave of absence, who are making deposits;

(2) the active-noncontributory members group, which consists of all employees on approved medical leave of absence and all employees of an employer, other than inactive-contributory members, who have been active-contributory members but who are no longer so because they are not regular full-time employees;

(3) the inactive-contributory members group, which consists of all members who are on an authorized leave of absence and who continue to make deposits into the retirement system during their absence;

(4) the inactive-noncontributory members group, which consists of all members whose status as an employee has been terminated before retirement or disability retirement but who are still entitled to or who may become entitled to, or whose beneficiary may become entitled to, benefits from the retirement system; and

(5) the retired members group, which consists of all members who have retired and who are receiving or who are entitled to receive a retirement allowance.

(c) A [An active noncontributory] member becomes an active-contributory member immediately on resuming employment as a regular full-time employee or on returning from an approved medical leave of absence, as applicable. A member who resumes regular full-time employment is assigned to the group for which the member is qualified under Subdivisions (23A) and (23B), Section 2 of this Act.

(e) Any person who has ceased to be a member and has received a distribution of the person's accumulated deposits may have the person's membership service in the original group in which the membership service was earned ~~[or prior service]~~ reinstated if the person is reemployed as a regular full-time employee ~~[for a continuous period of 24 months]~~ and deposits into the system ~~[within a reasonable period established by the retirement board on a uniform and nondiscriminatory basis,]~~ the accumulated deposits withdrawn by that person, together with an interest payment equal to the amount withdrawn multiplied by an interest factor. The interest factor is equal to the annually compounded interest rate assumed to have been earned by the fund beginning with the month and year in which the person withdrew the person's accumulated deposits and ending with the month and year in which the deposit under this subsection is made. The interest rate assumed to have been earned by the fund for any period is equal to the interest rate credited for that period to the accumulated deposits of members, divided by 0.75.

SECTION 5. Section 6, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended by amending Subsections (c) and (f) and adding Subsections (e-1), (e-2), and (e-3) to read as follows:

(c)(1) Uniformed service creditable in the retirement system is any service required to be credited by the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended, and certain federal duty service in the armed forces of the United States performed before the beginning of employment with the employer, other than service as a student at a service academy, as a member of the reserves, or any continuous active military service lasting less than 90 days. A member may use uniformed service to establish creditable service subject to the conditions of Subdivisions (2)-(6) of this subsection.

(2) A member may establish uniformed creditable service for an authorized leave of absence from employment for military service under this subsection by making periodic payments or a lump-sum payment. If the member elects to make periodic payments, the member shall make, each pay period during the period that the member is on authorized leave, a deposit in an amount equal to the amount of the member's deposit for the last complete pay period that the member was paid by the employer as a regular full-time employee. If the member elects to make a lump-sum payment, the member and the employer shall, not later than the fifth anniversary of the date the member returns to employment with the employer, make separate lump-sum payments equal to the total amount of the contributions the member would have made if the member had made periodic contributions. A lump-sum payment may not exceed the amount required under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended, if the member makes the contributions within the time required by that Act. The employer's employer shall make contributions to the retirement fund as though the member has continued employment at the salary of the member for the last complete pay period before the absence for military service. The employer's contributions shall be made each pay period if the member is making periodic payments during the period. During an authorized leave of absence, the member accrues membership service for the pay periods in which the member makes a deposit. Membership service credit for a lump-sum payment accrues at the time of payment.

(3) A member may establish uniformed creditable service for active federal duty service in the armed forces of the United States, other than service as a student at a service academy, as a member of the reserves, or any continuous active military service lasting less than 90 days, performed before the first day of employment of the member's most recent membership in the retirement system or its predecessor system. To establish creditable service under this subdivision, the member must contribute a lump-sum payment equal to 25 percent of the estimated cost of the retirement benefits the member will be entitled to receive. The retirement board will determine the required contribution based on a procedure recommended by the actuary and approved by the retirement board.

(4) A member is not eligible to establish uniformed service credit unless the member was released from active military duty under conditions other than dishonorable.

(5) A member may not establish creditable service in the retirement system for uniformed service for more than the greater of the creditable service required under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended, or 48 months of creditable service in the retirement system for uniformed service under this subsection. A member is not precluded from purchasing qualified military service to which the member is entitled solely because the member, before beginning a leave of absence for qualified military service, purchased creditable service for military service performed before becoming employed by the employer.

(6) After the member makes the deposit required by this subsection, the retirement system shall grant the member one month of creditable service for each month of creditable uniformed service established under this subsection.

(e-1) An active contributory member that is eligible for retirement may file a written application to convert to creditable service at retirement all or part of the member's sick leave accrued with the employer that is eligible for conversion. The application must be approved by the retirement board. The member may not convert sick leave for which the member is entitled to be paid by the employer. Sick leave hours may be converted in pay period increments for the purpose of increasing creditable service that is used in the calculation of benefits. Sick leave hours may not be used to reach retirement eligibility. Both the employer and the member must make the equivalent amount of retirement contributions that would have been made had the sick hours been exercised and used as sick leave hours.

(e-2) Nonqualified permissive creditable service may be purchased only as provided by this subsection. A member may purchase nonqualified permissive creditable service:

(1) only to the extent permitted under both this subsection and Section 415(n) of the code;

(2) in an amount that:

(A) for each purchase, is not less than one month; and

(B) when all amounts purchased under this subsection are combined, is not more than 60 months; and

(3) only if the member has reinstated all prior membership service in:

(A) Groups A and B if the member was initially enrolled as a member of Group A, but ceased to be a member of Group A, by:

(i) first reinstating all prior membership service in Group A;

(ii) next reinstating all prior membership service in Group B;

and

(iii) then purchasing the nonqualified permissive creditable

service; or

(B) Group B, if the member was initially enrolled as a member of Group B, by:

(i) first reinstating all prior membership service in Group B;

and

(ii) then purchasing the nonqualified permissive creditable

service.

(e-3) Nonqualified permissive creditable service purchased by members of Group B is not included in the creditable service required to qualify a member for normal or early retirement eligibility.

(f) The full actuarial cost of noncontributory creditable service purchased as provided by ~~Subsections~~ Subsection (e), (e-1), (e-2), and (e-3) of this section is payable by the member purchasing the credit.

SECTION 6. Section 7, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (l), and (z), and adding Subsections (a-1) and (ii) to read as follows:

(a) Except as provided by Subsection (b) of this section, a member who retires on or after the member's normal retirement date for the group in which the member is enrolled, or a member of Group B eligible for early retirement who retires, and applies in writing for a retirement allowance shall receive the [a] life annuity (modified cash refund) or the early retirement annuity to which the member is entitled. An annuity begins ~~beginning~~ on the last day of the month after the month in which the member retired. Unless Section 8 of this Act applies, or the member is an early retirement eligible member of Group B, a member whose employment by the employer terminates before the member's normal retirement date is entitled to a distribution of the member's accumulated deposits in a single lump sum. On receiving that distribution, a member is not entitled to any other benefit under this Act. If a member has at least five years of creditable service and does not withdraw the member's accumulated deposits, the member is entitled to a life annuity (modified cash refund) beginning on the first day of the month after the month in which the member's normal retirement date occurs.

(a-1) If not already nonforfeitable, a member's retirement benefit becomes nonforfeitable at normal retirement age.

(l) A member may file a written designation, which, if approved by the retirement board, shall entitle the member, on retirement, to receive the actuarial equivalent of the life annuity in the form of one of the following options:

(1) Option I. 100 Percent Joint and Survivor Annuity. This option is a reduced monthly annuity payable to the member but with the provision that on the member's death the annuity shall be continued throughout the life of and be paid to such person as the member shall designate before the member's actual retirement date.

(2) Option II. 50 Percent Joint and Survivor Annuity. This option is a reduced monthly annuity payable to the member but with the provision that on the member's death one-half of the annuity shall be continued throughout the life of and be paid to such person as the member shall designate before the member's actual retirement date.

(3) Option III. 66-2/3 Percent Joint and Survivor Annuity. This option is a reduced monthly annuity payable to the member but with the provision that on the member's death two-thirds of the annuity shall be continued throughout the life of and be paid to such person as the member shall designate before the member's actual retirement date.

(4) Option IV. Joint and 66-2/3 Percent Last Survivor Annuity. This option is a reduced monthly annuity payable to the member but with the provision that two-thirds of the annuity to which the member would be entitled shall be continued throughout the life of and be paid to the survivor after the death of either the member or such person as the member shall designate before the member's actual retirement date.

(5) Option V. 15-Year Certain and Life Annuity. This option is a reduced annuity payable to the member for life. In the event of the member's death before 180 monthly payments have been made, the remainder of the 180 payments shall be paid to the member's beneficiary or, if there is no beneficiary, to the member's estate.

(6) Option VI. Equivalent Benefit Plan. If a member requests in writing, any other form of benefit or benefits may be paid either to the member or to such person or persons as the member shall designate before the member's actual retirement date, provided that the benefit plan requested by the member is certified by the actuary for the system to be the actuarial equivalent of the life annuity with guaranteed refund of the retired member's accumulated deposits. If, on the death of the member and all other persons entitled to receive payments under an optional benefit, the member's accumulated deposits as of the member's actual retirement date exceed the sum of all payments made under that optional benefit, that excess shall be paid in one lump sum to the member's beneficiary. A member selecting this option may elect to receive (i) either a life annuity or one of the actuarially-equivalent annuities described by Subdivisions (1)-(5) and (ii) a lump-sum payment upon retirement. If a member requests a lump-sum payment, the annuity requested by the member shall be actuarially reduced as a result of the lump-sum payment. The lump-sum payment may not exceed an amount equal to the total amount of 60 monthly life annuity payments. Active contributory members that reach normal retirement age may upon retirement elect to participate in a backward deferred retirement option program ("backward DROP") that permits a minimum participation period of one month and a maximum participation period of 60 months. This deferred retirement option is subject to retirement board policies issued in compliance with the code. No interest will be paid on, or added to, any backward DROP payment.

(z) If the person designated in writing by the member under Option I, Option II, or Option III, or, excluding a joint and last survivor option, any retirement option that includes a joint and survivor option, predeceases the retired member, the reduced annuity of a retired member who selected the optional lifetime retirement annuity shall be increased to the standard service retirement annuity that the retiree would have been entitled to receive if the retired member had not selected Option I, Option II, or Option III. The standard service retirement annuity shall be appropriately adjusted for early retirement and for the postretirement increases in retirement benefits. The increase in the annuity under this subsection is payable to the retired member for life and begins with the later of the monthly payment made to the retired member for the month following the

month in which the person designated by the member dies or the month following the month in which the retired member gives the system notice of the designated person's death.

(ii) If a member dies while performing qualified military service, the beneficiaries of the member are entitled to any additional benefits, other than benefit accruals relating to the qualified military service, that would have been provided if the member had returned from the military leave of absence and then terminated employment on account of death.

SECTION 7. Section 9, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsections (c) through (g) to read as follows:

(a) Notwithstanding any other provisions of this Act, the annual benefit provided with respect to any member may not exceed the benefits allowed for a governmental defined benefit plan qualified under Section 401 [415] of the code. The maximum benefits allowed under this section shall increase each year to the extent permitted by annual cost of living increase adjustments announced by the United States secretary of the treasury under Section 415(d) of the code and the increased benefit limits shall apply to members who have terminated employment, including members who have commenced to receive benefits, before the effective date of the adjustment.

(c) A member who retires after reaching normal retirement age and continues or resumes employment with an employer in a position that is required to participate in another retirement system maintained by the employer continues to be eligible to receive the retirement allowance provided under this Act.

(d) The retirement board shall suspend the retirement allowance of a retired member who resumes employment with an employer within the period of time prescribed by the retirement board in the board's policy, or who resumes employment after retirement as a regular full-time employee of an employer. The retirement board shall reinstate the member's retirement allowance as provided under Subsection (f) of this section.

(e) The retirement board shall suspend the retirement allowance of a retired member who resumes employment with an employer in a position that is not required to participate in another retirement system maintained by an employer, and who is not a regular full-time employee of an employer, if the member works for, or is compensated by, an employer for more than 1,508 hours in any rolling 12-month period after the member resumes employment with the employer. The retirement board shall reinstate the member's retirement allowance as provided under Subsection (f) of this section.

(f) A member whose retirement allowance is suspended under Subsection (d) or (e) of this section may apply in writing for reinstatement of the retirement allowance when the member retires again. The retirement system shall calculate the reinstated retirement allowance based on the member's total creditable service, reduced actuarially to reflect the gross amount of total retirement allowance paid to the member prior to suspension of the retirement allowance.

(g) The retirement system and the employer shall adopt and amend procedures for the exchange of information in order to implement the provisions of this section.

SECTION 8. Subsection (a), Section 10, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Each active-contributory member shall make deposits to the retirement system at a rate equal to eight [~~seven~~] percent of the member's base compensation, pay, or salary, exclusive of overtime, incentive, or terminal pay or at a higher contribution rate approved by a majority vote of regular full-time employee members. Deposits shall be made by payroll deduction each pay period. If a regular full-time employee works at least 75 percent of a normal 40-hour work week but less than the full 40 hours, the employee shall make deposits as though working a normal 40-hour work week even though the rate of contribution may exceed eight [~~seven~~] percent of the employee's actual compensation, pay, or salary, and the employee's average final compensation shall be computed on the basis of the compensation, pay, or salary for a normal 40-hour work week. No deposits may be made nor membership service credit received for periods during which an employee's authorized normal work week is less than 75 percent of a normal 40-hour work week. A person who is eligible for inactive-contributory membership status and who chooses to be an inactive-contributory member shall make deposits to the retirement system each pay period in an amount that is equal to the amount of the member's deposit for the last complete pay period that the member was a regular full-time employee. The regular full-time employee members may increase, by a majority vote of all such members voting at an election to consider an increase in contributions, each member's contributions above eight [~~seven~~] percent or above the higher rate in effect and approved by majority vote in whatever amount the retirement board recommends. Each employer shall contribute amounts equal to eight [~~seven~~] percent of the compensation, pay, or salary of each active-contributory member and each inactive-contributory member employed by the employer, exclusive of overtime, incentive, or terminal pay, or a higher contribution rate agreed by the employer. If a regular full-time employee of the employer works at least 75 percent of a normal 40-hour work week but less than the full 40 hours, the employer shall make contributions for that employee as though that employee works a normal 40-hour work week even though the rate of contribution may exceed eight [~~seven~~] percent of that employee's actual compensation, pay, or salary. The governing body of the city may authorize the city to make additional contributions to the system in whatever amount the governing body may determine. If the governing body authorizes additional contributions to the system by the city for city employees, the board of each other employer shall [~~may~~] increase the contributions for such employer's respective employees by the same percentage. Employer contributions shall be made each pay period.

SECTION 9. Section 12, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended by adding Subsection (d-1) and amending Subsection (e) to read as follows:

(d-1) Members of the retirement system that are enrolled in Group A shall have the rights and be entitled to the benefits provided under this Act for members of Group A. Members of the retirement system that are enrolled in Group B shall have the rights and be entitled to the benefits provided under this Act for members of Group B. A member may not be a member of both Group A and Group B.

(e) Notwithstanding any provision of this Act to the contrary that would otherwise limit a distributee's election, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this subsection:

(1) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(A) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made over the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary;

(B) any series of payments for a specified period of ten years or more;

(C) any distribution to the extent such distribution is required under Section 401(a)(9) of the code; or

(D) the portion of any distribution that is not includable in gross income unless the distributee directs that the eligible rollover distribution be transferred directly to a qualified trust that is part of a defined contribution plan that agrees to separately account for the portion that is includable in gross income and the portion that is not, or to an individual retirement account or individual annuity [~~(determined without regard to the exclusion for net unrealized appreciation with respect to employer securities)~~].

(2) An "eligible retirement plan" is an individual retirement account described in Section 408(a) of the code, an individual retirement annuity described in Section 408(b) of the code, an annuity plan described in Section 403(a) of the code, ~~or~~ a qualified trust described in Section 401(a) of the code, an eligible deferred compensation plan described in Section 457(b) of the code which is maintained by an eligible employer described in Section 457(e)(1)(A) of the code, or an annuity contract described in Section 403(b) of the code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a designated beneficiary who is not the surviving spouse, or the spouse or former spouse under a qualified domestic relations order, an eligible retirement plan is an individual retirement account or individual retirement annuity only.

(3) A "distributee" includes an employee or former employee. In addition, the employee's or former employee's surviving spouse or designated beneficiary and the employee's or former employee's spouse or former spouse

who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the code, are distributees with regard to the interest of the spouse or the former spouse.

(4) A "direct rollover" is a payment by the retirement system to the eligible retirement plan specified by the distributee.

SECTION 10. The following laws are repealed:

(1) Subsection (p), Section 9, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes); and

(2) Subsection (g), Section 10, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes).

SECTION 11. 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 October 1, 2011.

HB 3333 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Peña called up with senate amendments for consideration at this time,

HB 3333, A bill to be entitled An Act relating to the authority of the governor to order the disconnection of state computer networks from the Internet.

Representative Peña moved to concur in the senate amendments to **HB 3333**.

The motion to concur in the senate amendments to **HB 3333** prevailed by (Record 1513): 142 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; 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; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Burnam; Dukes; Johnson.

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

Absent, Excused — Anchia; Crownover.

Absent — McClendon.

STATEMENT OF VOTE

When Record No. 1513 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

Senate Committee Substitute

CSHB 3333, A bill to be entitled An Act relating to the authority of the governor to order the disconnection of state computer networks from the Internet.

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

SECTION 1. Subchapter B, Chapter 418, Government Code, is amended by adding Section 418.0195 to read as follows:

Sec. 418.0195. DISCONNECTION OF STATE COMPUTER NETWORKS. (a) This section applies only to a computer network used by:

(1) a state agency; or

(2) an entity other than a state agency receiving network security services from the Department of Information Resources under Section 2059.058.

(b) The governor may order the Department of Information Resources to disconnect a computer network from the Internet in the event of a substantial external threat to the computer network.

(c) The authority granted under this section is limited to Internet connectivity services provided exclusively to an entity described by Subsection (a).

SECTION 2. Subchapter C, Chapter 2059, Government Code, is amended by adding Section 2059.1055 to read as follows:

Sec. 2059.1055. NETWORK SECURITY IN A STATE OF DISASTER. The department shall disconnect the computer network of an entity receiving security services under this chapter from the Internet if the governor issues an order under Section 418.0195 to disconnect the network because of a substantial external threat to the entity's computer network.

SECTION 3. This Act takes effect September 1, 2011.

**SB 1338 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Geren, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1338**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1338**: Geren, chair; Hamilton, D. Howard, Marquez, and Ritter.

**SB 1534 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative J. Davis, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1534**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1534**: J. Davis, chair; Murphy, Reynolds, R. Anderson, and Vo.

**SB 655 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Keffer, the house granted the request of the senate for the appointment of a Conference Committee on **SB 655**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 655**: Keffer, chair; Carter, Crownover, Lewis, and Oliveira.

**SB 1489 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Madden, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1489**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1489**: Madden, chair; Allen, Hunter, Workman, and Perry.

**SB 652 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Harless, the house granted the request of the senate for the appointment of a Conference Committee on **SB 652**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 652**: Bonnen, chair; Anchia, Cook, Harper-Brown, and L. Taylor.

**SB 1816 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Guillen, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1816**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1816**: Raymond, chair; Guillen, Hilderbran, Margo, and Peña.

**HB 1335 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Allen called up with senate amendments for consideration at this time,

HB 1335, A bill to be entitled An Act relating to certain resources available to teachers of a public school student with a disability under the statewide plan for delivery of services to public school students with disabilities.

Representative Allen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1335**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1335**: Allen, chair; Nash, Thompson, Reynolds, and Mallory Caraway.

SCR 58 - ADOPTED
(Dukes - House Sponsor)

The following privileged resolution was laid before the house:

SCR 58, Instructing the enrolling clerk of the senate to make corrections in **SB 768**.

SCR 58 was adopted by (Record 1514): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Muñoz; Murphy; Naishtat; 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, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Crownover.

Absent — Alonzo; Davis, Y.; Morrison; Nash; Reynolds; Torres.

STATEMENTS OF VOTE

When Record No. 1514 was taken, I was in the house but away from my desk. I would have voted yes.

Reynolds

When Record No. 1514 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

HCR 169 - ADOPTED (by Phillips)

The following privileged resolution was laid before the house:

HCR 169

WHEREAS, **HB 3833** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains technical errors that should be corrected; now, therefore, be it

RESOLVED, by the 82nd Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 3833** as follows:

(1) In added Section 15.111(3)(C), Family Code, strike "15.107(b)" and substitute "15.107".

(2) In added Section 15.112(a)(1), Family Code, strike "77.0021(b)" and substitute "71.0021(b)".

HCR 169 was adopted by (Record 1515): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; 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; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Anchia; Crownover.

Absent — Alonzo; Davis, Y.

HR 2179 - ADOPTED
(by Harper-Brown)

Representative Harper-Brown moved to suspend all necessary rules to take up and consider at this time **HR 2179**.

The motion prevailed.

The following resolution was laid before the house:

HR 2179, Congratulating Bethany Noel Harper on her graduation from Kaufman High School.

HR 2179 was adopted.

STATEMENT OF LEGISLATIVE INTENT
REGARDING TELECOMMUNICATIONS

When I was chair of the House Regulated Industries Committee which handled the last comprehensive reform of the telecommunications policy in 2005, the legislation which was enacted then contained a provision that reduced service provider access to the Texas high cost assistance fund from companies with less than 5,000,000 lines to those companies under 31,000 subscriber lines, and to cooperatives. Specifically, this was to address new requests for participation and additional funding.

There were three companies in the state who were well below the previous 5,000,000 line limit, but still above the new 31,000 threshold who were receiving some funding at the time.

During the drafting process they were told that the new restrictions, the new regulations, were prospective, and that going forward they would be "grandfathered" into the fund and still be eligible to participate in the program.

That was our clear intent during the entire drafting process, committee hearings, and the final passage of that omnibus reform bill.

I might add, these companies have continued to provide advanced broadband services to their respective service areas.

P. King

(Hunter in the chair)

Relating to possessing a glass container within the boundaries of certain riverbeds; providing criminal penalties.

(Committee Substitute)

HB 232 White SPONSOR: Ogden
Relating to the amendment of restrictions affecting real property in certain subdivisions.

(Committee Substitute)

HB 289 Jackson, Jim SPONSOR: Nelson
Relating to activity that constitutes maintaining a common nuisance.

HB 362 Solomons SPONSOR: West
Relating to the regulation by a property owners' association of the installation of solar energy devices and certain roofing materials on property.

(Committee Substitute)

HB 371 Hochberg SPONSOR: Hegar
Relating to prohibiting deferred adjudication community supervision for certain defendants convicted of murder.

HB 384 Menendez SPONSOR: Wentworth
Relating to the proper identification of boats and outboard motors; creating an offense.

HB 398 Jackson, Jim SPONSOR: Hegar
Relating to the eligibility of employees convicted of certain offenses to provide services under a contract with a public school.

HB 422 Guillen SPONSOR: Williams
Relating to certain oversize and overweight permits issued by the Texas Department of Transportation.

(Committee Substitute)

HB 427 Driver SPONSOR: Deuell
Relating to the creation of the Rowlett Waterfront Entertainment Management District; providing authority to impose a tax, levy an assessment, and issue bonds.

HB 452 Lucio III SPONSOR: Lucio
Relating to temporary housing between academic terms for certain postsecondary students who have been under the conservatorship of the Department of Family and Protective Services.

HB 554 Howard, Donna SPONSOR: Watson
Relating to the civil service status of emergency medical services personnel in certain municipalities.

HB 559 Sheffield SPONSOR: Hinojosa
Relating to Bronze Star Medal and Bronze Star Medal with Valor specialty license plates.

HB 645 Orr SPONSOR: Patrick
Relating to the information required to be included on a form for an application for an exemption from ad valorem taxation of property owned by a charitable organization.

HB 673 Parker SPONSOR: Harris

Relating to the production and use of an instructional video on recreational water safety.

HB 709 Fletcher SPONSOR: Patrick
Relating to the creation of the Harris County Municipal Utility District No. 524; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

HB 710 Walle SPONSOR: Deuell
Relating to verification of identity of applicants for benefits under and prevention of duplicate participation in the financial assistance and supplemental nutrition assistance programs.

HB 718 Fletcher SPONSOR: Birdwell
Relating to the period in which a person commits the offense of funeral service disruption.

HB 742 Hunter SPONSOR: Hinojosa
Relating to student information required to be provided at the time of enrollment in public schools.
(Committee Substitute)

HB 748 Menendez SPONSOR: Van de Putte
Relating to a criminal defendant's incompetency to stand trial, to certain related time credits, and to the maximum period allowed for restoration of the defendant to competency.

HB 782 Davis, Yvonne SPONSOR: Wentworth
Relating to a requirement that certain bond issuers obtain an appraisal of property that is to be purchased with bond proceeds.

HB 790 Kuempel SPONSOR: Hegar
Relating to the continuing issuance of freshwater fishing stamps by the Parks and Wildlife Department.

HB 807 Parker SPONSOR: Nelson
Relating to the notice provided to a foster parent before a change in a child's foster care placement.

HB 811 Darby SPONSOR: Duncan
Relating to the powers and duties of the Scurry County Hospital District.
(Committee Substitute)

HB 844 Geren SPONSOR: Nelson
Relating to the sale or lease of property by certain municipalities owning land near the shoreline of certain lakes.

HB 850 Craddick SPONSOR: Duncan
Relating to the Rankin County Hospital District.

HB 896 Howard, Charlie SPONSOR: Patrick
Relating to auxiliary members of an appraisal review board.

HB 961 Turner SPONSOR: Hinojosa

Relating to the sealing of and restricting access to juvenile records of adjudications of delinquent conduct or conduct indicating a need for supervision and to the confidentiality of records of certain misdemeanor convictions of a child.

HB 992 Castro SPONSOR: Zaffirini
Relating to excess undergraduate credit hours at public institutions of higher education.
(Committee Substitute)

HB 1000 Branch SPONSOR: Zaffirini
Relating to the distribution of money appropriated from the national research university fund; making an appropriation.
(Committee Substitute)

HB 1009 Callegari SPONSOR: Hegar
Relating to procedures for obtaining informed consent before certain postmortem examinations or autopsies.

HB 1033 Craddick SPONSOR: Seliger
Relating to the authority of certain counties to impose a county hotel occupancy tax.

HB 1046 Fletcher SPONSOR: Huffman
Relating to the confidentiality of certain personal information concerning current and former employees of certain divisions of the office of attorney general.

HB 1071 Davis, Sarah SPONSOR: Ellis
Relating to the extension of deed restrictions in certain residential real estate subdivisions.

HB 1080 Gallego SPONSOR: Hinojosa
Relating to an exemption for active duty personnel and certain veterans from the requirement to complete the live firing portion of a hunter education program.

HB 1083 Elkins SPONSOR: Hegar
Relating to the issuance of an identification card to certain honorably retired peace officers.

HB 1111 Hartnett SPONSOR: Harris
Relating to a tenant's failure to pay rent during an appeal of an eviction for nonpayment of rent after filing a pauper's affidavit.
(Committee Substitute)

HB 1113 Raymond SPONSOR: Zaffirini
Relating to the sentencing hearing or deferred adjudication hearing and conditions of community supervision for defendants convicted of certain offenses involving controlled substances.

HB 1118 Ritter SPONSOR: Huffman
Relating to the resale of property purchased by a taxing unit at a tax sale.

HB 1205 Turner SPONSOR: Ellis
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.

- HB 1224** Reynolds SPONSOR: Huffman
Relating to expulsion of a public school student who commits certain criminal acts involving a computer, computer network, or computer system owned by or operated on behalf of a school district.
- HB 1234** Miller, Doug SPONSOR: Wentworth
Relating to the authority of certain counties to impose a county hotel occupancy tax.
- HB 1247** Callegari SPONSOR: Birdwell
Relating to the repeal of certain prohibitions on purchases of paper supplies and cabinets by state agencies.
- HB 1293** Price SPONSOR: Seliger
Relating to the Moore County Hospital District.
- HB 1314** Raymond SPONSOR: Zaffirini
Relating to the operation and jurisdiction of certain district courts serving Webb County.
- HB 1330** Raymond SPONSOR: Zaffirini
Relating to the use of safety guards or flaps on certain vehicles or vehicle combinations.
- HB 1402** Guillen SPONSOR: Zaffirini
Relating to the applicability of the law on the consequences of a criminal conviction to law enforcement officer license holders and applicants.
- HB 1413** Chisum SPONSOR: Duncan
Relating to the powers and duties of the Castro County Hospital District.
(Committee Substitute)
- HB 1429** Deshotel SPONSOR: Carona
Relating to rights and remedies of certain residential tenants; providing civil penalties.
- HB 1473** Scott SPONSOR: Hinojosa
Relating to creating the offense of altering a disabled parking placard.
- HB 1476** Riddle SPONSOR: Nichols
Relating to the grounds for revocation of an emergency medical services personnel certification.
- HB 1496** Gallego SPONSOR: Uresti
Relating to the contracting authority of the Val Verde County Hospital District.
(Committee Substitute)
- HB 1500** White SPONSOR: Nichols
Relating to allowing the commissioners court of a county to deliberate in a closed meeting regarding business and financial issues related to a contract being negotiated.
- HB 1528** Miller, Sid SPONSOR: Fraser
Relating to consolidating precincts in a primary election.
- HB 1622** Menendez SPONSOR: Wentworth
Relating to suits to enjoin gang activity that constitutes a public nuisance.
- HB 1638** Aliseda SPONSOR: Whitmire

Relating to the disqualification of a district or county attorney who is the subject of a criminal investigation.
(Committee Substitute)

HB 1651 Alonzo SPONSOR: West
Relating to the North Oak Cliff Municipal Management District.

HB 1690 Flynn SPONSOR: Deuell
Relating to the use of municipal hotel occupancy tax revenue to enhance and upgrade sports facilities in certain municipalities.

HB 1721 Lucio III SPONSOR: Zaffirini
Relating to protective orders for certain victims of stalking or sexual assault.

HB 1737 Bohac SPONSOR: Huffman
Relating to the installation of a speed feedback sign by a property owners' association.

HB 1750 Darby SPONSOR: Williams
Relating to the authority of the Texas Department of Transportation to lease and contract for the operation of rolling stock during certain emergencies.

HB 1759 Rodriguez, Eddie SPONSOR: Watson
Relating to the creation of the Pilot Knob Municipal Utility District No. 4; providing authority to impose a tax and issue bonds.
(Committee Substitute)

HB 1760 Rodriguez, Eddie SPONSOR: Watson
Relating to the creation of the Pilot Knob Municipal Utility District No. 5; providing authority to impose a tax and issue bonds.
(Committee Substitute)

HB 1784 Farias SPONSOR: Van de Putte
Relating to requiring an interagency memorandum of understanding regarding the Public Assistance Reporting Information System and to the use of data from that system.

HB 1822 Harless SPONSOR: Huffman
Relating to the withdrawal of security by a bail bond surety.

HB 1823 Harless SPONSOR: Huffman
Relating to the authority of certain persons to execute bail bonds and act as sureties.

HB 1856 Woolley SPONSOR: Patrick
Relating to the prosecution of and punishment for the offense of tampering with a witness.

HB 1891 Davis, Sarah SPONSOR: Huffman
Relating to the execution of a search warrant for data or information contained in or on certain devices.

HB 1897 Flynn SPONSOR: Deuell
Relating to the jurisdiction of, number of jurors in, and the clerk serving the County Court at Law of Van Zandt County.

HB 1930 Zedler SPONSOR: Van de Putte

Relating to the membership and duties of the Human Trafficking Prevention Task Force.

HB 1967 Chisum SPONSOR: Duncan
Relating to the contracting authority of the Collingsworth County Hospital District.

HB 1994 Weber SPONSOR: Van de Putte
Relating to the creation of a first offender prostitution prevention program.

HB 2004 Bonnen SPONSOR: Jackson
Relating to the sale of certain state property in Brazoria County by the Texas Board of Criminal Justice.
(Committee Substitute)

HB 2047 Lewis SPONSOR: Uresti
Relating to service of process at the registered office of certain registered agents.

HB 2089 Smithee SPONSOR: Fraser
Relating to the resolution of overpayment or underpayment of income benefits under the workers' compensation program
(Committee Substitute)

HB 2096 Thompson SPONSOR: Ellis
Relating to the filing of writs of habeas corpus in mental health cases.

HB 2102 Hernandez Luna SPONSOR: Ellis
Relating to the requirement that certain mammography reports contain information regarding supplemental breast cancer screening.
(Committee Substitute)

HB 2104 Jackson, Jim SPONSOR: West
Relating to the amount of the bond for county taxes required to be given by the county assessor-collector for certain counties.

HB 2119 Madden SPONSOR: Whitmire
Relating to the requirement that the Texas Correctional Office on Offenders with Medical or Mental Impairments provide certain services and programs.

HB 2124 Workman SPONSOR: Huffman
Relating to victim notification regarding the release of a defendant who was acquitted by reason of insanity in a criminal case.

HB 2138 Guillen SPONSOR: Zaffirini
Relating to the search for and rescue of victims of water-oriented accidents.

HB 2141 Guillen SPONSOR: Williams
Relating to enforcement of laws related to water safety.

HB 2193 Truitt SPONSOR: Duncan
Relating to service and qualifications for membership on an advisory committee established by the Employees Retirement System of Texas to provide advice to the board of trustees on investments and investment-related issues.

HB 2194 Taylor, Larry SPONSOR: Jackson
Relating to certain election practices and procedures; providing a penalty.
(Committee Substitute)

- HB 2220** Davis, Yvonne SPONSOR: Ellis
 Relating to the requirement to prepay ad valorem taxes as a prerequisite to determining certain motions or protests and the authority of an appraisal review board to determine compliance with the requirement.
- HB 2238** Creighton SPONSOR: Nichols
 Relating to the powers and duties of the Montgomery County Municipal Utility District No. 112.
- HB 2247** King, Phil SPONSOR: Gallegos
 Relating to the eligibility of the adjutant general's department to receive Foundation School Program funding for students enrolled in the Texas Challenge Academy.
- HB 2256** Phillips SPONSOR: Williams
 Relating to abating or deferring the suspension or revocation of a license issued by the Department of Public Safety for victims of identity theft.
- HB 2265** Ritter SPONSOR: Gallegos
 Relating to a county audit of a hotel regarding the hotel occupancy tax.
 (Committee Substitute)
- HB 2266** Smith, Wayne SPONSOR: Patrick
 Relating to fire code certificates of compliance.
- HB 2296** Ritter SPONSOR: Huffman
 Relating to the creation of Jefferson County Management District No. 1; providing authority to impose an assessment, impose a tax, and issue bonds.
- HB 2310** Miller, Doug SPONSOR: Wentworth
 Relating to appointment of bailiffs for the district courts in Comal, Hays, and Caldwell Counties.
- HB 2315** Coleman SPONSOR: Deuell
 Relating to a county's general revenue levy for indigent health care.
- HB 2346** Bonnen SPONSOR: Huffman
 Relating to authorized investments for ports and navigation districts.
- HB 2363** Flynn SPONSOR: Deuell
 Relating to the creation of the Bearpen Creek Municipal Utility District of Hunt County; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.
- HB 2460** Truitt SPONSOR: Wentworth
 Relating to confidentiality of information held by a public retirement system.
- HB 2463** Reynolds SPONSOR: Ellis
 Relating to access to certain records regarding an employment discrimination claim.
 (Committee Substitute)
- HB 2492** Naishtat SPONSOR: Uresti
 Relating to the family allowance, treatment of exempt property, and an allowance in lieu of exempt property in the administration of a decedent's estate.
- HB 2496** Gonzalez, Naomi SPONSOR: Carona

Relating to creating a teen dating violence court program and the deferral of adjudication and dismissal of certain dating violence cases.

HB 2516 Alvarado SPONSOR: Gallegos
Relating to the appeal of an indefinite suspension of a municipal firefighter.
(Committee Substitute)

HB 2541 Solomons SPONSOR: Nelson
Relating to the regulation of traffic on certain roads by counties.

HB 2549 Crownover SPONSOR: Estes
Relating to the authority of a state employee to authorize a deduction from the employee's salary or wage payment for a charitable contribution to certain entities.
(Committee Substitute)

HB 2575 Phillips SPONSOR: Harris
Relating to the Texas Department of Motor Vehicles' electronic lien system.

HB 2577 Miller, Sid SPONSOR: Hegar
Relating to the unlawful use of a criminal instrument or mechanical security device; providing a penalty.

HB 2584 Anderson, Rodney SPONSOR: Harris
Relating to authorizing certain municipalities to donate surplus real property of negligible or negative value to certain private persons.

HB 2596 Garza SPONSOR: Wentworth
Relating to the authority of certain municipalities to lower speed limits on certain highways.
(Committee Substitute)

HB 2651 Allen SPONSOR: Ellis
Relating to the eligibility of visitors to use certain public transportation services for people with disabilities.

HB 2655 Sheets SPONSOR: Carona
Relating to notice of coverage reduction on renewal of a property/casualty insurance policy.
(Committee Substitute)

HB 2662 Hochberg SPONSOR: Hinojosa
Relating to the criteria for determining whether a child is a missing child.
(Committee Substitute)

HB 2678 Smith, Todd SPONSOR: Wentworth
Relating to driver training and education.

HB 2702 Solomons SPONSOR: Eltife
Relating to the application of statutes that classify political subdivisions according to population.
(Amended)

HB 2722 Perry SPONSOR: Duncan
Relating to the state Medicaid program as the payor of last resort.

HB 2794 Hunter SPONSOR: Hegar

Relating to the creation of the Calhoun County Groundwater Conservation District.

(Committee Substitute)

HB 2819

King, Susan

SPONSOR: Nelson

Relating to the operation and efficiency of the eligibility determination process for supplemental nutrition assistance program benefits.

HB 2847

Madden

SPONSOR: Whitmire

Relating to the use of video teleconferencing systems in certain criminal proceedings.

(Amended)

HB 2909

Branch

SPONSOR: Shapiro

Relating to increasing awareness in this state of the importance of higher education.

(Committee Substitute)

HB 2931

Woolley

SPONSOR: Van de Putte

Relating to certain debt cancellation agreements made in connection with retail installment contracts.

(Amended)

HB 2947

Coleman

SPONSOR: Shapiro

Relating to the exception of an audit working paper of a hospital district from required disclosure under the public information law.

(Committee Substitute)

HB 2960

Darby

SPONSOR: Hinojosa

Relating to vehicles used for the purpose of participating in equine activities or attending livestock shows.

HB 2966

Naishtat

SPONSOR: Zaffirini

Relating to the confidentiality of certain communications and records made or collected in reference to certain sexual assault survivors.

HB 2972

Smith, Todd

SPONSOR: Wentworth

Relating to the municipal sales and use tax for street maintenance.

HB 2975

Hunter

SPONSOR: Harris

Relating to continuing education for physicians and nurses regarding the treatment of tick-borne diseases.

(Committee Substitute)

HB 2981

Hunter

SPONSOR: Hegar

Relating to the operation on a highway or street of a motor vehicle that is drawing a boat or personal watercraft in or on which a child is riding; providing a penalty.

(Committee Substitute)

HB 3003

Hughes

SPONSOR: Eltife

Relating to the issuance of an identification card to certain individuals to permit entrance into certain county buildings without passing through security services.

HB 3030

McClendon

SPONSOR: Wentworth

Relating to the funding of projects in the boundaries of certain intermunicipal commuter rail districts.

- HB 3076** Gallego SPONSOR: Uresti
Relating to the rate of the hotel occupancy tax in certain counties.
- HB 3085** Taylor, Larry SPONSOR: Nelson
Relating to the period of a license for a freestanding medical emergency care facility.
- HB 3096** Kolkhorst SPONSOR: Carona
Relating to the cancellation of a subdivision by a commissioners court.
- HB 3099** Kolkhorst SPONSOR: Hegar
Relating to the office of inspector general of the Department of Public Safety.
(Committee Substitute)
- HB 3117** Vo SPONSOR: Watson
Relating to the reporting of information to claims databases by insurers.
(Committee Substitute)
- HB 3125** Thompson SPONSOR: Patrick
Relating to the offenses of unauthorized duplication, unauthorized recording, unauthorized operation of recording device, and improper labeling of recordings.
- HB 3197** Coleman SPONSOR: Deuell
Relating to creating a pilot program to implement the culture change model of care at certain state supported living centers.
- HB 3208** Burkett SPONSOR: Deuell
Relating to the designation of a segment of U.S. Highway 80 in the town of Sunnyvale as a Blue Star Memorial Highway.
- HB 3216** Otto SPONSOR: West
Relating to electronic communication between property owners and chief appraisers, appraisal districts, appraisal review boards, or any combination of those persons.
- HB 3369** King, Susan SPONSOR: Nelson
Relating to the registration of certain physical therapy facilities by the Texas Board of Physical Therapy Examiners.
- HB 3384** Madden SPONSOR: Whitmire
Relating to the penalties for repeat and habitual felony offenders.
- HB 3395** Callegari SPONSOR: Lucio
Relating to state purchasing preferences for recycled products and to the efficient operation of certain telecommunications entities.
(Committee Substitute)
- HB 3399** Legler SPONSOR: Williams
Relating to the requirements for grant programs funded through the Texas emissions reduction plan.
- HB 3409** Kolkhorst SPONSOR: Williams
Relating to reporting of lobbying activities and changes in lobbying activities.
(Committee Substitute)
- HB 3421** Miller, Doug SPONSOR: Wentworth
Relating to the designation of the El Camino Real de los Tejas National Historic Trail as a historic highway.

- HB 3422** Lozano SPONSOR: Hinojosa
Relating to the use of auction proceeds from the sale of abandoned motor vehicles, watercraft, or outboard motors to compensate certain property owners.
- HB 3453** Anchia SPONSOR: Eltife
Relating to the regulatory authority of the consumer credit commissioner and to fees and interest charged in connection with consumer credit transactions.
(Committee Substitute)
- HB 3459** Eiland SPONSOR: Whitmire
Relating to the containment of costs incurred in the correctional health care system.
(Committee Substitute)
- HB 3468** Patrick, Diane SPONSOR: Shapiro
Relating to high school readiness, to the assessment of public school students for college readiness and developmental education courses to prepare students for college-level coursework, and to teacher certification to teach at certain grade levels in public school.
(Committee Substitute)
- HB 3474** Gallego SPONSOR: Watson
Relating to criminal offenses regarding the possession or consumption of alcoholic beverages by a minor and providing alcoholic beverages to a minor.
- HB 3475** Gallego SPONSOR: West
Relating to the recusal and disqualification of municipal judges.
- HB 3580** Frullo SPONSOR: Duncan
Relating to the issuance of specialty license plates for surviving spouses of disabled veterans of the United States armed forces.
- HB 3597** Larson SPONSOR: Uresti
Relating to the powers and duties of certain public improvement districts operated by counties.
- HB 3674** Eiland SPONSOR: Duncan
Relating to the use of an unsworn declaration.
- HB 3724** Guillen SPONSOR: Zaffirini
Relating to the Chronic Kidney Disease Task Force.
- HB 3730** Martinez, "Mando" SPONSOR: Hinojosa
Relating to certain privatization of maintenance contracts awarded by the Texas Department of Transportation.
- HB 3743** Workman SPONSOR: Watson
Relating to the rights, powers, functions, and duties of the West Travis County Municipal Utility District No. 5.
(Committee Substitute)
- HB 3746** Frullo SPONSOR: Carona
Relating to investigations of certain offenses involving the Internet-based sexual exploitation of a minor; creating the Internet crimes against children account to support those activities.
- HB 3771** Harper-Brown SPONSOR: Williams

Relating to the authority of the Texas Department of Transportation to adopt safety standards for high-speed rail.

(Committee Substitute)

HB 3804 Gallego SPONSOR: Uresti
Relating to the creation of the Lajitas Utility District No. 1 of Brewster County; providing authority to impose taxes and issue bonds; granting a limited power of eminent domain.
(Committee Substitute)

HB 3813 Isaac SPONSOR: Wentworth
Relating to the Hudson Ranch Fresh Water Supply District No. 1.

HB 3827 Zerwas SPONSOR: Hegar
Relating to the creation of the Fulshear Town Center Management District; providing authority to impose an assessment, impose a tax, and issue bonds.
(Committee Substitute)

HB 3834 Zerwas SPONSOR: Hegar
Relating to the creation of North Fort Bend County Improvement District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.

HB 3837 Isaac SPONSOR: Hegar
Relating to the designation of a portion of U.S. Highway 183 as the Cpl. Jason K. LaFleur Memorial Highway.

HB 3840 Parker SPONSOR: Nelson
Relating to the extension of the deadline for holding the confirmation and initial directors' election of the Tradition Municipal Utility District No. 2 of Denton County.

HB 3842 Callegari SPONSOR: Patrick
Relating to the creation of the Bridgeland Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

HB 3843 Thompson SPONSOR: Whitmire
Relating to excluding certain territory from the Harris County Road Improvement District No. 2.

HB 3844 Aycock SPONSOR: Fraser
Relating to the creation of criminal law magistrates for Burnet County.

HB 3845 Sheffield SPONSOR: Ogden
Relating to the powers of the CLL Municipal Utility District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.
(Committee Substitute)

HB 3856 Naishtat SPONSOR: Watson
Relating to the proceedings that may be referred to and the powers of a criminal law magistrate in Travis County.

HB 3866 Miller, Doug SPONSOR: Fraser
Relating to the date for the election of directors of the Hill Country Underground Water Conservation District.

HCR 129 Patrick, Diane SPONSOR: Zaffirini

Notifying the U.S. Department of Education that certain career schools or colleges are legally authorized by the state of Texas to operate educational programs beyond secondary education.

SB 1929 Seliger

Relating to the application of the professional prosecutors law to the district attorney for the 287th Judicial District.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 25, 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:

HB 51 Lucio III SPONSOR: Hinojosa
Relating to energy efficiency standards for certain buildings and to high-performance design, construction, and renovation standards for certain buildings and facilities of institutions of higher education.
(Committee Substitute/Amended)

HB 290 Jackson, Jim SPONSOR: Nelson
Relating to the punishment for the offense of employment harmful to children.
(Committee Substitute)

HB 335 Shelton SPONSOR: Birdwell
Relating to implementation and requirements of certain health care reform laws.
(Amended)

HB 737 Otto SPONSOR: Williams
Relating to the East Montgomery County Improvement District.

HB 1206 Guillen SPONSOR: Zaffirini
Relating to training for members of governing boards of public junior college districts.
(Committee Substitute)

HB 1376 Bohac SPONSOR: Ellis
Relating to the definition of a junked vehicle for purposes of abatement of a public nuisance.

HB 1560 Scott SPONSOR: Hinojosa

Relating to the enterprise zone program.
(Committee Substitute/Amended)

HB 1646 Gallego SPONSOR: Ellis
Relating to representation of certain applicants for writs of habeas corpus in cases involving the death penalty.
(Committee Substitute)

HB 1940 Perry SPONSOR: Huffman
Relating to certain matters affecting the supervision of persons released from the Texas Department of Criminal Justice and to certain hearings conducted concerning persons released from the Texas Department of Criminal Justice.
(Committee Substitute)

HB 2337 Gallego SPONSOR: Uresti
Relating to the admissibility of certain statements made by a child in a juvenile justice or criminal proceeding.
(Committee Substitute)

HB 2643 Hamilton SPONSOR: Watson
Relating to safety standards for elevators, escalators, and related equipment.
(Committee Substitute/Amended)

HB 2910 Branch SPONSOR: Zaffirini
Relating to agreements between the Texas Higher Education Coordinating Board and certain organizations for increasing degree completion rates.
(Committee Substitute/Amended)

HB 2994 Miles SPONSOR: Estes
Relating to the creation, operation, and funding of the urban farm microenterprise support program.

HB 3025 Branch SPONSOR: Zaffirini
Relating to the filing of a degree plan by undergraduate students at public institutions of higher education.
(Committee Substitute)

HB 3079 Darby SPONSOR: Deuell
Relating to dealer agreements regarding the purchase and sale of certain equipment or machinery used for agricultural, construction, industrial, mining, outdoor power, forestry, and landscaping purposes.

HB 3462 Margo SPONSOR: Rodriguez
Relating to the board of hospital managers of the El Paso County Hospital District.

HB 3864 Gooden SPONSOR: Deuell
Relating to the creation of the Lazy W District No. 1; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

HCR 86 Chisum SPONSOR: Duncan
Designating the Texas State Bison Herd at Caprock Canyons State Park as the official State Bison Herd of Texas.

HCR 153 Dukes SPONSOR: Watson
Honoring the Austin Area Urban League.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Wednesday, May 25, 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 2949 Cook SPONSOR: Eltife
Relating to the administration of the collection improvement program.
(Amended)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Wednesday, May 25, 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:

HB 351 Veasey SPONSOR: West
Relating to the expunction of records and files relating to a person's arrest.
(Committee Substitute/Amended)

HB 2133 Solomons SPONSOR: Fraser
Relating to the Public Utility Commission of Texas' authority to disgorge revenue obtained as a result of certain violations; providing an administrative penalty.

HB 2327 McClendon SPONSOR: Wentworth

Relating to the establishment and operation of a motor-bus-only lane pilot program in certain counties.

(Committee Substitute/Amended)

HB 2338 Paxton SPONSOR: Birdwell
Relating to the posting on the Internet by the county assessor-collector of information regarding ad valorem tax rates.

HB 2728 Thompson SPONSOR: Van de Putte
Relating to the operation and regulation of charitable bingo.
(Committee Substitute)

HB 2996 Miles SPONSOR: Estes
Relating to the creation of the Texas Urban Agricultural Innovation Authority.

HB 2997 Miles SPONSOR: Estes
Relating to the creation and funding of the urban farming pilot program and the creation of the Select Committee on Urban Farming.

HB 3246 Elkins SPONSOR: West
Relating to public improvement districts designated by a municipality or county.
(Committee Substitute/Amended)

HB 3328 Keffer SPONSOR: Fraser
Relating to the disclosure of the composition of hydraulic fracturing fluids used in hydraulic fracturing treatments.
(Amended)

HB 3708 Hochberg SPONSOR: Zaffirini
Relating to the Early High School Graduation Scholarship program and to the funding of certain exemptions from tuition and fees at public institutions of higher education from savings attributable to the program.
(Committee Substitute/Amended)

HCR 142 Davis, John SPONSOR: Jackson
Congratulating Clear Lake High School junior Cameron Blizzard on overcoming cancer.

HCR 162 Davis, John SPONSOR: Jackson
Congratulating the Space Center Intermediate Band in Houston on its receipt of a 2010 Sudler Cup.

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 17 (31 Yeas, 0 Nays)

SB 479 (31 Yeas, 0 Nays)

SB 762 (31 Yeas, 0 Nays)

SB 781 (31 Yeas, 0 Nays)

SB 789 (31 Yeas, 0 Nays)

SB 819 (31 Yeas, 0 Nays)

SB 1026 (31 Yeas, 0 Nays)

SB 1124 (31 Yeas, 0 Nays)

SB 1169 (31 Yeas, 0 Nays)

SB 1910 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 89

Senate Conferees: Lucio - Chair/Deuell/Seliger/Shapiro/Van de Putte

SB 144

Senate Conferees: West - Chair/Carona/Ellis/Hegar/Huffman

SB 249

Senate Conferees: Estes - Chair/Carona/Fraser/Lucio/Williams

SB 341

Senate Conferees: Uresti - Chair/Fraser/Hegar/Van de Putte/Wentworth

SB 563

Senate Conferees: Jackson - Chair/Eltife/Fraser/Harris/Watson

SB 747

Senate Conferees: Carona - Chair/Eltife/Jackson/Lucio/Watson

SB 773

Senate Conferees: Zaffirini - Chair/Carona/Deuell/Eltife/Van de Putte

SB 1198

Senate Conferees: Rodriguez - Chair/Carona/Harris/Uresti/Wentworth

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 23

Culture, Recreation, and Tourism - **HR 1955**

ENROLLED

May 24 - HB 33, HB 92, HB 159, HB 257, HB 260, HB 268, HB 378, HB 397, HB 417, HB 530, HB 592, HB 675, HB 826, HB 886, HB 963, HB 970, HB 1010, HB 1168, HB 1201, HB 1278, HB 1353, HB 1456, HB 1469, HB 1523, HB 1555, HB 1573, HB 1593, HB 1608, HB 1812, HB 1818, HB 1839, HB 1932, HB 1959, HB 2006, HB 2077, HB 2103, HB 2135, HB 2476, HB 2488, HB 2507, HB 2579, HB 2603, HB 2609, HB 2610, HB 2707, HB 2735, HB 2826, HB 2889, HB 2902, HB 2907,

HB 2911, HB 2959, HB 2973, HB 3017, HB 3199, HB 3329, HB 3342, HB 3372, HB 3391, HB 3510, HB 3616, HB 3722, HCR 42, HJR 63, HJR 130

SENT TO THE GOVERNOR

May 24 - HB 150, HB 265, HB 361, HB 596, HB 707, HB 960, HB 969, HB 976, HB 1110, HB 1120, HB 1215, HB 1379, HB 1383, HB 1395, HB 1426, HB 1481, HB 1514, HB 1525, HB 1614, HB 1666, HB 1678, HB 1682, HB 1771, HB 1830, HB 1866, HB 1906, HB 2286, HB 2289, HB 2295, HB 2366, HB 2370, HB 2385, HB 2418, HB 2482, HB 2519, HB 2538, HB 2582, HB 2624, HB 2633, HB 2690, HB 2742, HB 2809, HB 2825, HB 2937, HB 2978, HB 3146, HB 3174, HB 3307, HB 3465, HB 3470, HB 3506, HB 3573, HB 3818, HB 3857, HCR 151

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-SIXTH DAY — THURSDAY, MAY 26, 2011

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

The roll of the house was called and a quorum was announced present (Record 1516).

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; 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.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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 — Christian; Howard, D.

The invocation was offered by Reverend T. J. Dolce, pastor, St. Martha Catholic Church, Kingwood.

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

CAPITOL PHYSICIAN

The speaker recognized Representative Kleinschmidt who presented Dr. Jorge Duchicela of Weimar as the "Doctor for the Day."

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

(Harper-Brown in the chair)

HR 1793 - PREVIOUSLY ADOPTED**(by Pitts)**

The chair laid out and had read the following previously adopted resolution:

HR 1793, Congratulating the Texas Department of Licensing and Regulation on being named one of the top workplaces in the Austin area by the Austin American-Statesman.

On motion of Representatives Darby and Geren, the names of all the members of the house were added to **HR 1793** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Pitts who introduced representatives of the Texas Department of Licensing and Regulation.

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. 1).

HR 2358 - ADOPTED**(by Elkins)**

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 2358**.

The motion prevailed.

The following resolution was laid before the house:

HR 2358, Congratulating Ashley Williams on placing second at the African American National Spelling Bee Championships.

HR 2358 was adopted.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 2358** as signers thereof.

HR 2359 - ADOPTED**(by Elkins)**

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 2359**.

The motion prevailed.

The following resolution was laid before the house:

HR 2359, Congratulating Niaha Dyson on placing third at the African American National Spelling Bee Championships.

HR 2359 was adopted.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 2359** as signers thereof.

HR 2360 - ADOPTED

(by Elkins)

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 2360**.

The motion prevailed.

The following resolution was laid before the house:

HR 2360, Congratulating Mary Bello on winning the African American National Spelling Bee Championships.

HR 2360 was read and was adopted.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 2360** as signers thereof.

HR 2367 - ADOPTED

(by Elkins)

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 2367**.

The motion prevailed.

The following resolution was laid before the house:

HR 2367, Commending Robert L. Garner, Jr., founder of the African American National Spelling Bee Championships, Inc.

HR 2367 was read and was adopted.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 2367** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Elkins who introduced Mary Bello and students from the Girls and Boys Preparatory Academy.

(D. Howard now present)

HR 1894 - PREVIOUSLY ADOPTED

(by C. Anderson)

The chair laid out the following previously adopted resolution:

HR 1894, In memory of Jeremy Pat Pryor of Waco.

HR 1571 - PREVIOUSLY ADOPTED

(by Muñoz)

The chair laid out and had read the following previously adopted resolution:

HR 1571, Commemorating 2011 as the Year of the Farmworker Child.

INTRODUCTION OF GUESTS

The chair recognized Representative Muñoz who introduced Noemi Ochoa and representatives of the Association of Farmworker Opportunity Programs.

HR 2143 - ADOPTED**(by Darby)**

Representative Darby moved to suspend all necessary rules to take up and consider at this time **HR 2143**.

The motion prevailed.

The following resolution was laid before the house:

HR 2143, In memory of Hope Wilson Huffman of San Angelo.

HR 2143 was read and was unanimously adopted by a rising vote.

On motion of Representative Chisum, the names of all the members of the house were added to **HR 2143** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Darby who introduced family members of Hope Wilson Huffman.

HR 2518 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2518**, suspending the limitations on the conferees for **SB 1087**.

HR 1994 - ADOPTED**(by Kleinschmidt)**

Representative Kleinschmidt moved to suspend all necessary rules to take up and consider at this time **HR 1994**.

The motion prevailed.

The following resolution was laid before the house:

HR 1994, Congratulating the Round Top-Carmine Cubettes volleyball team on winning the 2010-2011 UIL 1A state championship.

HR 1994 was adopted.

HR 2276 - ADOPTED**(by L. Gonzales)**

Representative L. Gonzales moved to suspend all necessary rules to take up and consider at this time **HR 2276**.

The motion prevailed.

The following resolution was laid before the house:

HR 2276, Honoring the buddies and volunteers of the Miracle League of Austin.

HR 2276 was adopted.

On motion of Representative Strama, the names of all the members of the house were added to **HR 2276** as signers thereof.

HR 2294 - ADOPTED
(by McClendon)

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 2294**.

The motion prevailed.

The following resolution was laid before the house:

HR 2294, Honoring the 2011 Class of UTSA Legislative Scholars.

HR 2294 was read and was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative McClendon who introduced participants in the McClendon Legislative Scholars Program.

HR 2525 - ADOPTED
(by Dukes)

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 2525**.

The motion prevailed.

The following resolution was laid before the house:

HR 2525, Honoring State Representative Ruth Jones McClendon for her work in developing the McClendon Legislative Scholars Program.

HR 2525 was read and was adopted.

On motion of Representative Martinez, the names of all the members of the house were added to **HR 2525** as signers thereof.

HR 2482 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2482**, suspending the limitations on the conferees for **SB 313**.

HR 2546 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2546**, suspending the limitations on the conferees for **HB 1112**.

(McClendon in the chair)

CONGRATULATORY AND MEMORIAL CALENDAR

The following congratulatory resolutions were laid before the house:

SCR 56 (S. Miller - House Sponsor), Honoring John Cowan on the occasion of his retirement from the Texas Association of Dairymen.

HR 603 (by Price), Commemorating Flag Day on June 14, 2011.

HR 1960 (by V. Gonzales), Congratulating Omar Ochoa of Austin on his graduation from The University of Texas School of Law.

HR 1961 (by V. Gonzales), Congratulating Rolando Castaneda on his appointment as chief of the Edinburg Police Department.

HR 1962 (by Castro), Commending Vice Admiral William H. McRaven for his distinguished service to the United States of America and congratulating him on his nomination to lead U.S. Special Operations Command.

HR 1964 (by D. Miller), Congratulating Amanda Miller on her graduation from Texas A&M University.

HR 1967 (by Perry, et al.), Congratulating Dr. Patrick J. Hanford on the occasion of his installation as president of the Texas Osteopathic Medical Association.

HR 1968 (by Gooden), Commemorating the dedication of the Terrell Veterans Memorial on Memorial Day 2011.

HR 1969 (by Gooden), Congratulating Billie Sue Squires of Terrell on her retirement from American National Bank.

HR 1970 (by Huberty), Congratulating Richard and Maureen Huberty on their 50th wedding anniversary.

HR 1972 (by Craddick), Honoring Baylor University women's golf coach Sylvia Ferdon on her retirement.

HR 1973 (by D. Miller), Commemorating the Gillespie County Fair and Festivals Association Barbecue Cook-off.

HR 1976 (by Branch), Congratulating James B. Bonham Elementary School in Dallas on its selection as a Blue Ribbon School.

HR 1977 (by Button), Commemorating the 51st Biennial Chinese American Citizens Alliance National Convention to be held in Houston on July 27-30, 2011.

HR 1983 (by V. Gonzales), Congratulating Rosendo Hinojosa on his appointment as senior executive chief patrol agent of the U.S. Border Patrol Rio Grande Valley Sector.

HR 1984 (by Reynolds), Congratulating Constable Ruben Davis, who is celebrating 15 years of service with Fort Bend County.

HR 1985 (by Bonnen and Hughes), Congratulating Mike and Dorothy Kight on their 50th wedding anniversary.

HR 1987 (by Truitt), Honoring the boys' soccer team of Carroll High School in Southlake on winning the 2010-2011 UIL 5A state championship.

HR 1992 (by Margo), Congratulating Michelle Holguin, Diana Pahman, and Jarisma Rodriguez of El Paso Community College for having their scientific experiment selected for the final mission of the space shuttle Endeavour.

HR 1993 (by Flynn), Congratulating country star and native Texan Miranda Lambert on her latest awards.

HR 1994 was previously adopted.

HR 1995 (by Hilderbran), Congratulating Clifton Fifer, Jr., on his receipt of an Outstanding Educator Award from the George Bush Presidential Library and Museum.

HR 1996 (by Hochberg), Honoring Beckie Driver of Houston for her longtime service in the field of adult education.

HR 1997 (by McClendon), Honoring Delores Ray Littlejohn George of San Antonio on her 75th birthday.

HR 1998 (by S. King), Commemorating the dedication of the William G. and Shirley Swenson Home in Abilene as a Recorded Texas Historic Landmark.

HR 1999 (by Callegari), Congratulating Michael Callegari on his graduation from Strake Jesuit College Preparatory.

HR 2000 (by Bohac), Congratulating Glad Tidings Assembly of God Church in Houston on its 75th anniversary.

HR 2003 (by Bohac), Congratulating Austin Leighton of Houston on achieving the rank of Eagle Scout.

HR 2006 (by Bohac), Recognizing the Clayton Library Center for Genealogical Research in Houston as a valuable community and state asset.

HR 2015 (by Bohac), Congratulating Janice Gabriel on being named the 2010 Northwest Houston Leader of the Year.

HR 2018 (by Hernandez Luna), Commemorating the rededication of a Texas Centennial Marker at the Lorenzo de Zavala homesite in Harris County.

HR 2019 (by V. Gonzales), Congratulating Cynthia Leon of Mission on her swearing in as a Texas Department of Public Safety commissioner.

HR 2021 (by Schwertner), Commemorating the Hill Country Shoot-Out Barbeque.

HR 2022 (by Dutton), Congratulating Sharon Nowling Perry on the occasion of her retirement as a teacher at Port Houston Elementary School.

HR 2023 (by Dutton), Congratulating Michael W. Ashley of Houston on his induction into the Prairie View Interscholastic League Coaches Association Hall of Fame.

HR 2025 (by Dutton), Honoring Georgia Provost of Houston for her achievements and contributions to the community.

HR 2027 (by Anchia), Congratulating Carina Nicole Ramirez on her graduation from The University of Texas at Austin.

HR 2030 (by Alonzo), Commemorating the 36th annual convention of the Hispanic National Bar Association and honoring the event's host, the Dallas Hispanic Bar Association.

HR 2033 (by Hilderbran), Congratulating George and Mary Virginia Holekamp of Kerrville on their 60th wedding anniversary.

HR 2034 (by Button), Honoring Barbara Powers on earning the Silver Beaver Award from the Circle Ten Council of the Boy Scouts of America.

HR 2035 (by Button), Honoring Thomas Cooper on earning the Silver Beaver Award from the Circle Ten Council of the Boy Scouts of America.

HR 2036 (by Paxton), Congratulating Wester Middle School in Frisco on being named a School to Watch by the Texas Middle School Association.

HR 2037 (by Landtroop), Congratulating David Villarreal-Landtroop of Plainview Christian High School on winning a bronze medal at the 2011 TAPPS State Track and Field Championships.

HR 2039 (by Isaac), Honoring Miss Mae's Bar-B-Que in Wimberley on its participation in "Bar-B-Quesday" during the 82nd Legislative Session.

HR 2041 (by Isaac), Honoring Railroad Bar-B-Que on its participation in "Bar-B-Quesday" during the 82nd Legislative Session.

HR 2043 (by Bohac), Congratulating Lindsay Ann Smith and Bradley Allen Pepper on their engagement.

HR 2046 (by Naishtat), Honoring Robert Nunez for his service as a legislative intern.

HR 2047 (by Naishtat), Honoring Clay Scallan for her service as a legislative intern.

HR 2048 (by Naishtat), Commending Eric Leventhal for his service as an intern in the office of State Representative Elliott Naishtat.

HR 2049 (by Naishtat), Honoring Jessica Hoy for her outstanding service as a legislative aide.

HR 2050 (by Naishtat), Honoring Melanie Wilmoth for her outstanding service as a legislative aide.

HR 2052 (by Orr), Commemorating the 150th anniversary of the founding of the Meridian Blue Lodge Freemasons.

HR 2053 (by Carter), Recognizing the members of the Richardson Independent School District board of trustees for their service.

HR 2054 (by Carter, Branch, Jackson, Button, Burkett, et al.), Congratulating Kimberly Locus on the occasion of her retirement as executive director of the Dallas County Republican Party.

HR 2055 (by Y. Davis), Congratulating Ruth Wyrick on earning an honorary doctor of humane letters degree from Southwestern Christian College.

HR 2056 (by Reynolds), Honoring Missouri City mayor pro tem Brett Kolaja for his public service.

HR 2057 (by Reynolds), Commemorating the 2011 Sugar Land Memorial Day ceremony.

HR 2058 (by Reynolds), Commemorating the 2011 Fort Bend Salutes America Memorial Day event.

HR 2059 (by Naishtat), Honoring CommUnityCare, The University of Texas at Austin School of Nursing, and Central Health for creating a family nurse practitioner residency program.

HR 2061 (by Martinez Fischer), Honoring Tyler Ingraham of San Antonio for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2062 (by Martinez Fischer), Honoring Irma Aguirre of Mission for her participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2064 (by Madden), Congratulating Detective Steve Boyd on being named the 2010 Officer of the Year by the Plano Police Department.

HR 2065 (by Madden), Honoring Chief Gregory W. Rushin for his 25 years of service to the Plano Police Department.

HR 2068 (by Harper-Brown), Commemorating the dedication of a historical marker at the Heritage Park depot and honoring the Irving Heritage Society on their work.

HR 2069 (by Thompson), Commending Mark Harris for his service on the board of the Texas Nursery & Landscape Association.

HR 2070 (by Muñoz), Congratulating Victoria Johnson on her selection as the 2011 Mission Consolidated Independent School District Secondary Teacher of the Year.

HR 2071 (by Muñoz), Honoring Christopher Madrid for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2073 (by Muñoz), Congratulating Melissa Garza on her selection as the 2011 Mission Consolidated Independent School District Elementary Teacher of the Year.

HR 2074 (by Parker), Honoring Texas Health Presbyterian Hospital in Flower Mound on the occasion of its first anniversary.

HR 2075 (by Parker), Congratulating the Flower Mound Police Department on receiving advanced law enforcement accreditation from the Commission on Accreditation for Law Enforcement Agencies.

HR 2078 (by Madden), Congratulating Officer Scott Kermes on being named the 2009 Officer of the Year by the Plano Police Department.

HR 2079 (by Madden), Honoring Jay Dalehite for his achievements as president of the Canyon Creek Homeowners Association in Richardson.

HR 2080 (by Ritter), Recognizing Transforming Texas Waterfronts.

HR 2081 (by S. King), Honoring Andy Cleveland on her retirement from the Abilene Independent School District.

HR 2082 (by D. Miller), Congratulating Wyman Meinzer on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2083 (by D. Miller), Congratulating Louis M. Pearce, Jr., on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2084 (by D. Miller), Congratulating Scooter Fries on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2085 (by D. Miller), Congratulating Kinky Friedman on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2086 (by D. Miller), Commemorating the posthumous induction of Toots Mansfield into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2087 (by D. Miller), Congratulating the 2011 inductees of the Frontier Times Museum Texas Heroes Hall of Honor in Bandera.

HR 2088 (by Branch), Congratulating Randall Stephenson, chair and CEO of AT&T, on receiving the 2011 H. Neil Mallon Award.

HR 2090 (by Lozano), Honoring Jose Antonio Ramirez for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2094 (by Allen), Congratulating Marivel Holguin on her 2011 graduation from the Texas School for the Deaf.

HR 2095 (by Perry), Commemorating the 100th anniversary of the founding of Slaton.

HR 2096 (by Reynolds), Honoring city council member Don Smith of Missouri City for his public service.

HR 2097 (by Reynolds), Honoring city council member Jerry Wyatt of Missouri City for his public service.

HR 2098 (by Reynolds), Honoring city council member Robin Elackatt of Missouri City for his public service.

HR 2099 (by Reynolds), Honoring city council member Bobby Marshall of Missouri City for his public service.

HR 2100 (by Reynolds), Honoring Mayor Allen Owen of Missouri City for his public service.

HR 2101 (by Reynolds), Honoring city council member Danny Nguyen of Missouri City for his public service.

HR 2102 (by Reynolds), Honoring Mayor Joe M. Gurecky for his many years of service to the citizens of Rosenberg.

HR 2103 (by Reynolds), Honoring Mayor Hilmar Moore of Richmond for his public service.

HR 2104 (by Carter), Honoring Dallas attorney Starlett Carter for her pro bono service.

HR 2105 (by Carter), Commending U.S. Army Private Heather Row for her desire to serve her country.

HR 2106 (by Carter), Congratulating Lanet Greenhaw of Richardson on her new position as director of education for the Dallas Regional Chamber.

HR 2107 (by Carter), Commending Linda Jaresh for serving as a campaign volunteer for the 2010 House District 102 election.

HR 2109 (by Anchia), Honoring Edgar Morales for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2110 (by Anchia), Congratulating Roy R. Barrera, Sr., on the 60th anniversary of his State Bar of Texas licensure and his six decades as a practicing lawyer.

HR 2111 was withdrawn.

HR 2112 (by Harper-Brown), Congratulating the City of Irving on its receipt of a 2011 Texas Award for Performance Excellence from the Quality Texas Foundation.

HR 2113 (by Paxton), Congratulating the McKinney Police Department 9-1-1 dispatchers on their receipt of the 2011 Team 9-1-1 Award of Merit.

HR 2114 (by Margo), Congratulating Maddison Kahner Dowdy, Alejandro Marquez, Mariana Villanueva, Natalie Felsen, and Katherine Nielson from Franklin High School in El Paso for placing first in the Stock Market Game Legislative Challenge, sponsored by the Texas Council on Economic Education.

HR 2118 (by Workman), Congratulating J. O. and Nancy Duncan on their 60th wedding anniversary.

HR 2121 (by Reynolds), Honoring Joel F. Fitzgerald, Sr., for his service as chief of police in Missouri City.

HR 2122 (by Strama), Congratulating the Concordia University baseball team on winning the 2011 American Southwest Conference championship.

HR 2123 (by Christian), Commending Jonathon McClellan on his service as chief of staff to State Representative Wayne Christian.

HR 2124 (by Christian), Commending Brady Colby for his service as an intern in the office of State Representative Wayne Christian.

HR 2125 (by Christian), Commending Wesley Luke Bullock on his service as legislative director for State Representative Wayne Christian.

HR 2126 (by Christian), Commending Travis McCormick for his service as a legislative assistant in the office of State Representative Wayne Christian.

HR 2127 (by Christian), Congratulating Christopher Herrington on the occasion of his retirement as a teacher at the Martin School of Choice in Nacogdoches.

HR 2128 (by Christian), Commending Cameron Harley for his service as an intern in the office of State Representative Wayne Christian.

HR 2129 (by Christian), Honoring teacher and coach Kay Butler for her service to the Buna Independent School District.

HR 2130 (by Christian), Commending Gabriele Nestande for her service as an administrative aide in the office of State Representative Wayne Christian.

HR 2131 (by Cain), Recognizing Jarrian Roberts of Clarksville on being chosen for the Texas Association of Basketball Coaches 1A Division 1 All-State Team.

HR 2132 (by Cain), Honoring the fifth-grade choir of Chapel Hill Elementary School in Mount Pleasant on the occasion of its 2011 performance in the Capitol Rotunda.

HR 2134 (by Hilderbran), Honoring Joe Herring, Jr., of Kerrville for his contributions to his community and congratulating him on the publication of his book *Home: Photographs of Kerrville*.

HR 2135 was previously adopted.

HR 2136 (by Rodriguez), Honoring Valerie Lila Danielle Vera for her participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2137 (by Deshotel), Congratulating Lamar University chief of police Dale Fontenot on his retirement.

HR 2138 (by Truitt), Congratulating the boys' swimming and diving team of Carroll High School in Southlake on winning the UIL 5A state championship.

HR 2139 (by W. Smith), Congratulating the Lady Rangers water polo team of Ross S. Sterling High School in Baytown on winning the 2010-2011 TISCA state title.

HR 2141 (by Dukes), Honoring Juan Carlos Garcia of Dallas for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2144 (by Isaac), Commending Gregory R. Bentsch for his service as an intern in the office of State Representative Jason Isaac.

HR 2145 (by Isaac), Honoring Brian C. Mitchell for his service as an intern in the office of State Representative Jason Isaac during the 82nd Legislative Session.

HR 2146 (by Harper-Brown), Commemorating the 25th anniversary of FigDesign in Irving.

HR 2148 (by Workman), Congratulating Jacob Hume on attaining the rank of Eagle Scout.

HR 2149 (by Workman), Congratulating Thomas Dunn on attaining the rank of Eagle Scout.

The resolutions were adopted.

HR 2547 - ADOPTED

(by Gutierrez)

Representative Gutierrez moved to suspend all necessary rules to take up and consider at this time **HR 2547**.

The motion prevailed.

The following resolution was laid before the house:

HR 2547, In memory of Herb Carroll of China Grove.

HR 2547 was unanimously adopted by a rising vote.

CONGRATULATORY AND MEMORIAL CALENDAR
(consideration continued)

The following memorial resolutions were laid before the house:

HR 1841 (by S. King), In memory of former state representative David Graves Stubbeman.

HR 1853 (by Naishtat), In memory of Alfred Richard Castello of Austin.

HR 2001 (by Bohac), In memory of Madeline Cleveland Harris of Houston.

HR 2002 (by Bohac), In memory of Olga R. Gomez of Houston.

HR 2004 (by Bohac), In memory of Frank Woodruff Buckles, the last American veteran of World War I.

HR 2005 (by Bohac), In memory of Jean R. Ols of Houston.

HR 2007 (by Bohac), In memory of Camilo R. Gomez of Houston.

HR 2008 (by Bohac), In memory of Clara F. Santikos of Houston.

HR 2009 (by Bohac), In memory of native Texan Edd Kellum Hendee.

HR 2010 (by Bohac), In memory of Louvelle Chafin of Houston.

HR 2011 (by Bohac), In memory of Evelyn Petersen Cernik of Houston.

HR 2012 (by Bohac), In memory of Charles Henry Kadlecek of Houston.

HR 2013 (by Bohac), In memory of Diana Lynn Psencik of Houston.

HR 2014 (by Bohac), In memory of Charles Edward Grubbs of Willis.

HR 2016 (by Bohac), In memory of Gladys Johnson Glenn.

HR 2017 (by Bohac), In memory of Clymer Lewis Wright, Jr., of Houston.

HR 2024 (by Dutton), In memory of Marjorie Banks Ammons of Houston.

HR 2026 (by Solomons, Anchia, and Jackson), In memory of U.S. Army Staff Sergeant Carlos Alonzo Benitez of Carrollton.

HR 2028 (by Anchia), In memory of Anthony A. Hernandez of Dallas.

HR 2029 (by Anchia), In memory of Joel M. Lebovitz of Dallas.

HR 2042 (by Madden), In memory of Diane Price of Richardson.

HR 2044 (by Hunter), In memory of former Aransas County sheriff Bob Hewes of Fulton.

HR 2066 (by Quintanilla), In memory of Matilde Apodaca of Socorro.

HR 2076 (by Hilderbran), In memory of Barbara Esgen Stieren of San Antonio.

HR 2077 (by Orr), In memory of U.S. Army Staff Sergeant Bryan Burgess of Cleburne.

HR 2091 (by Madden), In memory of Rhonda H. Picon of Plano.

HR 2108 (by Dutton), In memory of Charles Edward Cheeks, Sr., of Houston.

HR 2115 (by Hopson), In memory of James Edgar Brown of Jacksonville.

HR 2116 (by Peña), In memory of Jaime J. "Bino" Zapata of Edinburg.

HR 2119 (by Geren), In memory of Colonel Philip J. Kuhl.

HR 2143 was previously adopted.

HR 2147 (by Bohac), In memory of William Arnold McMinn, Jr., of Brookshire.

HR 2150 (by Weber and Bonnen), In memory of Thomas Patton Alexander, Sr., of Pearland.

HR 2152 (by S. Miller), In memory of Michael Cook Walton of Stephenville.

HR 2153 (by S. Miller), In memory of Brack Barnard Jones.

HR 2162 (by Quintanilla), In memory of Alfonso "Poncho" Cardenas of El Paso.

HR 2168 (by V. Gonzales), In memory of Jaime Longoria, Jr., of Edinburg.

HR 2171 (by V. Gonzales), In memory of Stuart Mason Wilkinson of McAllen.

HR 2172 (by V. Gonzales), In memory of Grace Neuhaus Richards of McAllen.

HR 2173 (by V. Gonzales), In memory of Maria Teresa "Terrie" Rabago.

HR 2175 (by Madden, Laubenberg, and V. Taylor), In memory of former Plano mayor James Wyatt Edwards.

HR 2178 (by Truitt), In memory of Clayton Eugene "Gene" Reynolds of North Richland Hills.

HR 2201 (by C. Anderson), In memory of Jo Ann Darden of Waco.

HR 2202 (by C. Anderson), In memory of Ruby Jewel King of Robinson.

HR 2205 (by C. Anderson), In memory of Glidden D. O'Connor, Jr., of Waco.

HR 2206 (by C. Anderson), In memory of Judy Letitia Bales of Waco.

HR 2208 (by C. Anderson), In memory of Bette Pape Skinner of Waco.

HR 2209 (by C. Anderson), In memory of Julius Albert Backus of Waco.

HR 2210 (by C. Anderson), In memory of Laura Lumpkin of Waco.

HR 2211 (by C. Anderson), In memory of Margaret Sugg McNamara of Waco.

HR 2212 (by C. Anderson), In memory of Dr. Albert Ray Niederer of Woodway.

HR 2213 (by C. Anderson), In memory of Bob L. Corbitt of Speegleville.

HR 2214 (by C. Anderson), In memory of Margaret Vandever of Waco.

HR 2215 (by C. Anderson), In memory of Lewis Edwards Champ of Waco.

HR 2216 (by C. Anderson), In memory of Geraldine Howard of Waco.

HR 2217 (by C. Anderson), In memory of Ina Mae Allen of McGregor.

HR 2218 (by C. Anderson), In memory of Maria Emma Castro of Waco.

HR 2219 (by C. Anderson), In memory of James Edward Jones of Waco.

HR 2220 (by C. Anderson), In memory of Esther Hilda Schimschat of Waco.

HR 2221 (by C. Anderson), In memory of Martha Louise "Suzie" Hamilton of Waco.

HR 2222 (by C. Anderson), In memory of Mary Ann McManus of Waco.

HR 2225 (by C. Anderson), In memory of Audrey Ellen Davidson of Waco.

HR 2226 (by C. Anderson), In memory of Ruth Marie Warren of Axtell.

HR 2227 (by C. Anderson), In memory of Marion Herring of Waco.

HR 2228 (by C. Anderson), In memory of Bob Parsons of Waco.

HR 2229 (by C. Anderson), In memory of Betty Jane Dalrymple of Waco.

HR 2230 (by C. Anderson), In memory of Sam Moses of Waco.

HR 2231 (by C. Anderson), In memory of Bridger Wayne Hogan of Eddy.

HR 2232 (by C. Anderson), In memory of Ross S. Tennison of Waco.

HR 2233 (by C. Anderson), In memory of Lawrence James Tanner, Jr., of Waco.

The resolutions were unanimously adopted by a rising vote.

PROVIDING FOR A CONGRATULATORY AND MEMORIAL CALENDAR

Representative McClendon moved to set a congratulatory and memorial calendar for 10 a.m. Sunday, May 29.

The motion prevailed.

(Ritter in the chair)

LEAVE OF ABSENCE GRANTED

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

Gonzalez on motion of Mallory Caraway.

**HB 2779 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Deshotel called up with senate amendments for consideration at this time,

HB 2779, A bill to be entitled An Act relating to provisions in the dedicatory instruments of property owners' associations regarding display of flags.

Representative Deshotel moved to concur in the senate amendments to **HB 2779**.

The motion to concur in the senate amendments to **HB 2779** prevailed by (Record 1517): 146 Yeas, 0 Nays, 2 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; 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.; 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; Lucio; 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; 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; Ritter(C).

Absent, Excused — Gonzalez.

Absent — Christian.

Senate Committee Substitute

CSHB 2779, A bill to be entitled An Act relating to provisions in the dedicatory instruments of property owners' associations regarding display of flags.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.011 to read as follows:

Sec. 202.011. FLAG DISPLAY. (a) A property owners' association may not, except as provided in this section, adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from the display of:

- (1) the flag of the United States of America;
- (2) the flag of the State of Texas; or
- (3) an official or replica flag of any branch of the United States armed

forces.

(b) A property owners' association may adopt or enforce reasonable dedicatory instrument provisions:

(1) that require:

(A) the flag of the United States be displayed in accordance with 4 U.S.C. Sections 5-10;

(B) the flag of the State of Texas be displayed in accordance with Chapter 3100, Government Code;

(C) a flagpole attached to a dwelling or a freestanding flagpole be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;

(D) the display of a flag, or the location and construction of the supporting flagpole, to comply with applicable zoning ordinances, easements, and setbacks of record; and

(E) a displayed flag and the flagpole on which it is flown be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;

(2) that regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation may not prevent the installation or erection of at least one flagpole per property that is not more than 20 feet in height;

(3) that govern the size of a displayed flag;

(4) that regulate the size, location, and intensity of any lights used to illuminate a displayed flag;

(5) that impose reasonable restrictions to abate noise caused by an external halyard of a flagpole; or

(6) that prohibit a property owner from locating a displayed flag or flagpole on property that is:

(A) owned or maintained by the property owners' association; or

(B) owned in common by the members of the association.

SECTION 2. 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.

**HB 2592 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Truitt called up with senate amendments for consideration at this time,

HB 2592, A bill to be entitled An Act relating to notice and disclosure requirements for certain credit services organizations regarding charges and consumer borrowing.

Representative Truitt moved to concur in the senate amendments to **HB 2592**.

The motion to concur in the senate amendments to **HB 2592** prevailed by (Record 1518): 117 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Callegari; Carter; Castro; Chisum; Coleman; Cook; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Aliseda; Anderson, R.; Berman; Button; Cain; Craddick; Creighton; Darby; Flynn; Frullo; Garza; Hamilton; Hancock; Isaac; Landtroop; Laubenberg; Lavender; Parker; Paxton; Peña; Perry; Phillips; Simpson; Smith, T.; Taylor, V.; Weber; White; Zedler.

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

Absent, Excused — Gonzalez.

Absent — Christian; Elkins.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1518. I intended to vote yes.

Hancock

I was shown voting yes on Record No. 1518. I intended to vote no.

Hughes

I was shown voting no on Record No. 1518. I intended to vote yes.

Isaac

I was shown voting yes on Record No. 1518. I intended to vote no.

S. Miller

I was shown voting no on Record No. 1518. I intended to vote yes.

T. Smith

Senate Committee Substitute

CSHB 2592, A bill to be entitled An Act relating to notice and disclosure requirements for certain credit services organizations regarding charges and consumer borrowing; providing an administrative penalty.

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

SECTION 1. Chapter 393, Finance Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. NOTICE AND DISCLOSURE REQUIREMENTS FOR CERTAIN CREDIT SERVICES ORGANIZATIONS

Sec. 393.221. DEFINITIONS. In this subchapter:

(1) "Credit access business" means a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan.

(2) "Deferred presentment transaction" has the meaning assigned by Section 341.001. For purposes of this chapter, this definition does not preclude repayment in more than one installment. The term is also referred to as a payday loan.

(3) "Motor vehicle title loan" or "auto title loan" means a loan in which an unencumbered motor vehicle is given as security for the loan. The term does not include a retail installment transaction under Chapter 348 or another loan made to finance the purchase of a motor vehicle.

Sec. 393.222. POSTING OF FEE SCHEDULE; NOTICES. (a) A credit access business shall post, in a conspicuous location in an area of the business accessible to consumers and on any Internet website, including a social media site, maintained by the credit access business:

(1) a schedule of all fees to be charged for services performed by the credit access business in connection with deferred presentment transactions and motor vehicle title loans, as applicable;

(2) a notice of the name and address of the Office of Consumer Credit Commissioner and the telephone number of the office's consumer helpline; and

(3) a notice that reads as follows:

"An advance of money obtained through a payday loan or auto title loan is not intended to meet long-term financial needs. A payday loan or auto title loan should only be used to meet immediate short-term cash needs. Refinancing the loan rather than paying the debt in full when due will require the payment of additional charges."

(b) The Finance Commission of Texas may adopt rules to implement this section.

Sec. 393.223. CONSUMER TRANSACTION INFORMATION. (a) Before performing services described by Section 393.221(1), a credit access business must provide to a consumer a disclosure adopted by rule of the Finance Commission of Texas that discloses the following in a form prescribed by the commission:

(1) the interest, fees, and annual percentage rates, as applicable, to be charged on a deferred presentment transaction or on a motor vehicle title loan, as applicable, in comparison to interest, fees, and annual percentage rates to be charged on other alternative forms of consumer debt;

(2) the amount of accumulated fees a consumer would incur by renewing or refinancing a deferred presentment transaction or motor vehicle title loan that remains outstanding for a period of two weeks, one month, two months, and three months; and

(3) information regarding the typical pattern of repayment of deferred presentment transactions and motor vehicle title loans.

(b) If a credit access business obtains or assists a consumer in obtaining a motor vehicle title loan, the credit access business shall provide to the consumer a notice warning the consumer that in the event of default the consumer may be required to surrender possession of the motor vehicle to the lender or other person to satisfy the consumer's outstanding obligations under the loan.

(c) The Finance Commission of Texas shall adopt rules to implement this section.

Sec. 393.224. ADMINISTRATIVE PENALTY. The consumer credit commissioner, in accordance with rules adopted by the Finance Commission of Texas, may assess an administrative penalty against a credit access business that knowingly and wilfully violates this subchapter or a rule adopted under this subchapter in the manner provided by Subchapter F, Chapter 14.

SECTION 2. Notwithstanding Section 393.223(a), Finance Code, as added by this Act, a credit access business is not required to comply with that section until the Finance Commission of Texas prescribes the form required by that section.

SECTION 3. This Act takes effect January 1, 2012.

**HB 3268 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Lyne called up with senate amendments for consideration at this time,

HB 3268, A bill to be entitled An Act relating to permits for air contaminant emissions of stationary natural gas engines used in combined heating and power systems.

Representative Lyne moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3268**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3268**: Lyne, chair; Geren, Hancock, Harcastle, and T. King.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a conference committee meeting:

Crownover on motion of McClendon.

**HB 2380 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Shelton called up with senate amendments for consideration at this time,

HB 2380, A bill to be entitled An Act relating to employment by school districts of certain persons under probationary contracts.

Representative Shelton moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2380**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2380**: Shelton, chair; Frullo, Patrick, Reynolds, and Villarreal.

**HB 628 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Callegari called up with senate amendments for consideration at this time,

HB 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.

Representative Callegari moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 628**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 628**: Callegari, chair; Hunter, P. King, Lucio, and W. Smith.

**HB 2357 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Pickett called up with senate amendments for consideration at this time,

HB 2357, A bill to be entitled An Act relating to motor vehicles; providing penalties.

Representative Pickett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2357**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2357**: Pickett, chair; Phillips, Bonnen, Lavender, and Hunter.

**HB 1768 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Muñoz called up with senate amendments for consideration at this time,

HB 1768, A bill to be entitled An Act relating to the regulation of roadside vendors and solicitors.

Representative Muñoz moved to concur in the senate amendments to **HB 1768**.

The motion to concur in the senate amendments to **HB 1768** prevailed by (Record 1519): 141 Yeas, 1 Nays, 2 Present, not voting.

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

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

Absent, Excused — Crownover; Gonzalez.

Absent — Berman; Christian; Coleman; Flynn.

STATEMENTS OF VOTE

When Record No. 1519 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1519 was taken, I was temporarily out of the house chamber. I would have voted yes.

Flynn

Senate Committee Substitute

CSHB 1768, A bill to be entitled An Act relating to the regulation of roadside vendors and solicitors in certain counties.

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

SECTION 1. Section 285.001, Transportation Code, is amended to read as follows:

Sec. 285.001. REGULATION OF ROADSIDE VENDOR AND SOLICITOR. (a) To promote the public safety, the commissioners court of a county with a population of more than 450,000 [~~1.3 million~~] by order may regulate the following in the unincorporated area of the county if they occur on a public highway or road, in the right-of-way of a public highway or road, or in a parking lot:

- (1) the sale of items by a vendor of food or merchandise, including live animals except as provided by Subsection (b);
- (2) the erection, maintenance, or placement of a structure by a vendor of food or merchandise, including live animals; and
- (3) the solicitation of money.

(b) An order under Subsection (a) adopted by the commissioners court of a county with a population of less than 3.3 million may not prohibit the sale of livestock.

SECTION 2. 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.

**HB 2449 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Aliseda called up with senate amendments for consideration at this time,

HB 2449, A bill to be entitled An Act relating to the illegal possession of another person's ballot to be voted by mail.

Representative Aliseda moved to concur in the senate amendments to **HB 2449**.

The motion to concur in the senate amendments to **HB 2449** prevailed by (Record 1520): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; 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; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; 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 — Alvarado.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Berman; Callegari; Christian; Flynn; Pickett.

STATEMENTS OF VOTE

When Record No. 1520 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1520 was taken, I was in the house but away from my desk. I would have voted yes.

Flynn

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2449** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 86.014(a), Election Code, is amended to read as follows:

(a) A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after ~~[may be obtained from the early voting clerk:~~

~~[(1) 72 hours after the time a ballot is mailed to the voter; or~~

~~[(2) 48 hours after the time a ballot is mailed to the voter if the mailing occurs on the fourth day before] election day.~~

**HB 3828 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 3828, A bill to be entitled An Act relating to the creation of the Gulfon Area Municipal Management District; providing authority to impose a tax, levy an assessment, and issue bonds.

Representative Hochberg moved to concur in the senate amendments to **HB 3828**.

The motion to concur in the senate amendments to **HB 3828** prevailed by (Record 1521): 137 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; 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; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler.

Nays — Carter; Taylor, V.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Berman; Christian; Deshotel; Flynn; Peña; Simpson; Zerwas.

STATEMENTS OF VOTE

When Record No. 1521 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1521 was taken, I was temporarily out of the house chamber. I would have voted no.

Flynn

Senate Committee Substitute

CSHB 3828, A bill to be entitled An Act relating to the creation of the Gulfton Area Municipal Management District; providing authority to impose a tax, levy an assessment, and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3889 to read as follows:

CHAPTER 3889. GULFTON AREA MUNICIPAL MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3889.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the City of Houston, Texas.
- (3) "Director" means a board member.
- (4) "District" means the Gulfton Area Municipal Management District.

Sec. 3889.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3889.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) The district is created to supplement and not to supplant city services provided in the district.

Sec. 3889.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

- (1) developing and diversifying the economy of the state;
- (2) eliminating unemployment and underemployment;
- (3) developing or expanding transportation and commerce; and
- (4) providing quality residential housing.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a residential community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping, removing graffiti, and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, vehicle parking, and street art objects are parts of and necessary components of a street and are considered to be an improvement project that includes a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3889.005. DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on the bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3889.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

(a) All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;

(3) an enterprise zone created under Chapter 2303, Government Code;

or
(4) an industrial district created under Chapter 42, Local Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code, including the right to pledge the money as security for any bonds issued by the district for an improvement project. A project may not receive public funds under Section 380.002(b), Local Government Code, unless the project has been approved by the governing body of the city.

(c) A tax increment reinvestment zone created by the city in the district is not subject to the limitations provided by Section 311.006(b), Tax Code.

Sec. 3889.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3889.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3889.009-3889.050 reserved for expansion]
SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3889.051. GOVERNING BODY; TERMS. The district is governed by a board of seven directors who serve staggered terms of four years expiring June 1 of each even-numbered year.

Sec. 3889.052. QUALIFICATIONS OF DIRECTORS APPOINTED BY CITY. (a) To be qualified to serve as a director appointed by the governing body of the city, a person must be:

- (1) a resident of the district who is also a registered voter of the district;
- (2) an owner of property in the district;
- (3) an owner of stock or a partnership or membership interest, whether beneficial or otherwise, of a corporate partnership, limited liability company, or other entity owner of a direct or indirect interest in property in the district;
- (4) an owner of a beneficial interest in a trust, or a trustee in a trust, that directly or indirectly owns property in the district; or
- (5) an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4).

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3889.053. APPOINTMENT OF DIRECTORS. The governing body of the city shall appoint directors from persons recommended by the board.

Sec. 3889.054. VACANCY. If a vacancy occurs on the board, the remaining directors shall appoint a director for the remainder of the unexpired term.

Sec. 3889.055. DIRECTOR'S OATH OR AFFIRMATION. (a) A director shall file the director's oath or affirmation of office with the district, and the district shall retain the oath or affirmation in the district records.

(b) A director shall file a copy of the director's oath or affirmation with the secretary of the city.

Sec. 3889.056. QUORUM. A vacant director position is not counted for purposes of establishing a quorum.

Sec. 3889.057. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary. The offices of chair and secretary may not be held by the same person.

Sec. 3889.058. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$50 for each board meeting. The total amount of compensation for each director in one year may not exceed \$2,000.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of the board.

Sec. 3889.059. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures a director against personal liability and from all claims relating to:

(1) actions taken by the director in the director's capacity as a member of the board;

(2) actions and activities taken by the district; or

(3) the actions of others acting on behalf of the district.

Sec. 3889.060. NO EXECUTIVE COMMITTEE. The board may not create an executive committee to exercise the powers of the board.

Sec. 3889.061. BOARD MEETINGS. The board shall hold meetings at a place accessible to the public.

Sec. 3889.062. INITIAL DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Shelly E. Richardson</u>
<u>2</u>	<u>Paul Rafferty</u>
<u>3</u>	<u>Tammy Rodriguez</u>
<u>4</u>	<u>Mike Irwin</u>
<u>5</u>	<u>Richard Rodriguez</u>
<u>6</u>	<u>Joy Rice</u>
<u>7</u>	<u>Patrick Horton</u>

(b) The terms of the initial directors expire June 1, 2012.

(c) Of the directors who replace an initial director, the terms of directors serving in positions 1, 2, 3, and 4 expire June 1, 2014, and the terms of directors serving in positions 5, 6, and 7 expire June 1, 2016.

(d) Section 3889.052 does not apply to this section.

(e) This section expires September 1, 2012.

[Sections 3889.063-3889.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3889.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3889.102. IMPROVEMENT PROJECTS AND SERVICES. (a) The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

(b) An improvement project described by Subsection (a) may be located:

(1) in the district; or

(2) in an area outside but adjacent to the district if the project is for the purpose of extending a public infrastructure improvement beyond the district's boundaries to a logical terminus.

Sec. 3889.103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3889.104. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3889.105. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3889.106. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including Harris County or the city, to provide law enforcement services in the district for a fee.

Sec. 3889.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3889.108. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality; and

(2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3889.109. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 3889.110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 3889.111-3889.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3889.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3889.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain an improvement project or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3889.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Harris County; or

(2) at least 25 persons who own real property in the district subject to assessment, if more than 25 persons own real property in the district subject to assessment as determined by the most recent certified tax appraisal roll for Harris County.

Sec. 3889.154. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the method of notice.

Sec. 3889.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;
(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3889.156. LIMITATION ON AMOUNT OF CERTAIN ASSESSMENTS. An assessment based on the taxable value of real property may not exceed 12 cents per \$100 of assessed valuation of taxable property in the district, according to the most recent certified tax appraisal roll for Harris County.

Sec. 3889.157. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of a tax or assessment on property in the zones.

[Sections 3889.158-3889.200 reserved for expansion]

SUBCHAPTER E. TAXES AND BONDS

Sec. 3889.201. BONDS AND OTHER OBLIGATIONS. (a) The district may issue, by public or private sale, bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Subchapter A, Chapter 372, or Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the money the district receives from improvement revenue or from any other source.

Sec. 3889.202. BOND MATURITY. Bonds may mature not more than 40 years from their date of issue.

Sec. 3889.203. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due; and

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date.

Sec. 3889.204. ELECTIONS REGARDING TAXES. The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax.

[Sections 3889.205-3889.250 reserved for expansion]

SUBCHAPTER F. DISSOLUTION

Sec. 3889.251. DISSOLUTION BY CITY ORDINANCE. (a) The city by ordinance may dissolve the district.

(b) The city may not dissolve the district until the district's outstanding debt or contractual obligations that are payable from ad valorem taxes have been repaid or discharged, or the city has affirmatively assumed the obligation to pay the outstanding debt from city revenue.

Sec. 3889.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than ad valorem taxes, the city shall succeed to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations.

Sec. 3889.253. CONCURRENCE ON ADDITIONAL POWERS. If the legislature grants the district a power that is in addition to the powers approved by the initial resolution of the governing body of the city consenting to the creation of the district, the district may not exercise that power unless the governing body of the city consents to that change by resolution.

Sec. 3889.254. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes, subject to the appropriation and availability of funds, the obligations of the district, including any bonds or other debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION 2. The Gulfton Area Municipal Management District initially includes all the territory contained in the following area:

The District will include the right-of-way of the Toll Road at West Park Toll road, Beginning at that point, and travelling westerly along the US Hwy 59 corridor to Hilcroft, heading southerly along the eastern boundary of the Greater Sharpstown Management District, to Bissonnet Street, then heading easterly

along Bissonnet, and including the right-of-way of Bissonnet to Rampart, then south to Pine, then East to Renwick, then North to Bissonnet, then east along Bissonnet to Jassmine, east to Otto, then following the City of Bellaire western city limit line northerly until the point of Beginning.

SAVE AND EXCEPT:

A PARCEL OF LAND CONTAINING 7.1117 ACRES (309,787 SQUARE FEET) MORE OR LESS BEING LOTS 33, 34, 35, 36, 53, 54, 55, 56 AND 57, BLOCK 23, WESTMORELAND FARMS, AMENDED FIRST SUBDIVISION, AS RECORDED IN VOLUME 3, PAGE 60, HARRIS COUNTY MAP RECORDS, AND BEING TRACT ONE AND TRACT TWO, CONVEYED FROM BELLAIRE RENWICK SQUARE, LTD. TO I.M.C.S. OF TEXAS, INC., AS RECORDED IN COUNTY CLERK'S FILE NO. M893430, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY, TEXAS, O.P.R.R.P.H.C.T., SAID 7.1117 ACRE TRACT BEING SITUATED IN THE DAY LAND CATTLE CO. SURVEY, ABSTRACT NO.1167 AND W. TWIST SURVEY, ABSTRACT NO. 765, IN HARRIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, AT A FOUND 5/8 INCH IRON ROD AT THE INTERSECTION OF THE NORTH END OF BELLAIRE BOULEVARD, 120 FOOT RIGHT-OF-WAY, AS SHOWN IN SAID VOLUME 3, PAGE 60, HARRIS COUNTY MAP RECORDS, WITH THE WEST END OF ATWELL STREET, RIGHT-OF-WAY VARIES, FOR THE SOUTHEAST CORNER OF SAID LOT 57, AND THE SOUTHEAST CORNER OF SAID TRACT TWO;

THENCE, S 87° 36' 04" W, WITH THE SAID NORTH END OF BELLAIRE BOULEVARD, SAME BEING THE SOUTH END OF SAID LOTS 57, 56, 55, 54 AND 53, AND THE SOUTH END OF SAID TRACT TWO, A DISTANCE OF 585.00 FEET TO A SET 5/8 INCH IRON ROD WITH CAP STAMPED CIVIL-SURV, FOR THE MOST EASTERLY CUTBACK CORNER IN THE SAID NORTH END OF BELLAIRE BOULEVARD, WITH THE EAST END OF RENWICK DRIVE, 90 FOOT RIGHT-OF-WAY, SAME BEING THE MOST EASTERLY CORNER OF THAT CERTAIN 0.0026 OF AN ACRE TRACT AWARDED TO THE CITY OF HOUSTON IN AN EMINENT DOMAIN PROCEEDING, CITY OF HOUSTON VS. BELLAIRE RENWICK SQUARE, LTD., AS RECORDED IN CAUSE NO. 561577 OF THE COUNTY CIVIL COURT AT LAW NO. 2 OF HARRIS COUNTY, TEXAS: FROM WHICH THE SOUTHWEST CORNER OF SAID LOT 53, AND THE SOUTHWEST CORNER OF SAID TRACT TWO, AND ALSO THE SOUTHWEST CORNER OF THE SAID 0.0026 ACRE TRACT, BEARS, N 87° 36' 04" W, 15.00 FEET;

THENCE, N 47° 23' 56" W. CROSSING A PORTION OF SAID LOT 53, AND CROSSING A PORTION OF SAID TRACT TWO, WITH THE NORTHEAST END OF THE SAID 0.0026 ACRE TRACT, A DISTANCE OF 21.21 FEET, TO A SET 5/8 INCH IRON ROD WITH CAP STAMPED CIVIL-SURV, IN THE WEST END OF SAID LOT 53, AND THE WEST END OF SAID TRACT TWO, FOR THE MOST NORTHERLY CUTBACK CORNER IN THE SAID

EAST END OF RENWICK DRIVE, WITH THE SAID NORTH END OF BELLAIRE BOULEVARD, SAME BEING THE MOST NORTHERLY CORNER OF THE SAID 0.0026 ACRE TRACT, THENCE, N 02° 23' 56" W, WITH THE SAID EAST END OF RENWICK DRIVE, SAME BEING THE SAID WEST END OF SAID LOT 53, AND THE WEST END OF SAID TRACT TWO. AT A DISTANCE OF 255.00 FEET, PASS THE SOUTHWEST CORNER OF SAID LOT 33, AND THE SOUTHWEST CORNER OF SAID TRACT ONE, SAME BEING THE NORTHWEST CORNER OF SAID LOT 53, AND THE NORTHWEST CORNER OF SAID TRACT TWO, AND WITH THE WEST END OF SAID LOT 33, AND THE WEST END OF SAID TRACT ONE, A TOTAL DISTANCE OF 555.00 FEET, TO A FOUND 5/8 INCH IRON ROD WITH CAP, AT THE INTERSECTION OF THE SAID EAST END OF RENWICK DRIVE, WITH THE SOUTH END OF DASHWOOD STREET, 60 FOOT RIGHT-OF-WAY, AS SHOWN IN SAID VOLUME 3, PAGE 60, HARRIS COUNTY MAP RECORDS, FOR THE NORTHWEST CORNER OF SAID LOT 33, AND THE NORTHWEST CORNER OF SAID TRACT ONE; THENCE, N 87° 36' 04" E, WITH THE SAID SOUTH END OF DASHWOOD STREET, SAME BEING THE NORTH END OF SAID LOTS 33, 34, 35, AND 36, AND THE NORTH END OF SAID TRACT ONE, A DISTANCE OF 493.00 FEET, TO A FOUND "X" CUT IN CONCRETE, FOR THE NORTHWEST CORNER OF LOT 37, OF SAID BLOCK 23, AND THE NORTHWEST CORNER OF THAT CERTAIN TRACT CONVEYED FROM EUGENE R. CRAN TO DEBBIE CRAN, AS RECORDED IN COUNTY CLERK'S FILE NO. N243327, O.P.R.R.P.R.C.T., SAME BEING THE NORTHEAST CORNER OF SAID LOT 36, AND THE NORTHEAST CORNER OF SAID TRACT ONE, FROM WHICH A FOUND 5/8 INCH IRON ROD, AT THE INTERSECTION OF THE SAID SOUTH END OF DASHWOOD STREET, WITH THE SAID WEST END OF ATWELL STREET. FOR THE NORTHEAST CORNER OF SAID LOT 37, AND THE NORTHEAST CORNER OF THE SAID CRAN TRACT, BEARS, N 87° 36' 04" E, 107.00 FEET; THENCE, S 02° 23' 56" E, WITH THE WEST END OF SAID LOT 37, AND THE WEST END OF THE SAID CRAN TRACT, SAME BEING THE EAST END OF SAID LOT 36, AND THE EAST END OF SAID TRACT ONE, A DISTANCE OF 300.00 FEET, TO A FOUND 5/8 INCH IRON ROD WITH CAP, IN THE NORTH END OF SAID TRACT TWO, FOR THE SOUTHWEST CORNER OF SAID LOT 37, AND THE SOUTHWEST CORNER OF THE SAID CRAN TRACT, SAME BEING THE SOUTHEAST CORNER OF SAID LOT 36, AND THE SOUTHEAST CORNER OF SAID TRACT ONE, SAME ALSO BEING THE NORTHEAST CORNER OF SAID LOT 56, AND ALSO BEING THE NORTHWEST CORNER OF SAID LOT 57; THENCE, N 87° 36' 04" E, WITH THE SOUTH END OF SAID LOT 37, AND THE SOUTH END OF THE SAID CRAN TRACT, SAME BEING THE NORTH END OF SAID LOT 57, AND THE SAID NORTH END OF TRACT TWO, A DISTANCE OF 107.00 FEET, TO A POINT IN THE SAID WEST

END OF ATWELL STREET, FOR THE SOUTHEAST CORNER OF SAID LOT 37, AND THE SOUTHEAST CORNER OF THE SAID CRAN TRACT, SAME BEING THE NORTHEAST CORNER OF SAID LOT 57, AND THE NORTHEAST CORNER OF SAID TRACT TWO, FROM WHICH A FOUND 5/8 INCH IRON ROD WITH CAP, BEARS. S 02° 23' 56" E, 1.09 FEET; THENCE, S 02° 23' 56" E, WITH THE SAID WEST END OF ATWELL STREET, SAME BEING THE EAST END OF SAID LOT 57, AND THE EAST END OF SAID TRACT TWO, A DISTANCE OF 270.00 FEET, TO THE POINT OF BEGINNING AND CONTAINING 7.1117 ACRES (309,787 SQUARE FEET) OF LAND MORE OR LESS.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. 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.

HB 968 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Strama called up with senate amendments for consideration at this time,

HB 968, A bill to be entitled An Act relating to expulsion from school or placement in a disciplinary alternative education program.

Representative Strama moved to concur in the senate amendments to **HB 968**.

The motion to concur in the senate amendments to **HB 968** prevailed by (Record 1522): 143 Yeas, 0 Nays, 2 Present, not voting.

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

Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; 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; 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; Ritter(C).

Absent, Excused — Crownover; Gonzalez.

Absent — Berman; Christian; Flynn.

STATEMENTS OF VOTE

When Record No. 1522 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1522 was taken, I was temporarily out of the house chamber. I would have voted yes.

Flynn

Senate Committee Substitute

CSHB 968, A bill to be entitled An Act relating to expulsion from school or placement in a disciplinary alternative education program.

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

SECTION 1. Sections 37.006(c) and (d), Education Code, are amended to read as follows:

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03,

Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, Penal Code, or those offenses defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

SECTION 2. Section 37.007(c), Education Code, is amended to read as follows:

(c) A student may be expelled if the student, while placed in a disciplinary ~~an~~ alternative education program, engages ~~[for disciplinary reasons, continues to engage]~~ in documented serious ~~[or persistent]~~ misbehavior while on the program campus despite documented behavioral interventions ~~[that violates the district's student code of conduct]~~. For purposes of this subsection, "serious misbehavior" means:

(1) deliberate violent behavior that poses a direct threat to the health or safety of others;

(2) extortion, meaning the gaining of money or other property by force or threat;

(3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or

(4) conduct that constitutes the offense of:

(A) public lewdness under Section 21.07, Penal Code;

(B) indecent exposure under Section 21.08, Penal Code;

(C) criminal mischief under Section 28.03, Penal Code;

(D) personal hazing under Section 37.152; or

(E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

SECTION 3. Section 37.0081(a), Education Code, is amended to read as follows:

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) the board or the board's designee determines that the student's presence in the regular classroom:

(A) threatens the safety of other students or teachers;

(B) will be detrimental to the educational process; or

(C) is not in the best interests of the district's students.

SECTION 4. Sections 37.011(k) and (l), Education Code, are amended to read as follows:

(k) Each school district in a county with a population greater than 125,000 and the county juvenile board shall annually enter into a joint memorandum of understanding that:

(1) outlines the responsibilities of the juvenile board concerning the establishment and operation of a juvenile justice alternative education program under this section;

(2) defines the amount and conditions on payments from the school district to the juvenile board for students of the school district served in the juvenile justice alternative education program whose placement was not made on the basis of an expulsion required under Section 37.007(a), (d), or (e);

(3) establishes [identifies those categories of conduct] that [the school district has defined in its student code of conduct as constituting serious or persistent misbehavior for which] a student may be placed in the juvenile justice alternative education program if the student engages in serious misbehavior, as defined by Section 37.007(c);

(4) identifies and requires a timely placement and specifies a term of placement for expelled students for whom the school district has received a notice under Section 52.041(d), Family Code;

(5) establishes services for the transitioning of expelled students to the school district prior to the completion of the student's placement in the juvenile justice alternative education program;

(6) establishes a plan that provides transportation services for students placed in the juvenile justice alternative education program;

(7) establishes the circumstances and conditions under which a juvenile may be allowed to remain in the juvenile justice alternative education program setting once the juvenile is no longer under juvenile court jurisdiction; and

(8) establishes a plan to address special education services required by law.

(l) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b)[, (e);] and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which such students who continue to engage in serious [~~or persistent~~] misbehavior, as defined by Section 37.007(c), shall be admitted into the juvenile justice alternative education program.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act applies beginning with the 2011-2012 school year.

(b) Sections 37.007(c) and 37.011(k) and (l), Education Code, as amended by this Act, apply beginning with the 2012-2013 school year.

SECTION 6. 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.

HB 1103 - MOTION TO CONCUR IN SENATE AMENDMENTS

Representative Lucio called up with senate amendments for consideration at this time,

HB 1103, A bill to be entitled An Act relating to payment of a fee as a required condition of community supervision for certain criminal offenses involving animal cruelty.

Representative Lucio moved to concur in the senate amendments to **HB 1103**.

The motion to concur in the senate amendments to **HB 1103** was lost by (Record 1523): 63 Yeas, 78 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Branch; Burnam; Castro; Coleman; Craddick; Creighton; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Fletcher; Garza; Giddings; Gonzales, V.; Gooden; Gutierrez; Hernandez Luna; Howard, C.; Howard, D.; Isaac; Johnson; Keffer; Kuempel; Larson; Lozano; Lucio; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Patrick; Peña; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Sheffield; Smith, W.; Strama; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Walle; Woolley.

Nays — Alonzo; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Cook; Darby; Davis, J.; Driver; Eissler; Elkins; Flynn; Frullo; Gallego; Geren; Gonzales, L.; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Huberty; Hunter; Jackson; King, P.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Martinez; Miller, D.; Miller, S.; Morrison; Nash; Orr; Otto; Parker; Paxton; Perry; Phillips; Pitts; Price; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smithee; Solomons; Taylor, L.; Truitt; Weber; White; Workman; Zedler; Zerwas.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Christian; Hughes; King, S.; Mallory Caraway; Vo.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1523. I intended to vote yes.

Bohac

I was shown voting yes on Record No. 1523. I intended to vote no.

Creighton

When Record No. 1523 was taken, I was in the house but away from my desk. I would have voted no.

S. King

I was shown voting yes on Record No. 1523. I intended to vote no.

Kuempel

**HB 1103 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE INSTRUCTED**

Representative Lucio moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1103**.

The motion prevailed.

Representative S. Miller moved to instruct the Conference Committee on **HB 1103** to remove the language establishing an animal cruelty registry.

The motion to instruct conferees prevailed.

**HB 2466 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Phillips called up with senate amendments for consideration at this time,

HB 2466, A bill to be entitled An Act relating to the licensing and operation of motor vehicles by minors.

Representative Phillips moved to concur in the senate amendments to **HB 2466**.

The motion to concur in the senate amendments to **HB 2466** prevailed by (Record 1524): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; 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; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Alonzo; Berman; Christian; Flynn; Garza; Thompson.

STATEMENTS OF VOTE

When Record No. 1524 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1524 was taken, I was temporarily out of the house chamber. I would have voted yes.

Flynn

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2466** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in Section 521.296, Transportation Code (page 1, line 54), strike "or 521.2965".

(2) Strike SECTION 4 of the bill and renumber subsequent sections accordingly.

**HB 2277 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Eiland called up with senate amendments for consideration at this time,

HB 2277, A bill to be entitled An Act relating to the sale, exchange, or replacement of life insurance and annuity contracts.

HB 2277 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE EILAND: Mr. Speaker, members, **HB 2277**—in the senate, they added a bill that passed out of Insurance Committee two times nine to zero—with Mr. Smithee, Mr. Taylor, Mr. Hancock, and myself. This passed the senate two other times and out of committee by Mr. Carona. And so, what the amendment does is, it deals with regulation of the life settlement industry. And so, a brief explanation of that—if you're a life insurance policy holder, and you are elderly, you are chronically ill, and you're going to die, as opposed to waiting until you die to cash in on your life insurance policy, you might want to settle it or sell it early. A lot of this really started happening back when the AIDS epidemic hit, and people bought those life insurance policies. But it's a nationwide industry. And so, what this bill does is regulate between the policy owner and the life settlement company that buys that policy. It regulates that transaction.

You have received some information being passed out by some unnamed sources that is critical of this bill. However, this bill does not regulate them. We had a two-hour meeting with TDI, the life insurance company associations, both the national and the state association, as well as a life settlement company. We met with them and tried to explain to them this does not apply to them. So this bill involves a transaction between the policy owner, the individual, and a life settlement company. What happens after that, oftentimes those life settlement companies will then go out to investors and try to sell fraction shares of these policies. And that was the subject of this very unflattering front page article from

the *Austin American-Statesman* on May 1. And if you want to read about that part of the industry, the side unregulated by the insurance commissioner, you can get a pretty good feeling of what that is. This bill does not regulate that. Somebody needs to regulate it—the state's security board and the national securities people are working on regulating that. This bill does not regulate it. This portion of the bill is based upon the NAIC, the National Association of Insurance Commissioners, updated model act, and the National Conference of Insurance Legislators updated model act of 2007 and 2010. It's been adopted by 32 states, and this bill is modeled on that. So, this is a national model, and most life insurance trade associations support it, as well as the life settlement industry representatives.

REPRESENTATIVE CHISUM: Mr. Eiland, we've been dealing with this issue for more than 10 years in this legislature. This is what they used to call viatical settlements.

EILAND: Correct, viatical settlements.

CHISUM: Now they call it life settlements, which is basically the same product with some changes. And there's always been some bad actors, and I guess you're going after the bad actors that are in the business under this national model to make us comply with other states, and successfully address this?

EILAND: Yes. And one thing we have to be particularly careful about in Texas is that the laws changed several years ago that dealt with whether or not you had to have an insurable interest. Most states have a very strong insurable interest, which means if you are going to buy a life insurance policy on an individual you have to have an insurable interest in their life, and a reason to buy it, even if you are not the individual. So you might buy Keyman life insurance, if you are a business partner. But Texas has a very loose definition, which kind of makes Texas an open market for some of these people, especially on the unregulated side.

CHISUM: And hasn't the court long held that an insurance policy is personal property, and so they actually have a right to sell them, an individual does? So they have the right to get into the market, but this makes sure they are treated fairly in the market and to not be traded as a stock dividend?

EILAND: Right, we are trying to protect property rights that you have, as a life insurance policy holder, that you have the right to transact it, and we're regulating that to some extent—setting up standards, because the people that are selling the policies are either very elderly or critically ill.

REPRESENTATIVE D. MILLER: Craig, you're familiar with Retirement Value, aren't you?

EILAND: Yes.

D. MILLER: And they're one of those bad actors, aren't they?

EILAND: Retirement Value is the subject of a lawsuit by the State Securities Board. It's been in the papers here locally quite a bit. And they may be one of the bad actors.

D. MILLER: And your bill, as I understand it, is to address bad actors like the folks over at Retirement Value?

EILAND: To the extent that we can regulate the life insurance policy, as it exists, between when the owner has it, and goes to a life settlement company. That is what we're regulating in life insurance policies. What we're not regulating in this bill, once the life settlement company has it, that security transaction to investors, and that's where somebody needs to regulate that. Somebody needs to keep an eye on that very closely, because that's when individual investors come along and buy a piece of that policy. And they can be taken advantage of, especially if the life expectancy is wrong, and you think somebody's going to die in four years, and they actually are going to die in 10, and you buy an investment in that. That's not a good investment.

D. MILLER: And we do that through the state's securities commission, don't we?

EILAND: That's correct.

D. MILLER: And those are the people going after Retirement Value, aren't they?

EILAND: Correct.

D. MILLER: Now, I heard you mention in the conversation with Representative Chisum the part about the life insurance. And I think you would agree there are good actors out there. People do the right thing by people here in Texas, isn't that right?

EILAND: That is correct. There are good actors, and those are the people that register with the Texas Department of Insurance. They want to have the laws, and they just want to make sure they're updated and a national norm.

D. MILLER: All right. I used to be in life insurance, or do a lot more life insurance than I do today, and the fact is, I heard you comment about the life insurance, that Texas is unique. But the fact that there are sometimes—that other options should be available, and I agree with you that they need to be highly regulated. Thank you for your bill.

Representative Eiland moved to concur in the senate amendments to **HB 2277**.

The motion to concur in the senate amendments to **HB 2277** prevailed by (Record 1525): 134 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Cook; Craddick; Creighton; 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.; 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, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop;

Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman.

Nays — Anderson, R.; Harper-Brown; King, P.; Parker; Paxton; Taylor, V.; Zedler.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Aycock; Christian; Coleman; Taylor, L.; Zerwas.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1525. I intended to vote no.

Huberty

When Record No. 1525 was taken, I was in the house but away from my desk. I would have voted yes.

L. Taylor

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2277** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle A, Title 7, Insurance Code, is amended by adding Chapter 1111A to read as follows:

CHAPTER 1111A. LIFE SETTLEMENT CONTRACTS

Sec. 1111A.001. SHORT TITLE. This Act may be cited as the Life Settlements Act.

Sec. 1111A.002. DEFINITIONS. In this chapter:

(1) "Advertisement" means a written, electronic, or printed communication or a communication by means of a recorded telephone message or transmitted on radio, television, the Internet, or similar communications media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed directly before the public for the purpose of creating an interest in or inducing a person to purchase or sell, assign, devise, bequest, or transfer the death benefit or ownership of a life insurance policy or an interest in a life insurance policy under a life settlement contract.

(2) "Broker" means a person who, on behalf of an owner and for a fee, commission, or other valuable consideration, offers or attempts to negotiate a life settlement contract between an owner and a provider or estimates life expectancies for a life settlement contract. A broker who offers or attempts to negotiate a life settlement contract represents only the owner and owes a fiduciary

duty to the owner to act according to the owner's instructions, and in the best interest of the owner, notwithstanding the manner in which the broker is compensated. A broker does not include an attorney, certified public accountant, or financial planner retained in the type of practice customarily performed in a professional capacity to represent the owner whose compensation is not paid directly or indirectly by the provider or any other person, except the owner.

(3) "Business of life settlements" means an activity involved in, but not limited to, offering to enter into, soliciting, negotiating, procuring, effectuating, monitoring, or tracking, of life settlement contracts.

(4) "Chronically ill" means:

(A) being unable to perform at least two activities of daily living such as eating, toileting, transferring, bathing, dressing, or continence;

(B) requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or

(C) having a level of disability similar to that described in Paragraph (A) as determined under rules adopted by the commissioner after consideration of any applicable regulation, guideline, or determination of the United States Secretary of Health and Human Services.

(5) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a provider, credit enhancer, or any entity that has a direct ownership in a policy or certificate that is the subject of a life settlement contract whose principal activity related to the transaction is providing funds to effect the life settlement contract or purchase of a policy, and who has an agreement in writing with a provider to finance the acquisition of a life settlement contract. The term does not include a non-accredited investor or purchaser.

(6) "Financing transaction" means a transaction in which a licensed provider obtains financing from a financing entity including secured or unsecured financing, a securitization transaction, or a securities offering that is either registered or exempt from registration under federal and state securities law.

(7) "Fraudulent life settlement act" includes:

(A) an act or omission committed by a person who, knowingly and with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits, or permits an employee or an agent to engage in, acts including:

(i) presenting, causing to be presented, or preparing with knowledge and belief that it will be presented to or by a provider, premium finance lender, broker, insurer, insurance agent, or any other person, false material information, or concealing material information, as part of, in support of, or concerning a fact material to one or more of the following:

(a) an application for the issuance of a life settlement contract or an insurance policy;

(b) the underwriting of a life settlement contract or an insurance policy;

(c) a claim for payment or benefit pursuant to a life settlement contract or an insurance policy;

- (d) premium paid on an insurance policy;
- (e) payment for and changes in ownership or beneficiary made in accordance with the terms of a life settlement contract or an insurance policy;
- (f) the reinstatement or conversion of an insurance policy;
- (g) in the solicitation, offer to enter into, or effectuation of a life settlement contract, or an insurance policy;
- (h) the issuance of written evidence of life settlement contracts or insurance; or
- (i) an application for or the existence of or any payment related to a loan secured directly or indirectly by an interest in a life insurance policy;
- (ii) failing to disclose to the insurer, if the insurer has requested the disclosure, that the prospective insured has undergone a life expectancy evaluation by any person or entity other than the insurer or its authorized representatives in connection with the issuance of the policy; or
- (iii) employing a device, scheme, or artifice to defraud in the business of life settlements; and
- (B) acts or omissions in the furtherance of a fraud or to prevent the detection of a fraud, or acts or omissions that permit an employee or an agent to:
 - (i) remove, conceal, alter, destroy, or sequester from the commissioner the assets or records of a license holder or another person engaged in the business of life settlements;
 - (ii) misrepresent or conceal the financial condition of a license holder, financing entity, insurer, or other person;
 - (iii) transact the business of life settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of life settlements;
 - (iv) file with the commissioner or the chief insurance regulatory official of another jurisdiction a document containing false information or concealing information about a material fact;
 - (v) engage in embezzlement, theft, misappropriation, or conversion of monies, funds, premiums, credits, or other property of a provider, insurer, insured, owner, insurance policy owner, or any other person engaged in the business of life settlements or insurance;
 - (vi) knowingly and with intent to defraud, enter into, broker, or otherwise deal in a life settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing that fact, for the purpose of misleading another, or providing information concerning any fact material to the policy, if the owner or the owner's agent intended to defraud the policy's issuer;
 - (vii) attempt to commit, assist, aid or abet in the commission of, or engage in conspiracy to commit the acts or omissions specified in this paragraph; or

(viii) misrepresent the state of residence of an owner to be a state or jurisdiction that does not have a law substantially similar to this chapter for the purpose of evading or avoiding the provisions of this chapter.

(8) "Insured" means a person covered under the policy being considered for sale in a life settlement contract.

(9) "Life expectancy" means the arithmetic mean of the number of months the insured under the life insurance policy to be settled can be expected to live as determined by a life expectancy company or provider considering medical records and appropriate experiential data.

(10) "Life insurance agent" means a person licensed in this state as a resident or nonresident insurance agent who has received qualification or authority to write life insurance coverage under this code.

(11) "Life settlement contract" means a written agreement entered into between a provider and an owner establishing the terms under which compensation or anything of value will be paid and is less than the expected death benefit of the insurance policy or certificate, in return for the owner's assignment, transfer, sale, devise, or bequest of the death benefit or a portion of an insurance policy or certificate of insurance for compensation; provided, however, that the minimum value for a life settlement contract must be greater than a cash surrender value or accelerated death benefit available at the time of an application for a life settlement contract. The term also includes the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns the policy if the trust or other entity was formed or used for the principal purpose of acquiring one or more life insurance contracts that insure the life of an individual residing in this state. The term also includes:

(A) a written agreement for a loan or other lending transaction, secured primarily by an individual or group life insurance policy; and

(B) a premium finance loan made for a policy on or before the date of issuance of the policy if:

(i) the loan proceeds are not used solely to pay premiums for the policy and any costs or expenses incurred by the lender or the borrower in connection with the financing;

(ii) the owner receives on the date of the premium finance loan a guarantee of the future life settlement value of the policy; or

(iii) the owner agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on a date following the issuance of the policy.

(11-A) "Life settlement contract" does not include:

(A) a policy loan by a life insurance company under the terms of a life insurance policy or accelerated death provision contained in the life insurance policy, whether issued with the original policy or as a rider;

(B) a premium finance loan or any loan made by a bank or other licensed financial institution, provided that neither default on the loan nor the transfer of the policy in connection with the default is under an agreement or understanding with any other person for the purpose of evading regulation under this chapter;

(C) a collateral assignment of a life insurance policy by an owner;
(D) a loan made by a lender that does not violate Chapter 651,
provided that the loan is not described in Subdivision (11) and is not otherwise
within the definition of life settlement contract;

(E) an agreement with respect to which all the parties are closely
related to the insured by blood or law or have a lawful substantial economic
interest in the continued life, health, and bodily safety of the person insured, or
are trusts established primarily for the benefit of the parties;

(F) a designation, consent, or agreement by an insured who is an
employee of an employer in connection with the purchase by the employer, or
trust established by the employer, of life insurance on the life of the employee;

(G) a bona fide business succession planning arrangement:

(i) between one or more shareholders in a corporation or
between a corporation and one or more of its shareholders or one or more trusts
established by its shareholders;

(ii) between one or more partners in a partnership or between a
partnership and one or more of its partners or one or more trusts established by its
partners; or

(iii) between one or more members in a limited liability
company or between a limited liability company and one or more of its members
or one or more trusts established by its members;

(H) an agreement entered into by a service recipient, or a trust
established by the service recipient, and a service provider, or a trust established
by the service provider, who performs significant services for the service
recipient's trade or business; or

(I) any other contract, transaction, or arrangement from the
definition of life settlement contract that the commissioner determines is not of
the type intended to be regulated by this chapter.

(12) "Net death benefit" means the amount of the life insurance policy
or certificate to be settled less any outstanding debts or liens.

(13) "Owner" means the owner of a life insurance policy or a certificate
holder under a group policy, with or without a terminal illness, who enters or
seeks to enter into a life settlement contract. In this chapter, the term "owner" is
not limited to an owner of a life insurance policy or a certificate holder under a
group policy that insures the life of an individual with a terminal or chronic
illness or condition except as specifically provided. The term does not include:

(A) a provider or other license holder under this chapter;

(B) a qualified institutional buyer as defined by 17 C.F.R. Section
230.144A, as amended;

(C) a financing entity;

(D) a special purpose entity; or

(E) a related provider trust.

(14) "Patient identifying information" means an insured's address,
telephone number, facsimile number, e-mail address, photograph or likeness,
employer, employment status, social security number, or any other information
that is likely to lead to the identification of the insured.

(15) "Policy" means an individual or group policy, group certificate, contract, or arrangement of life insurance owned by a resident of this state, regardless of whether delivered or issued for delivery in this state.

(16) "Premium finance loan" is a loan made primarily for the purposes of making premium payments on a life insurance policy that is secured by an interest in the life insurance policy.

(17) "Person" means an individual or legal entity, including a partnership, limited liability company, association, trust, or corporation.

(18) "Provider" means a person, other than an owner, who enters into or effectuates a life settlement contract with an owner. The term does not include:

(A) a bank, savings bank, savings and loan association, or credit union;

(B) a licensed lending institution or creditor or secured party pursuant to a premium finance loan agreement that takes an assignment of a life insurance policy or certificate issued pursuant to a group life insurance policy as collateral for a loan;

(C) the insurer of a life insurance policy or rider to the extent of providing accelerated death benefits or riders under Subchapter B, Chapter 1111, or cash surrender value;

(D) an individual who enters into or effectuates not more than one agreement in a calendar year for the transfer of a life insurance policy or certificate issued pursuant to a group life insurance policy, for compensation or anything of value less than the expected death benefit payable under the policy;

(E) a purchaser;

(F) any authorized or eligible insurer that provides stop loss coverage to a provider, purchaser, financing entity, special purpose entity, or related provider trust;

(G) a financing entity;

(H) a special purpose entity;

(I) a related provider trust;

(J) a broker; or

(K) an accredited investor or qualified institutional buyer as those terms are defined by 17 C.F.R. Section 230.144A, as amended, who purchases a life settlement policy from a provider.

(19) "Purchased policy" means a policy or group certificate that has been acquired by a provider pursuant to a life settlement contract.

(20) "Purchaser" means a person who pays compensation or anything of value as consideration for a beneficial interest in a trust that is vested with, or for the assignment, transfer, or sale of, an ownership or other interest in a life insurance policy or a certificate issued pursuant to a group life insurance policy that has been the subject of a life settlement contract.

(21) "Related provider trust" means a titling trust or other trust established by a licensed provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. In order to qualify as a related provider trust, the trust must have a written agreement with the licensed provider under which the

licensed provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files relating to life settlement transactions available to the department as if those records and files were maintained directly by the licensed provider.

(22) "Settled policy" means a life insurance policy or certificate that has been acquired by a provider pursuant to a life settlement contract.

(23) "Special purpose entity" means a corporation, partnership, trust, limited liability company, or other legal entity formed solely to provide either directly or indirectly access to institutional capital markets:

(A) for a financing entity or provider; or

(B) in connection with a transaction in which:

(i) the securities in the special purpose entity are acquired by the owner or by a qualified institutional buyer as defined by 17 C.F.R. Section 230.144A, as amended; or

(ii) the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

(24) "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death not later than 24 months after the date of diagnosis.

Sec. 1111A.003. LICENSING REQUIREMENTS; EXEMPTION. (a) A person, wherever located, may not act as a provider or broker with an owner who is a resident of this state, unless the person holds a license from the department.

(b) An application for a provider or broker license must be made to the department by the applicant on a form prescribed by the commissioner. The application must be accompanied by a fee in an amount established by the commissioner by rule. The license and renewal fees for a provider license must be reasonable and the license and renewal fees for a broker license may not exceed those established for an insurance agent, as otherwise provided by this chapter.

(c) A person who has been licensed as a life insurance agent in this state or the person's home state for at least one year and is licensed as a nonresident agent in this state meets the licensing requirements of this section and may operate as a broker.

(d) Not later than the 30th day after the first date of operating as a broker, a life insurance agent shall notify the commissioner on a form prescribed by the commissioner that the agent is acting as a broker and shall pay any applicable fee to be determined by the commissioner by rule. Notification must include an acknowledgement by the life insurance agent that the agent will operate as a broker in accordance with this chapter.

(e) An insurer that issued a policy that is the subject of a life settlement contract is not responsible for any act or omission of a broker or provider or purchaser arising out of or in connection with the life settlement transaction, unless the insurer receives compensation for the placement of a life settlement contract from the provider, purchaser, or broker in connection with the life settlement contract.

(f) A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the owner and whose compensation is not paid directly or indirectly by the provider or purchaser, may negotiate life settlement contracts for the owner without having to obtain a license as a broker.

(g) A license expires on the second anniversary of the date of issuance. A license holder may renew the license on payment of a renewal fee. As specified by Subsection (b), the renewal fee for a provider license may not exceed a reasonable fee.

(h) An applicant shall provide the information that the commissioner requires on forms adopted by the commissioner. The commissioner may, at any time, require an applicant to fully disclose the identity of the applicant's stockholders that own at least 10 percent of the shares of an applicant the shares of which are publicly traded, partners, officers and employees, and the commissioner may, in the exercise of the commissioner's sole discretion, refuse to issue a license in the name of any person if the commissioner is not satisfied that an officer, an employee, a stockholder, or a partner of the applicant who may materially influence the applicant's conduct meets the standards of Sections 1111A.001 to 1111A.018.

(i) A license issued to a partnership, corporation, or other entity authorizes each member, officer, and designated employee named in the application and any supplement to the application to act as a license holder under the license.

(j) After the filing of an application and the payment of the license fee, the commissioner shall investigate each applicant and may issue a license if the commissioner finds that the applicant:

(1) if a provider, has provided a detailed plan of operation;

(2) is competent and trustworthy and intends to transact business in good faith;

(3) has a good business reputation and has had experience, training, or education to qualify in the business for which the license is applied;

(4) if the applicant is a legal entity, is formed or organized under the laws of this state or is a foreign legal entity authorized to transact business in this state, or provides a certificate of good standing from the state of its domicile; and

(5) has provided to the commissioner an antifraud plan that meets the requirements of Section 1111A.022 and includes:

(A) a description of the procedures for detecting and investigating possible fraudulent acts and procedures for resolving material inconsistencies between medical records and insurance applications;

(B) a description of the procedures for reporting fraudulent insurance acts to the commissioner;

(C) a description of the plan for antifraud education and training of its underwriters and other personnel; and

(D) a written description or chart outlining the arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent insurance acts and the investigation of unresolved material inconsistencies between medical records and insurance applications.

(k) The commissioner may not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the department or unless the applicant has filed with the department the applicant's written irrevocable consent that any action against the applicant may be commenced by service of process on the commissioner.

(l) A license holder shall file with the department not later than March 1 of each year an annual statement containing the information as the commissioner by rule prescribes.

(m) A provider may not allow any person to perform the functions of a broker unless the person holds a current, valid license as a broker, and as provided in this section.

(n) A broker may not allow any person to perform the functions of a provider unless the person holds a current, valid license as a provider, and as provided in this section.

(o) A provider or broker shall provide to the commissioner new or revised information about officers, stockholders described by Subsection (h), partners, directors, members, or designated employees within 30 days of the change.

(p) An individual licensed as a broker shall complete on a biennial basis 15 hours of training related to life settlements and life settlement transactions, as required by the commissioner. A life insurance agent who is operating as a broker under this section is not subject to the requirements of this subsection.

(q) The business of life settlements constitutes the business of insurance.

Sec. 1111A.004. LICENSE SUSPENSION, REVOCATION, OR REFUSAL TO RENEW. (a) The commissioner may suspend, revoke, or refuse to renew the license of a license holder if the commissioner finds that:

(1) there was a material misrepresentation in the application for the license;

(2) the license holder or an officer, partner, member, or director of the license holder has been guilty of fraudulent or dishonest practices, is subject to a final administrative action, or is otherwise shown to be untrustworthy or incompetent to act as a license holder;

(3) the license holder is a provider and demonstrates a pattern of unreasonably withholding payments to policy owners;

(4) the license holder no longer meets the requirements for initial licensure;

(5) the license holder or any officer, partner, member, or director of the license holder has been convicted of a felony, or of any misdemeanor with respect to which criminal fraud is an element, or has pleaded guilty or nolo contendere with respect to a felony or a misdemeanor with respect to which criminal fraud or moral turpitude is an element, regardless of whether a judgment of conviction has been entered by the court;

(6) the license holder is a provider and has entered into a life settlement contract using a form that has not been approved under this chapter;

(7) the license holder is a provider and has failed to honor contractual obligations in a life settlement contract;

(8) the license holder is a provider and has assigned, transferred, or pledged a settled policy to a person other than a provider licensed in this state, a purchaser, an accredited investor or qualified institutional buyer as defined respectively in 17 C.F.R. Section 230.144A, as amended, a financing entity, a special purpose entity, or a related provider trust; or

(9) the license holder or any officer, partner, member, or key management personnel of the license holder has violated this chapter.

(b) The commissioner may deny a license application or suspend, revoke, or refuse to renew the license of a license holder in accordance with Chapter 2001, Government Code.

Sec. 1111A.005. REQUIREMENTS FOR CONTRACT FORMS, DISCLOSURE FORMS, AND ADVERTISEMENTS. (a) A person may not use any form of life settlement contract in this state unless the form has been filed with and approved, if required, by the commissioner in a manner that conforms with the filing procedures and any time restrictions or deeming provisions for life insurance forms, policies, and contracts.

(b) An insurer may not, as a condition of responding to a request for verification of coverage or in connection with the transfer of a policy pursuant to a life settlement contract, require that the owner, insured, provider, or broker sign any form, disclosure, consent, waiver, or acknowledgment that has not been expressly approved by the commissioner for use in connection with life settlement contracts.

(c) A person may not use a life settlement contract form or provide to an owner a disclosure statement form unless the form is first filed with and approved by the commissioner. The commissioner shall disapprove a life settlement contract form or disclosure statement form if, in the commissioner's opinion, the contract or contract provisions fail to meet the requirements of Sections 1111A.011, 1111A.012, 1111A.014, and 1111A.023(b), or are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the owner.

(d) At the commissioner's discretion, the commissioner may require the submission of advertisements.

Sec. 1111A.006. REPORTING REQUIREMENTS AND PRIVACY. (a) For a policy settled not later than the fifth anniversary of the date of policy issuance, each provider shall file with the commissioner not later than March 1 of each year an annual statement containing the information that the commissioner prescribes by rule. In addition to any other requirements, the annual statement must specify the total number, aggregate face amount, and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year. The annual statement must also include the names of each insurance company whose policies have been settled and the brokers that have settled the policies.

(b) The information required under Subsection (a) is limited to only those transactions in which the insured is a resident of this state and may not include individual transaction data regarding the business of life settlements or information if there is a reasonable basis to find that the information could be used to identify the owner or the insured.

(c) A provider that wilfully fails to file an annual statement as required in this section, or wilfully fails to reply not later than the 30th day after the date the provider receives a written inquiry from the department about the filing of the annual statement, shall, in addition to other penalties provided by this chapter, after notice and opportunity for hearing be subject to a penalty of up to \$250 for each day of delay, not to exceed \$25,000 in the aggregate, for the failure to file or respond.

(d) Except as otherwise allowed or required by law, a provider, broker, insurance company, insurance agent, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity, may not disclose the identity of an insured or information that there is a reasonable basis to believe could be used to identify the insured or the insured's financial or medical information to any other person unless the disclosure is:

(1) necessary to effect a life settlement contract between the owner and a provider and the owner and insured have provided prior written consent to the disclosure;

(2) necessary to effectuate the sale of a life settlement contract, or interests in the contract, as an investment, provided the sale is conducted in accordance with applicable state and federal securities law and provided further that the owner and the insured have both provided prior written consent to the disclosure;

(3) provided in response to an investigation or examination by the commissioner or another governmental officer or agency or under Section 1111A.018;

(4) a term or condition of the transfer of a policy by one provider to another licensed provider, in which case the receiving provider shall comply with the confidentiality requirements of this subsection;

(5) necessary to allow the provider or broker or the provider's or broker's authorized representative to make contact for the purpose of determining health status provided that in this subdivision, authorized representative does not include a person who has or may have a financial interest in the settlement contract other than a provider, licensed broker, financing entity, related provider trust, or special purpose entity and that the provider or broker requires the authorized representative to agree in writing to adhere to the privacy provisions of this chapter; or

(6) required to purchase stop loss coverage.

(e) Nonpublic personal information solicited or obtained in connection with a proposed or actual life settlement contract is subject to the provisions applicable to financial institutions under the federal Gramm-Leach-Bliley Act (Pub. L. No. 106-102), and any other state and federal laws relating to confidentiality of nonpublic personal information.

Sec. 1111A.007. EXAMINATION. Subchapter B, Chapter 401, applies to a person engaged in the business of life settlements.

Sec. 1111A.008. IMMUNITY FROM LIABILITY. (a) No cause of action shall arise nor shall any liability be imposed against the commissioner, the commissioner's authorized representatives, or any examiner appointed by the commissioner for a statement made or conduct performed in good faith while carrying out this chapter.

(b) No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this chapter, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive. This subsection does not abrogate or modify in any way any common law or statutory privilege or immunity enjoyed by any person identified in Subsection (a).

Sec. 1111A.009. INVESTIGATIVE AUTHORITY OF THE COMMISSIONER. The commissioner may investigate a suspected fraudulent life settlement act and a person engaged in the business of life settlements.

Sec. 1111A.010. COST OF EXAMINATIONS. The reasonable and necessary cost of an examination under this chapter is to be assessed against the person being examined in accordance with Section 751.208.

Sec. 1111A.011. ADVERTISING. (a) A broker or provider licensed pursuant to this chapter may conduct or participate in an advertisement in this state. The advertisement must comply with all advertising and marketing laws under Chapter 541 and rules adopted by the commissioner that are applicable to life insurers or to license holders under this chapter.

(b) Advertisements shall be accurate, truthful, and not misleading in fact or by implication.

(c) A person may not:

(1) market, advertise, solicit, or otherwise promote the purchase of a policy for the sole purpose of or with an emphasis on settling the policy; or

(2) use the words "free," "no cost," or words of similar import in the marketing, advertising, or soliciting of, or otherwise promoting, the purchase of a policy.

Sec. 1111A.012. DISCLOSURES TO OWNERS. (a) Not later than the fifth day after the date a provider receives the application for a life settlement contract, the provider shall provide, in a separate written document, the following information to the owner:

(1) the fact that possible alternatives to life settlement contracts exist, including accelerated benefits offered by the issuer of the life insurance policy;

(2) the fact that some or all of the proceeds of a life settlement contract may be taxable and that assistance should be sought from a professional tax advisor;

(3) the fact that the proceeds from a life settlement contract could be subject to the claims of creditors;

(4) the fact that receipt of proceeds from a life settlement contract may adversely affect the recipients' eligibility for public assistance or other government benefits or entitlements and that advice should be obtained from the appropriate agency;

(5) the fact that the owner has a right to terminate a life settlement contract within 15 days of the date the contract is executed by all parties and the owner has received the disclosures described in this section, that rescission, if exercised by the owner, is effective only if both notice of the rescission is given and the owner repays all proceeds and any premiums, loans, and loan interest paid on account of the provider during the rescission period, and that if the insured dies during the rescission period, the contract is considered rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans, and loan interest to the provider;

(6) the fact that proceeds will be sent to the owner within three business days after the provider has received the insurer or group administrator's acknowledgement that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated in accordance with the terms of the life settlement contract;

(7) the fact that entering into a life settlement contract may cause the owner to forfeit other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate of a group policy, and that assistance should be sought from a professional financial advisor;

(8) the amount and method of calculating the compensation, including anything of value, paid or given, or to be paid or given, to the broker, or any other person acting for the owner in connection with the transaction;

(9) the date by which the funds will be available to the owner and the identity of the transmitter of the funds;

(10) the fact that the commissioner requires delivery of a buyer's guide or a similar consumer advisory package in the form prescribed by the commissioner to owners during the solicitation process;

(11) the following language: "All medical, financial, or personal information solicited or obtained by a provider or broker about an insured, including the insured's identity or the identity of family members or a spouse or a significant other, may be disclosed as necessary to effect the life settlement contract between the owner and provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.";

(12) the fact that the commissioner requires providers and brokers to print separate signed fraud warnings on the applications and on the life settlement contracts as follows: "Any person who knowingly presents false information in an application for insurance or a life settlement contract is guilty of a crime and may be subject to fines and confinement in prison.";

(13) the fact that the insured may be contacted by either the provider or broker or an authorized representative of the provider or broker for the purpose of determining the insured's health status or to verify the insured's address and that this contact is limited to once every three months if the insured has a life expectancy of more than one year, and not more than once per month if the insured has a life expectancy of one year or less;

(14) the affiliation, if any, between the provider and the issuer of the insurance policy to be settled;

(15) that a broker represents exclusively the owner, and not the insurer or the provider or any other person, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interest of the owner;

(16) the name, address, and telephone number of the provider;

(17) the name, business address, and telephone number of the independent third party escrow agent, and the fact that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents; and

(18) the fact that a change of ownership could in the future limit the insured's ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life.

(b) The written disclosures described by Subsection (a) must be conspicuously displayed in a life settlement contract furnished to the owner by a provider, including any affiliations or contractual arrangements between the provider and the broker.

(c) A broker shall provide the owner and the provider with at least the following disclosures not later than the date on which the life settlement contract is signed by all parties and which must be conspicuously displayed in the life settlement contract or in a separate document signed by the owner:

(1) the name, business address, and telephone number of the broker;

(2) a full, complete, and accurate description of all the offers, counter-offers, acceptances, and rejections relating to the proposed life settlement contract;

(3) a written disclosure of any affiliations or contractual arrangements between the broker and any person making an offer in connection with the proposed life settlement contract;

(4) the name of each broker who receives compensation and the amount of compensation, including anything of value, paid or given to the broker in connection with the life settlement contract; and

(5) a complete reconciliation of the gross offer or bid by the provider to the net amount of proceeds or value to be received by the owner.

(d) For the purpose of this section, "gross offer or bid" means the total amount or value offered by the provider for the purchase of one or more life insurance policies, inclusive of commissions and fees.

(e) The failure to provide the disclosures or rights described in this section is an unfair method of competition or an unfair or deceptive act or practice.

Sec. 1111A.013. DISCLOSURE TO INSURER. (a) Without limiting the ability of an insurer to assess the insurability of a policy applicant and to determine whether to issue the policy, and in addition to other questions an insurance carrier may lawfully pose to a life insurance applicant, an insurer may inquire in the application for insurance whether the proposed owner intends to pay premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing.

(b) If, as described in Sections 1111A.002(11) and (11-A), the loan provides funds that can be used for a purpose other than paying for the premiums, costs, and expenses associated with obtaining and maintaining the life insurance policy and loan, and notwithstanding any other law, the application must be rejected as a violation of Section 1111A.017.

(c) If the financing does not violate Section 1111A.017, the insurance carrier:

(1) may make disclosures, not later than the date of the delivery of the policy, to the applicant and the insured, either on the application or on an amendment to the application that include the following or substantially similar statements:

"If you have entered into a loan arrangement in which the policy is used as collateral, and the policy does change ownership at some point in the future in satisfaction of the loan, the following may be true:

(A) a change of ownership could lead to a stranger owning an interest in the insured's life;

(B) a change of ownership could in the future limit your ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life;

(C) should there be a change of ownership and you wish to obtain more insurance coverage on the insured's life in the future, the insured's higher issue age, a change in health status, or other factors may reduce the ability to obtain coverage or may result in significantly higher premiums; and

(D) you should consult a professional advisor, since a change in ownership in satisfaction of the loan may result in tax consequences to the owner, depending on the structure of the loan.";

(2) may require certifications, such as the following, from the applicant or the insured:

(A) "I have not entered into any agreement or arrangement providing for the future sale of this life insurance policy";

(B) "My loan arrangement for this policy provides funds sufficient to pay for some or all of the premiums, costs, and expenses associated with obtaining and maintaining my life insurance policy, but I have not entered into any agreement by which I am to receive consideration in exchange for procuring this policy"; and

(C) "The borrower has an insurable interest in the insured."

Sec. 1111A.014. GENERAL RULES. (a) Before entering into a life settlement contract with an owner of a policy with respect to which the insured is terminally or chronically ill, the provider must obtain:

(1) if the owner is the insured, a written statement from a licensed attending physician that the owner is of sound mind and under no constraint or undue influence to enter into a settlement contract; and

(2) a document in which the insured consents to the release of medical records to a provider, settlement broker, or insurance agent and, if the policy was issued less than two years after the date of application for a settlement contract, to the insurance company that issued the policy.

(b) An insurer shall respond to a request for verification of coverage submitted by a provider, settlement broker, or life insurance agent not later than the 30th calendar day after the date the request is received. The request for verification of coverage must be made on a form approved by the commissioner. The insurer shall complete and issue the verification of coverage or indicate in which respects the insurer is unable to respond. In the response, the insurer shall indicate whether at the time of the response, based on the medical evidence and documents provided, the insurer intends to pursue an investigation about the validity of the insurance contract.

(c) On or before the date of execution of the life settlement contract, the provider shall obtain a witnessed document in which the owner consents to the settlement contract, represents that the owner has a full and complete understanding of the settlement contract and of the benefits of the policy, acknowledges that the owner is entering into the settlement contract freely and voluntarily, and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness and that the terminal or chronic illness or condition was diagnosed after the policy was issued.

(d) The insurer may not unreasonably delay effecting change of ownership or beneficiary with any life settlement contract lawfully entered into in this state or with a resident of this state.

(e) If a settlement broker or life insurance agent performs any of these activities required of the provider, the provider is deemed to have fulfilled the requirements of this section.

(f) If a broker performs the verification of coverage activities required of the provider, the provider is deemed to have fulfilled the requirements of Section 1111A.012.

(g) Not later than the 20th day after the date that an owner executes the life settlement contract, the provider shall give written notice to the insurer that issued that insurance policy that the policy has become subject to a life settlement contract. The notice shall be accompanied by the documents required by Section 1111A.013(c).

(h) Medical information solicited or obtained by a license holder is subject to the applicable provision of state law relating to confidentiality of medical information, if not otherwise provided in this chapter.

(i) A life settlement contract entered into in this state must provide that the owner may rescind the contract on or before 15 days after the date the contract is executed by all parties to the contract. Rescission, if exercised by the owner, is effective only if notice of the rescission is given and the owner repays all proceeds and any premiums, loans, and loan interest paid on account of the

provider within the rescission period. If the insured dies during the rescission period, the contract is rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans, and loan interest to the provider.

(j) Not later than the third business day after the date the provider receives from the owner the documents to effect the transfer of the insurance policy, the provider shall pay the proceeds of the settlement into an escrow or trust account managed by a trustee or escrow agent in a state or federally chartered financial institution pending acknowledgement of the transfer by the issuer of the policy. The trustee or escrow agent shall transfer to the owner the proceeds due to the owner not later than the third business day after the date the trustee or escrow officer receives from the insurer acknowledgment of the transfer of the insurance policy.

(k) Failure to tender the life settlement contract proceeds to the owner on or before the date disclosed to the owner renders the contract voidable by the owner for lack of consideration until the time the proceeds are tendered to and accepted by the owner. A failure to give written notice of the right of rescission under this subsection tolls the right of rescission for 30 days after the date the written notice of the right of rescission has been given.

(l) A fee paid by a provider, an owner, or other person to a broker in exchange for services provided to the owner pertaining to a life settlement contract must be computed as a percentage of the offer obtained, not the face value of the policy. Nothing in this section prohibits a broker from voluntarily reducing the broker's fee to less than a percentage of the offer obtained.

(m) A broker shall disclose to the owner anything of value paid or given to a broker that relates to a life settlement contract.

(n) A person, at any time prior to or at the time of the application for, or issuance of, a policy, or during a two-year period beginning on the date of issuance of the policy, may not enter into a life settlement contract regardless of the date the compensation is to be provided and regardless of the date the assignment, transfer, sale, devise, bequest, or surrender of the policy is to occur. This prohibition does not apply if:

(1) the owner certifies to the provider that the policy was issued on the owner's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least 24 months; or

(2) the owner submits independent evidence to the provider that one or more of the following conditions have been met during the two-year period described by this subsection:

(A) the owner or insured is terminally or chronically ill;

(B) the owner or insured disposes of the owner's or insured's ownership interests in a closely held corporation, pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued;

(C) the owner's spouse dies;

(D) the owner divorces the owner's spouse;

(E) the owner retires from full-time employment;

(F) the owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment; or

(G) a final order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor of the owner, adjudicating the owner bankrupt or insolvent, or approving a petition seeking reorganization of the owner or appointing a receiver, trustee, or liquidator to all or a substantial part of the owner's assets.

(o) For the purposes of Subsection (n)(1), time covered under a group policy must be calculated without regard to a change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

(p) Copies of the independent evidence described by Subsection (n)(2) must be submitted to the insurer at the time the provider submits a request to the insurer for verification of coverage. The copies must be accompanied by a letter of attestation from the provider that the copies are true and correct copies of the documents received by the provider. This section does not prohibit an insurer from exercising its right to contest the validity of a policy.

(q) If the provider submits to the insurer a copy of independent evidence provided for Subsection (n)(2)(A) at the time the provider submits a request to the insurer to effect the transfer of the policy to the provider, the copy is deemed to establish that the settlement contract satisfies the requirements of this section.

Sec. 1111A.015. AUTHORITY TO ADOPT RULES. (a) The commissioner may adopt rules implementing this chapter and regulating the activities and relationships of providers, brokers, insurers, and their authorized representatives.

(b) The commissioner may not adopt a rule establishing a price or fee for the sale or purchase of a life settlement contract. This subsection does not prohibit the commissioner from adopting a rule relating to an unjust price or fee for the sale or purchase of a life settlement contract.

(c) The commissioner may not adopt a rule that regulates the actions of an investor providing money to a life or viatical settlement company.

Sec. 1111A.016. CONFLICT OF LAWS. (a) If there is more than one owner on a single policy, and the owners are residents of different states, the life settlement contract is governed by the law of the state in which the owner having the largest percentage ownership resides or, if the owners hold equal ownership, the state of residence of one owner agreed on in writing by all of the owners. The law of the state of the insured shall govern in the event that equal owners fail to agree in writing on a state of residence for jurisdictional purposes.

(b) A provider licensed in this state who enters into a life settlement contract with an owner who is a resident of another state that has enacted statutes or adopted rules governing life settlement contracts is governed in the effectuation of that life settlement contract by the statutes and rules of the owner's state of residence. If the state in which the owner is a resident has not enacted statutes or adopted rules governing life settlement contracts, the provider shall give the owner notice that neither state regulates the transaction on which the

owner is entering. For transactions in those states, however, the provider shall maintain all records required by this chapter if the transactions were executed in this state. The forms used in those states need not be approved by the department.

(c) If there is a conflict in the laws that apply to an owner and a purchaser in any individual transaction, the laws of the state that apply to the owner shall take precedence and the provider shall comply with those laws.

Sec. 1111A.017. PROHIBITED PRACTICES. (a) A person may not:

(1) enter into a life settlement contract if the person knows or reasonably should have known that the life insurance policy was obtained by means of a false, deceptive, or misleading application for the policy;

(2) engage in a transaction, practice, or course of business if the person knows or reasonably should have known that the intent of engaging in the transaction, practice, or course of business is to avoid the notice requirements of this chapter;

(3) engage in a fraudulent act or practice in connection with a transaction relating to any settlement involving an owner who is a resident of this state;

(4) issue, solicit, market, or otherwise promote the purchase of an insurance policy for the purpose of, or with an emphasis on, settling the policy;

(5) if providing premium financing, receive any proceeds, fee, or other consideration from the policy or owner in addition to the amounts required to pay principal, interest, and any reasonable costs or expenses incurred by the lender or borrower in connection with the premium finance agreement, except in event of a default, unless either the default on the loan or transfer of the policy occurs pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter;

(6) with respect to any settlement contract or insurance policy and to a broker, knowingly solicit an offer from, effectuate a life settlement contract with, or make a sale to any provider, financing entity, or related provider trust that is controlling, controlled by, or under common control with the broker unless the relationship is fully disclosed to the owner;

(7) with respect to any life settlement contract or insurance policy and a provider, knowingly enter into a life settlement contract with an owner if, in connection with the life settlement contract, anything of value will be paid to a broker that is controlling, controlled by, or under common control with the provider or the financing entity or related provider trust that is involved in such settlement contract, unless the relationship is fully disclosed to the owner;

(8) with respect to a provider, enter into a life settlement contract unless the life settlement promotional, advertising, and marketing materials, as may be prescribed by rule, have been filed with the commissioner, provided that in no event may any marketing materials expressly reference that the insurance is free for any period of time; or

(9) with respect to any life insurance agent, insurance company, broker, or provider, make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

(b) A violation of this section is a fraudulent life settlement act.

Sec. 1111A.018. FRAUD PREVENTION AND CONTROL. (a) A person may not commit a fraudulent life settlement act.

(b) A person may not interfere with the enforcement of this chapter or an investigation of a suspected or actual violation of this chapter.

(c) A person in the business of life settlements may not knowingly or intentionally permit a person convicted of a felony involving dishonesty or breach of trust to participate in the business of life settlements.

(d) A life settlement contract and an application for a life settlement contract, regardless of the form of transmission, must contain the following, or a substantially similar, statement: "Any person who knowingly presents false information in an application for insurance or a life settlement contract is guilty of a crime and may be subject to fines and confinement in prison."

(e) The failure to include a statement as required in Subsection (d) is not a defense in any prosecution for a fraudulent life settlement act.

Sec. 1111A.019. MANDATORY REPORTING OF FRAUDULENT LIFE SETTLEMENT ACTS. A person engaged in the business of life settlements has a duty under Section 701.051 to report a fraudulent life settlement act.

Sec. 1111A.020. CONFIDENTIALITY. (a) The documents and evidence obtained by the commissioner in an investigation of a suspected or an actual fraudulent life settlement act are privileged and confidential, are not a public record, and are not subject to discovery or subpoena in a civil or criminal action.

(b) Subsection (a) does not prohibit release by the commissioner of documents and evidence obtained in an investigation of a suspected or an actual fraudulent life settlement act:

(1) in an administrative or judicial proceeding to enforce a provision of this code or another insurance law of this state;

(2) to a federal, state, or local law enforcement or regulatory agency, to an organization established for the purpose of detecting and preventing a fraudulent life settlement act, or to the National Association of Insurance Commissioners; or

(3) at the discretion of the commissioner, to a person in the business of life settlements that is aggrieved by a fraudulent life settlement act.

(c) Release of documents and evidence under Subsection (b) does not abrogate or modify the privilege granted in Subsection (a).

Sec. 1111A.021. OTHER LAW ENFORCEMENT OR REGULATORY AUTHORITY. This chapter does not:

(1) preempt the authority or relieve the duty of another law enforcement or regulatory agency to investigate, examine, and prosecute a suspected violation of law;

(2) preempt, supersede, or limit any provision of any state securities law or any rule, order, or notice issued under the law;

(3) prevent or prohibit a person from disclosing voluntarily information concerning life settlement fraud to a law enforcement or regulatory agency other than the department; or

(4) limit the powers granted by the laws of this state to the commissioner or an insurance fraud unit to investigate and examine a possible violation of law and to take appropriate action against wrongdoers.

Sec. 1111A.022. LIFE SETTLEMENT ANTIFRAUD INITIATIVES.

(a) A provider or broker shall implement antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent life settlement acts. At the discretion of the commissioner, the commissioner may order, or a license holder may request and the commissioner may grant, a modification of the following required initiatives as necessary to ensure an effective antifraud program. A modification granted under this section may be more or less restrictive than the required initiatives so long as the modification may reasonably be expected to accomplish the purpose of this section. Antifraud initiatives must include:

(1) fraud investigators, who may be provider or broker employees or independent contractors; and

(2) an antifraud plan, which must be submitted to the commissioner and must include:

(A) a description of the procedures for detecting and investigating possible fraudulent life settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;

(B) a description of the procedures for reporting possible fraudulent life settlement acts to the commissioner;

(C) a description of the plan for antifraud education and training of underwriters and other personnel; and

(D) a description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent life settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

(b) An antifraud plan submitted to the commissioner is privileged and confidential, is not subject to disclosure under Chapter 552, Government Code, and is not subject to discovery or subpoena in a civil action.

Sec. 1111A.023. INJUNCTION; CIVIL REMEDIES; CEASE AND DESIST ORDERS. (a) In addition to the penalties and other enforcement provisions of this chapter, if any person violates this chapter or any rule implementing this chapter, the commissioner may seek an injunction in a court in the county where the person resides or has a principal place of business and may apply for temporary and permanent orders that the commissioner determines necessary to restrain the person from further committing the violation.

(b) The commissioner may issue a cease and desist order against a person who violates any provision of this chapter, any rule or order adopted by the commissioner, or any written agreement entered into with the commissioner, in accordance with Chapter 82.

(c) If the commissioner finds that an action in violation of this chapter presents an immediate danger to the public and requires an immediate final order, the commissioner may issue an emergency cease and desist order under Chapter 83.

(d) The provisions of this chapter may not be waived by agreement. No choice of law provision may prevent the application of this chapter to any settlement.

Sec. 1111A.024. PENALTIES. (a) It is a violation of this chapter for any person, provider, broker, or any other party related to the business of life settlements to commit a fraudulent life settlement act.

(b) A person who knowingly, recklessly, or intentionally commits a fraudulent life settlement act commits a criminal offense and is subject to penalties under Chapter 35, Penal Code.

(c) Subtitle B, Title 2, applies to a violation of this chapter.

Sec. 1111A.025. APPLICABILITY OF OTHER INSURANCE LAWS.

The following laws apply to a person engaged in the business of life settlements:

(1) Chapters 82, 83, 84, 101, 481, 541, and 701;

(2) Sections 31.002, 32.021, 32.023, 32.041, 38.001, 81.004, 86.001, 86.051, 86.052, 201.004, 401.051, 401.054, 401.151(a), 521.003, 521.004, 543.001(c), 801.056, and 862.052;

(3) Subchapter A, Chapter 32;

(4) Subchapter C, Chapter 36;

(5) Subchapter B, Chapter 404; and

(6) Subchapter B, Chapter 491.

SECTION _____. (a) A provider lawfully transacting business in this state before the effective date of this Act may continue to do so pending approval or disapproval of the person's application for a license as long as the application is filed with the commissioner of insurance not later than 30 days after the date of the publication by the commissioner of an application form and instructions for licensure of providers. If the publication of the application form and instructions is before the effective date of this Act, then the filing of the application may not be later than 30 days after the effective date of this Act and the applicant may use any form of life settlement contract that has been filed with the commissioner pending approval, provided that the form is otherwise in compliance with the provisions of this Act. A person transacting business in this state under this provision shall comply with all other requirements of this Act.

(b) A person who has lawfully negotiated a life settlement contract between an owner residing in this state and one or more providers for at least one year immediately before the effective date of this Act may continue to do so pending approval or disapproval of the person's application for a license provided that the application is filed with the commissioner of insurance not later than the 30th day after the date of publication by the commissioner of an application form and instructions for licensure of brokers. If the publication of the application form and instructions is before the effective date of this Act, then the filing of the

application may not be later than the 30th day after the effective date of this Act. Any person transacting business in this state under this provision shall comply with all other requirements of this Act.

SECTION _____. The heading to Chapter 1111, Insurance Code, is amended to read as follows:

CHAPTER 1111. [~~LIFE AND VIATICAL SETTLEMENTS AND~~]
ACCELERATED TERM LIFE INSURANCE BENEFITS

SECTION _____. Subsection (a), Section 1551.255, Insurance Code, is amended to read as follows:

(a) In this section, "viatical settlement" has the meaning assigned to "life settlement contract" by Section 1111A.002 [~~1111.001~~].

SECTION _____. Subchapter A, Chapter 1111, Insurance Code, is repealed.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend Floor Amendment No. 1 by Carona to **HB 2277** as follows:

(1) In added Section 1111A.003(h), Insurance Code (page 13, lines 5 - 6), strike "disclose the identity of the applicant's stockholders that own at least 10 percent of the shares of an applicant the shares of which" and substitute "disclose the identity of its stockholders, except stockholders owning fewer than ten percent of the shares of an applicant whose shares".

(2) In added Section 1111A.012(a), Insurance Code (page 20, lines 26 - 29), strike "Not later than the fifth day after the date a provider receives the application for a life settlement contract, the provider shall provide, in a separate written document, the following information to the owner:" and substitute "The broker, or the provider if no broker is involved in the application, shall provide in writing, in a separate document that is signed by the owner, the following information to the owner not later than the date of application for a life settlement contract:".

(3) In added Chapter 1111A, Insurance Code, immediately following added Section 1111A.025 (between page 37 and 38), add the following:

Sec. 1111A.026. APPLICABILITY OF CERTAIN PROVISIONS TO LIFE EXPECTANCY ESTIMATORS. (a) The following provisions do not apply to a broker who acts solely as a life expectancy estimator:

- (1) Section 1111A.003(p);
- (2) Section 1111A.012; and
- (3) Sections 1111A.014(l) and (m).

(b) The commissioner may exempt a broker who acts only as a life expectancy estimator from other provisions of this chapter if the commissioner finds that the application of those provisions to the broker are not necessary for the public welfare.

Senate Amendment No. 3 (Senate Floor Amendment No. 1 - Third Reading)

Amend **HB 2277** on third reading as follows:

(1) In the SECTION that adds Chapter 1111A, Insurance Code, in added Section 1111A.002(18)(K), Insurance Code (Senate Floor Amendment No. 1, by Carona, page 10, lines 13-14), strike "Section 230.144A," and the substitute "Sections 230.501 and 230.144A, respectively,".

(2) In the SECTION that adds Chapter 1111A, Insurance Code, in added Section 1111A.025(1), Insurance Code (Senate Floor Amendment No. 1, by Carona, page 37, line 24), strike "541".

LEAVE OF ABSENCE GRANTED

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

Christian on motion of Huberty.

HB 2663 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Chisum called up with senate amendments for consideration at this time,

HB 2663, A bill to be entitled An Act relating to the effect of rules and standards adopted by the Railroad Commission of Texas relating to the liquefied petroleum gas industry on ordinances, orders, or rules adopted by political subdivisions relating to that industry.

Representative Chisum moved to concur in the senate amendments to **HB 2663**.

The motion to concur in the senate amendments to **HB 2663** prevailed by (Record 1526): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; 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.; 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; Lucio; 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; 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; Ritter(C).

Absent, Excused — Christian; Crownover; Gonzalez.

Absent — Alonzo.

Senate Committee Substitute

CSHB 2663, A bill to be entitled An Act relating to the effect of rules and standards adopted by the Railroad Commission of Texas relating to the liquefied petroleum gas industry on ordinances, orders, or rules adopted by political subdivisions relating to that industry.

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

SECTION 1. Subchapter C, Chapter 113, Natural Resources Code, is amended by adding Section 113.054 to read as follows:

Sec. 113.054. EFFECT ON OTHER LAW. The rules and standards promulgated and adopted by the commission under Section 113.051 preempt and supersede any ordinance, order, or rule adopted by a political subdivision of this state relating to any aspect or phase of the liquefied petroleum gas industry. A political subdivision may petition the commission's executive director for permission to promulgate more restrictive rules and standards only if the political subdivision can prove that the more restrictive rules and standards enhance public safety.

SECTION 2. This Act takes effect September 1, 2011.

HB 3647 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Turner called up with senate amendments for consideration at this time,

HB 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.

Representative Turner moved to concur in the senate amendments to **HB 3647**.

The motion to concur in the senate amendments to **HB 3647** prevailed by (Record 1527): 139 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; 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 — Carter.

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

Absent, Excused — Christian; Crownover; Gonzalez.

Absent — Aliseda; Berman; Farias; Flynn; Naishtat.

The chair stated that **HB 3647** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

STATEMENTS OF VOTE

When Record No. 1527 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1527 was taken, I was temporarily out of the house chamber. I would have voted yes.

Flynn

When Record No. 1527 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

Senate Committee Substitute

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.

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

SECTION 1. The following sums of money are appropriated from money derived from the settlement of the following lawsuits and held in the suspense account established by the comptroller and the attorney general in the General Revenue Fund Account No. 0001 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Wright & Greenhill, P.C. the following amounts payable under the outside counsel contract OCC No. 2007-302-0012 in connection with the settlement of claims in State of Texas ex rel. Ven-A-Care of the Florida Keys, Inc. v. Mylan Pharmaceuticals USA, et al., Cause No. D-1-GV-07-001259, District Court of Travis County, 201st Judicial District—the amount of \$5,750,000.00 for legal fees and the amount of \$174,222.32 for expenses for a total appropriation of

\$5,924,222.32

To pay Wright & Greenhill, P.C. the following amounts payable under the outside counsel contract OCC No. 2007-302-0012 in connection with the settlement of claims in State of Texas ex rel. Ven-A-Care of the Florida Keys, Inc.

v. *TEVA*, et al., Cause No. D-1-GV-07-001259, District Court of Travis County, 201st Judicial District—the amount of \$11,230,010.00 for legal fees and the amount of \$157,093.62 for expenses for a total appropriation of \$11,387,103.62

SECTION 2. The following sums of money are appropriated out of the General Revenue Fund Account No. 0001 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Securities America Advisors, Inc. for replacement of a void warrant issued on March 9, 2000, for reimbursement of professional fees	\$1,760.00
To pay Community Healthcare Services, Inc. for home and community services provided from February 2005 through August 2005	\$142,000.29
To pay Robert S. Kittredge for replacement of a void warrant issued May 14, 1982	\$10.00
To pay Cable Com, Inc. for replacement of a void warrant issued April 24, 1995	\$8,202.44
To pay Linda Clay for replacement of a void warrant issued November 7, 1994	\$77.35
To pay confidential payee for claim 93M90481 for replacement of a void payroll warrant issued November 10, 1994	\$565.56
To pay AT&T for telephone services provided from November 2000 to February 2002	\$7,978.41
To pay Young County-District Attorney, 90th District, for attorney's fees for a fraud case August 13, 1999	\$280.00
To pay Young County-District Attorney, 90th District, for attorney's fees for a fraud case January 11, 2001	\$280.00
To pay confidential payee for claim 94M00566 for void payroll warrants issued from January 1986 to March 1992	\$29,776.42
To pay confidential payee for claim 94M00581 for replacement of a void warrant issued December 17, 1997	\$65.55
To pay BHR Lodging Tenant Company for replacement of a void warrant issued March 16, 2007	\$167,323.45
To pay confidential payee for claim 94M00716 for replacement of a void warrant issued July 21, 1999	\$1,298.39
To pay confidential payee for claim 94M00753 for replacement of a void warrant issued July 2, 2001	\$348.54
To pay confidential payee for claim 94M00977 for replacement of a void warrant issued May 7, 2001	\$576.72
To pay confidential payee for claim 94M01069 for replacement of a void warrant issued October 2, 2001	\$112.00
To pay The Children's Shelter for foster care provided from March 15, 2006, to November 9, 2006	\$26,529.00
To pay The Children's Shelter for foster care provided from November 3, 2006, to July 31, 2007	\$14,601.60
To pay The Children's Shelter for foster care provided from December 7, 2006, to August 31, 2007	\$12,728.00
To pay The Children's Shelter for foster care provided from November 1, 2006, to February 1, 2007	\$11,979.64

To pay The Children's Shelter for foster care provided from March 3, 2007, to August 31, 2007 \$10,144.05

To pay The Children's Shelter for foster care provided from June 27, 2006, to May 3, 2007 \$9,564.39

To pay The Children's Shelter for foster care provided from January 21, 2007, to July 31, 2007 \$6,512.00

To pay the Bexar County Auditor for reimbursement for appointment under Article 11.071, Code of Criminal Procedure, of counsel Robin Norris in case #2004CR1613-W1-Defendant Ramon Hernandez May 2006 to August 2007 \$3,149.31

To pay JP Morgan Chase Bank for procurement card purchases for May 2008 to August 2008 for the account ending in "4258" for payment to vendors for goods and services provided for the benefit of children and adults in protective care \$391.13

To pay JP Morgan Chase Bank for procurement card purchases for March 2008 to August 2008 for the account ending in "4324" for payment for goods and services provided for the benefit of children and adults in protective care \$964.09

To pay confidential payee for claim 94M01169 for replacement of a void payroll warrant issued September 17, 2001 \$384.79

To pay confidential payee for claim 94M10076 for replacement of a void warrant issued June 28, 1995 \$500.00

To pay Christopher Patrick Cotter for replacement of a void warrant issued November 16, 2001 \$100.00

To pay confidential payee for claim 94M10209 for replacement of a void payroll warrant issued November 1, 1996 \$593.20

SECTION 3. The following sums of money are appropriated out of the State Highway Fund No. 0006 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Thomas Williams for attorney's fees and court costs plus interest per judgment Cause No. GN-503758 in claim No. 90T00005 \$992,555.50

To pay City of Corpus Christi 80 percent reimbursement for engineering services provided from September 1, 2006, to August 31, 2007 \$192,680.95

To pay AT&T for utility adjustment for widening project September 1, 2003, to August 31, 2004 \$329,376.20

To pay City of Lewisville for Timber Creek Bike Trail Project October 2003 to August 2004 \$4,445.14

To pay Paline Pipeline Company, a subsidiary of Lion Oil Company, for utility adjustment on IH-10/Dewitt Road to KCS Railroad February 2006 to June 2006 \$116,032.06

To pay City of Garland for design construction completed February 9, 2001 \$7,956.00

To pay U.S. Customs and Border Protection for replacement warrant issued June 13, 2007 \$281,659.00

To pay Gaston Water Supply Corp for relocation of water line along proposed Loop 571 completed March 12, 1999 \$27,437.22

To pay City of Hurst for engineering services provided from September 1, 2003, to August 31, 2004	\$32,452.93
To pay American Electric Power for utility adjustment on FM899, Titus County from February 2007 to August 2007	\$212,824.88
To pay City of El Paso for cost incurred on project No. 2552-012-035 for December 1, 2006, to August 31, 2007	\$168,021.69
To pay Bexar Metropolitan Water District for engineering and inspection services for utility relocation, Loop 410 at Zarzamora and Highway 16, San Antonio, February 22, 2006	\$121,656.80
To pay Florida Gas Transmission Company for utility adjustment relocation completed May 2004	\$116,397.75
To pay the County of Dallas Public Works Department for engineering services provided from March 26, 1999, to May 16, 2005	\$9,700.65
To pay the County of Dallas Public Works Department for engineering services provided from May 26, 1999, to June 25, 1999	\$644.93
To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from December 30, 2006, through February 28, 2007	\$17,826.75
To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from March 1, 2007, through March 31, 2007	\$25,205.05
To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from April 1, 2007, through April 21, 2007	\$16,182.19
To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from October 1, 2007, through December 1, 2007	\$25,398.62
To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from December 2, 2007, through January 26, 2008	\$7,648.80
To pay confidential payee for claim 94M10306 for replacement of a void warrant issued August 1, 1994	\$2,592.34
SECTION 4. The following sums of money are appropriated out of the General Revenue-Vital Statistics Fund Account No. 0019 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:	
To pay J. D. Gaona for replacement of a void warrant issued August 1, 2000	\$202.05
SECTION 5. The following sums of money are appropriated out of the General Revenue-Hazardous and Solid Waste Remediation Fees Account, No. 0550 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:	
To pay Weston Solutions, Inc. for engineering and remediation services provided from August 11, 2006, to February 2, 2007	\$185,000.00
SECTION 6. The following sums of money are appropriated out of the Veterans Land Bond Series 1986 Refunding Fund No. 0571 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:	
To pay Fannin County Title Company for replacement of a void warrant issued July 21, 1999	\$237.33

SECTION 7. The following sums of money are appropriated out of the General Revenue-Petroleum Storage Tank Remediation Fund Account No. 0655 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Wells Fargo Bank NA Unclaimed Property for replacement of a void warrant issued December 5, 2008 \$123,774.23

SECTION 8. The following sums of money are appropriated out of the Unemployment Compensation Clearance Account No. 0936 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Leila Elias Fanous for replacement of a void surplus tax credit warrant issued October 19, 2001 \$20.02

To pay The Seideman Law Firm for replacement of a void surplus tax credit warrant issued March 19, 2001 \$26.73

To pay The Seideman Law Firm for replacement of a void surplus tax credit warrant issued May 8, 2000 \$19.24

SECTION 9. (a) Before any claim or judgment may be paid from money appropriated by this Act, the claim or judgment must be verified and substantiated by the administrator of the special fund or account against which the claim or judgment is to be charged and be approved by the attorney general and the comptroller of public accounts. Any claim or judgment itemized in this Act that has not been verified and substantiated by the administrator of the special fund or account and approved by the attorney general and the comptroller by August 31, 2012, may not be paid from money appropriated by this Act.

(b) Each claim or judgment paid from money appropriated by this Act must contain such information as the comptroller of public accounts requires but at a minimum must contain the specific reason for the claim or judgment. If the claim is for a void warrant, the claim must include a specific identification of the goods, services, refunds, or other items for which the warrant was originally issued. In addition, it must include a certification by the original payee or the original payee's successors, heirs, or assigns that the debt is still outstanding. If the claim or judgment is for unpaid goods or services, it must be accompanied by an invoice or other acceptable documentation of the unpaid account and any other information that may be required by the comptroller.

SECTION 10. Subject to the conditions and restrictions in this Act and provisions stated in the judgments, the comptroller of public accounts is authorized and directed to issue one or more warrants on the state treasury, as soon as possible following the effective date of this Act, in favor of each of the individuals, firms, or corporations named or claim numbers identified in this Act, in an amount not to exceed the amount set opposite their respective names or claim numbers and shall mail or deliver to each of the individuals, firms, or corporations associated with each claim one or more warrants in payment of all claims included in this Act.

SECTION 11. This Act takes effect September 1, 2011.

(Speaker in the chair)

**SB 316 - HOUSE REFUSES TO ADOPT
CONFERENCE COMMITTEE REPORT**

Representative Gallego submitted the conference committee report on **SB 316**.

(Christian now present)

Representative Gallego moved to not adopt the conference committee report on **SB 316**.

The motion to not adopt the conference committee report on **SB 316** prevailed by (Record 1528): 146 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; Cook; Craddick; Creighton; 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.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; 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; Lucio; 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 — Crownover; Gonzalez.

Absent — Johnson.

STATEMENT OF VOTE

When Record No. 1528 was taken, I was in the house but away from my desk. I would have voted yes.

Johnson

SB 316 - RECOMMITTED

Representative Gallego moved to recommit **SB 316** to the Conference Committee on **SB 316**.

The motion prevailed.

SB 316 - CONFERENCE COMMITTEE INSTRUCTED

Representative Fletcher moved to instruct the Conference Committee on **SB 316** to keep all house amendments on the bill.

The motion to instruct conferees prevailed.

(Crownover now present)

**HB 3819 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Crownover called up with senate amendments for consideration at this time,

HB 3819, A bill to be entitled An Act relating to the creation of the Valencia Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

Representative Crownover moved to concur in the senate amendments to **HB 3819**.

The motion to concur in the senate amendments to **HB 3819** prevailed by (Record 1529): 146 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; Cook; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; 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(C).

Absent, Excused — Gonzalez.

Absent — Garza; Veasey.

Senate Committee Substitute

CSHB 3819, A bill to be entitled An Act relating to the creation of the Valencia Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3868 to read as follows:

CHAPTER 3868. VALENCIA MUNICIPAL MANAGEMENT DISTRICT

NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3868.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "County" means Denton County, Texas.

(3) "Development agreement" means the "Valencia on the Lake Pre-Annexation Agreement, Development Agreement, Public Improvement District Agreement and Tax Increment Reinvestment Zone Agreement," effective December 16, 2008, as recorded on January 5, 2009, in the real property records of Denton County, Texas, as Instrument Number 2009-499, as amended by the "First Amendment to the Valencia on the Lake Pre-Annexation Agreement, Development Agreement, Public Improvement District Agreement and Tax Increment Reinvestment Zone Agreement," effective December 1, 2009, as recorded on January 12, 2010, in the real property records of Denton County, Texas, as Instrument Number 2010-2983, between the town and Valencia on the Lake, L.P., a Texas limited partnership, as may be amended.

(4) "Director" means a board member.

(5) "District" means the Valencia Municipal Management District

No. 1.

(6) "Town" means the Town of Little Elm, Texas.

Sec. 3868.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3868.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the town and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the town or county from providing the level of services provided to the area in the district as of the effective date of the Act enacting this chapter. The district is created to supplement and not to supplant the town and county services provided in the district.

Sec. 3868.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The district is created to accomplish the purposes of a municipal management district as provided by general law and Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

(d) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3868.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under Section 3868.113 or other law.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to contract;

(3) authority to borrow money or issue bonds or other obligations described by Section 3868.201 or to pay the principal and interest of the bonds or other obligations;

(4) right to impose or collect an assessment, or collect other revenue; or

(5) legality or operation.

Sec. 3868.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

(a) All or any part of the area of the district is eligible to be included in:

- (1) a tax increment reinvestment zone created under Chapter 311, Tax Code;
- (2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;
- (3) an enterprise zone created under Chapter 2303, Government Code;
- or
- (4) an industrial district created under Chapter 42, Local Government Code.

(b) If the town creates a tax increment reinvestment zone described by Subsection (a), the town and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for:

- (1) the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code; and
- (2) any other district purpose, including the right to pledge the money as security for any bonds issued by the district under Section 3868.201.

(c) A tax increment reinvestment zone created by the town in the district is not subject to the limitations provided by Section 311.006, Tax Code.

Sec. 3868.007. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3868.008-3868.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3868.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of three directors composed of:

- (1) one director appointed by the governing body of the town who meets the qualifications prescribed by Section 3868.052(a);
- (2) the town manager; and
- (3) the finance director of the town.

(b) An appointed director serves a term of four years.

Sec. 3868.052. QUALIFICATIONS OF APPOINTED DIRECTOR. (a) To be qualified to serve as an appointed director under Section 3868.051(a)(1), a person must:

- (1) meet the qualifications of Section 375.063, Local Government Code;
- (2) be a partner of a partnership that owns property in the district;
- (3) be an officer of a corporation that owns property in the district;
- (4) be a member or officer of a limited liability company that owns property in the district; or
- (5) be a member or officer of a limited liability company that is a partner of a partnership that owns property in the district.

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3868.053. COMPLETE DISCRETION OF TOWN REGARDING APPOINTMENT OF DIRECTOR. The governing body of the town may refuse to appoint a person who is nominated to be a director and meets the qualifications prescribed by Section 3868.052(a). The governing body has complete discretion in the appointment of a director.

Sec. 3868.054. VACANCY. (a) The remaining directors shall fill a vacancy on the board by appointing a person who meets the qualifications prescribed by Section 3868.052(a).

(b) If there are fewer than three directors, the governing body of the town shall appoint the necessary number of directors to fill all board vacancies.

Sec. 3868.055. DIRECTOR'S OATH OR AFFIRMATION. A director shall file the director's oath or affirmation of office with the district, and the district shall retain the oath or affirmation in the district records.

Sec. 3868.056. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary.

Sec. 3868.057. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$150 for each board meeting. The total amount of compensation a director may receive each year may not exceed \$6,000. A director who is an employee of the town may not receive compensation under this subsection.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of a director.

Sec. 3868.058. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from commercial insurance companies or other sources that protect and insure the directors against personal liability and from all claims for actions taken as directors or actions and activities taken by the district or by others acting on its behalf.

Sec. 3868.059. INITIAL DIRECTORS. (a) The initial board consists of the following directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Ivan Langford, Town Manager</u>
<u>2</u>	<u>Alan Dickerson, Town Finance Director</u>
<u>3</u>	<u>Ross Calhoun</u>

(b) Of the initial directors, the term of the director appointed for position 3 expires May 31, 2014.

(c) This section expires September 1, 2014.

[Sections 3868.060-3868.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3868.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3868.102. IMPROVEMENT PROJECTS. The district may provide, or it may enter into contracts with a governmental or private entity to provide, the improvement projects described by Subchapter C-1 or activities in support of or incidental to those projects.

Sec. 3868.103. WATER DISTRICT POWERS. The district has the powers provided by the general laws relating to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code.

Sec. 3868.104. ROAD DISTRICT POWERS. The district has the powers provided by the general laws relating to road districts and road utility districts created under Section 52(b), Article III, Texas Constitution, including Chapter 441, Transportation Code.

Sec. 3868.105. PUBLIC IMPROVEMENT DISTRICT POWERS. The district has the powers provided by Chapter 372, Local Government Code, to a municipality or county.

Sec. 3868.106. MUNICIPAL MANAGEMENT DISTRICT POWERS. The district has the powers provided by Chapter 375, Local Government Code.

Sec. 3868.107. CONTRACT POWERS. The district may contract with a governmental or private entity, on terms determined by the board, to carry out a power or duty authorized by this chapter or to accomplish a purpose for which the district is created.

Sec. 3868.108. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3868.109. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3868.110. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3868.111. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3868.112. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality;

and

(2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3868.113. ADDING OR REMOVING TERRITORY. As provided by Subchapter J, Chapter 49, Water Code, the board may add territory to the district, subject to Section 54.016, Water Code, or remove territory from the district, except that:

(1) the addition or removal of the territory must be approved by:

(A) the governing body of the town; and

(B) the owners of the territory being added or removed; and

(2) territory may not be removed from the district if bonds or other obligations of the district payable wholly or partly from assessments levied or assessed on the territory are outstanding.

Sec. 3868.114. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 3868.115. NO AD VALOREM TAX. The district may not impose an ad valorem tax.

Sec. 3868.116. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

[Sections 3868.117-3868.150 reserved for expansion]

SUBCHAPTER C-1. IMPROVEMENT PROJECTS AND SERVICES

Sec. 3868.151. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3868.152. BOARD DETERMINATION REQUIRED. The district may not undertake an improvement project unless the board determines the project:

(1) is necessary to accomplish a public purpose of the district; and

(2) complies with the development agreement or the parties to the development agreement agree to the project, in writing.

Sec. 3868.153. LOCATION OF IMPROVEMENT PROJECT. An improvement project may be inside or outside the district.

Sec. 3868.154. TOWN REQUIREMENTS. (a) An improvement project in the town must comply with any applicable requirements of the town, including codes and ordinances, that are consistent with the development agreement.

(b) The district may not provide, conduct, or authorize any improvement project on the town's streets, highways, rights-of-way, or easements without the consent of the governing body of the town.

Sec. 3868.155. IMPROVEMENT PROJECT AND SERVICE IN DEFINABLE AREA. The district may undertake an improvement project or service that confers a special benefit on a definable area in the district and levy and collect a special assessment on benefited property in the district in accordance with:

(1) Chapter 372, Local Government Code; or

(2) Chapter 375, Local Government Code.

Sec. 3868.156. CONTRACTS. A contract to design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project is considered a contract for a good or service under Subchapter I, Chapter 271, Local Government Code.

[Sections 3868.157-3868.200 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3868.201. BORROWING MONEY; OBLIGATIONS. (a) The district may borrow money for a district purpose by issuing bonds, notes, time warrants, or other obligations, or by entering into a contract payable wholly or partly from an assessment, a contract payment, a grant, revenue from a zone created under Chapter 311 or 312, Tax Code, other district revenue, or a combination of these sources.

(b) An obligation described by Subsection (a):

(1) may bear interest at a rate determined by the board; and

(2) may include a term or condition as determined by the board.

Sec. 3868.202. DEVELOPMENT AGREEMENT. Before the district borrows money or issues an obligation under Section 3868.201, the town must provide written notice to the district that no party to the development agreement is in default as of the date the district is authorized to borrow the money or enter the obligation.

Sec. 3868.203. ASSESSMENTS. The district may impose an assessment on property in the district to pay for an obligation described by Section 3868.201 in the manner provided for:

(1) a district under Subchapters A, E, and F, Chapter 375, Local Government Code; or

(2) a municipality or county under Subchapter A, Chapter 372, Local Government Code.

Sec. 3868.204. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3868.205. RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

[Sections 3868.206-3868.250 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 3868.251. DISSOLUTION BY TOWN ORDINANCE. (a) The town may dissolve the district by ordinance.

(b) The town may not dissolve the district until:

(1) the district's outstanding indebtedness or contractual obligations have been repaid or discharged; or

(2) the town agrees to succeed to the rights and obligations of the district.

(c) The town may not dissolve the district until:

(1) each party to the development agreement fulfills the party's obligations under the agreement; and

(2) the district fulfills the district's obligation to pay or reimburse a developer or owner for the costs of improvement projects and services undertaken by the district.

Sec. 3868.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, the town succeeds to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The town shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the town to refund the outstanding bonds or obligations of the district.

Sec. 3868.253. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the town dissolves the district, the town assumes the obligations of the district, including any bonds or other indebtedness payable from assessments or other district revenue.

(b) If the town dissolves the district, the board shall transfer ownership of all district property to the town.

SECTION 2. The Valencia Municipal Management District No. 1 initially includes all territory contained in the following area:

Being a 448.005 acre tract of land situated in the S. Guarrara Survey, Abstract No. 456 and the T. Rodriguez Survey, Abstract No. 1068, and the A. Cooper Survey, Abstract No. 250, in Denton County, Texas, and being all of a called 448.136 acre tract of land conveyed to Sassanid Arcady Holdings, L.P., by deed recorded in Document Number 2006-326, Real Property Records, Denton County, Texas. Said 448.005 acre tract, with bearing basis being Grid North, Texas State Plane Coordinates, North Central Zone, NAD83. Being more particularly described by metes and bounds as follows:

Beginning at a Corps of Engineers monument stamped "J-818-1/1" (TXNC-4202, N-7125809.07083, E-235639.61099, grid coordinates) found for the northeast corner of aforesaid 448.136 acre tract and being on the west line of a called 34.4606 acre tract of land conveyed to David J. Kirch by deed recorded in Volume 3060, Page 706, Denton County, Texas;

Thence South 00 degrees 17 minutes 50 seconds West, along the east line of aforesaid 448.136 acre tract and the common west lines of aforesaid 34.4606 acre tract and a called 123.243 acre tract of land conveyed to Thomas James George and Robert Joseph George by deed recorded in Volume 853, Page 138, Deed Records, Denton County, Texas, a Distance of 2121.00 feet to a point for corner;

Thence South 01 degrees 54 minutes 55 seconds West, continuing along the east line of aforesaid 448.136 acre tract and the common west lines of aforesaid 123.243 acre tract, a distance of 616.18 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-819-9" (disturbed) found for the southwest corner of said 123.243 acre tract;

Thence along the common property lines of aforesaid 448.136 acre tract and Garza-Little Elm Reservoir (Lake Lewisville) the following courses and distances:

South 05 degrees 05 minutes 39 seconds West, a distance of 973.12 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-819-7B" found for corner;

South 05 degrees 47 minutes 18 seconds West, a distance of 188.48 feet to a Corps of Engineers metal fence corner post stamped "JP-5A" found for corner;

South 89 degrees 33 minutes 02 seconds West, a distance of 201.77 feet to a Corps of Engineers metal fence corner post stamped "JP-5J" found for corner;

South 01 degrees 10 minutes 59 seconds East, a distance of 197.53 feet to a Corps of Engineers metal fence corner post stamped "JP-5K" found for corner;

South 59 degrees 49 minutes 02 seconds west, a distance of 157.90 feet to a Corps of Engineers metal fence corner post stamped "JP-5L" found for corner;

North 53 degrees 19 minutes 52 seconds West, a distance of 309.93 feet to a Corps of Engineers metal fence corner post stamped "JP-5M" found for corner;

South 66 degrees 04 minutes 16 seconds West, a distance of 446.47 feet to a Corps of Engineers metal fence corner post stamped "JP-5C" found for corner;

North 89 degrees 51 minutes 07 seconds West, a distance of 730.36 feet to a Corps of Engineers metal fence corner post stamped "JP-5D" found for corner;

South 62 degrees 27 minutes 46 seconds West, a distance of 369.89 feet to a Corps of Engineers metal fence corner post stamped "JP-5E" found for corner;

North 30 degrees 01 minutes 04 seconds West, a distance of 182.06 feet to a Corps of Engineers metal fence corner post stamped "JP-5F" found for corner;

North 77 degrees 59 minutes 54 seconds West, a distance of 203.73 feet to a Corps of Engineers metal fence corner post stamped "JP-5G" found for corner;

South 67 degrees 53 minutes 42 seconds West, a distance of 253.97 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-2-3" found for corner;

South 85 degrees 20 minutes 33 seconds, West, a distance of 1000.06 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-2-2" found for corner;

South 60 degrees 03 minutes 52 seconds West, a distance of 742.15 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-2-1" found for corner;

Thence North 88 degrees 47 minutes 14 seconds West, a distance of 900.19 feet to a 1/2" iron rod found for a northwest corner of a tract of land conveyed to Robert Sparks by deed recorded in Volume 820, Page 541, Deed Records, Denton County, Texas;

Thence South 25 degrees 56 minutes 04 seconds West, along the west line of aforesaid Robert Sparks Tract, a distance of 400.69 feet to a point for the southwest corner of said Robert Sparks Tract and being the northwest corner of The Shores at Lake Lewisville, an Addition to Denton County, Texas by plat recorded in Cabinet I., Page 386, Plat Records, Denton County, Texas;

Thence South 25 degrees 47 minutes 13 seconds West, along the west line of aforesaid The Shores at Lake Lewisville, a distance of 678.25 feet to a point for the southwest corner of the said Shores at Lake Lewisville and being the northwest corner of a called 2.4796 acre tract of land conveyed to Robert Eric Seitz and Wife, Christy L. Seitz by deed recorded in County Clerk's File No. 2001-R0084339, Real Property Records, Denton County, Texas;

Thence South 26 degrees 32 minutes 44 seconds West, along the west line of aforesaid 2.4796 acre tract, a distance of 163.19 feet to a 3/4 inch iron rod found for the southwest corner of said 2.4796 acre tract and being the northeast corner of a tract of land conveyed to Clifford E. Burgert and wife, Norma J. Burgert by deed recorded in Volume 603, page 591, Deed Records, Denton County, Texas;

Thence North 53 degrees 24 minutes 02 seconds West, along the northeast line of aforesaid Burgert Tract, a distance of 613.52 feet to a point for corner;

Thence South 00 degrees 14 minutes 27 seconds West, along the west line of aforesaid Burgert Tract, a distance of 1204.38 feet to a point for the southwest corner of said Burgert Tract;

Thence along the common property lines of aforesaid 448.136 acre tract and Garza-Little Elm Reservoir (Lake Lewisville) the following courses and distances:

South 88 degrees 47 minutes 31 seconds West, a distance of 852.62 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-723-1A" found for corner;

South 01 degrees 35 minutes 41 seconds West, a distance of 224.05 feet to a 1/2" iron rod found for corner;

South 41 degrees 04 minutes 06 seconds West, a distance of 1034.72 feet to a 1/2" iron rod found for corner;

South 31 degrees 38 minutes 08 seconds East, a distance of 43.78 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-6" found for corner;

South 67 degrees 00 minutes 25 seconds West, a distance of 339.76 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-5" found for corner;

North 03 degrees 41 minutes 10 seconds East, a distance of 799.90 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-4" found for corner;

North 54 degrees 21 minutes 53 seconds West, a distance of 880.37 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-3" (TXNC-4202, N-7119284.86086, E-2447700.74262, Grid Coordinates) found for corner;

North 43 degrees 52 minutes 25 seconds East, passing at a distance 470.45 feet a Corps of Engineers concrete monument with a brass disc stamped "H-725-2B" found for witness, continuing a total distance of 1470.92 feet to a point for corner;

North 00 degrees 16 minutes 40 seconds East, a distance of 841.00 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-1" found for corner;

South 89 degrees 24 minutes 13 seconds East, a distance of 124.81 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-802-1" found for corner;

North 11 degrees 07 minutes 21 seconds East, a distance of 189.76 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-802-1A" found for corner;

North 11 degrees 09 minutes 34 seconds East, a distance of 1139.40 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-802-1B" found for corner;

North 11 degrees 07 minutes 01 seconds East, a distance of 206.42 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-802-2" found for corner;

South 67 degrees 02 minutes 47 seconds East, a distance of 300.01 feet to a 1/2" iron rod found for corner;

North 74 degrees 49 minutes 11 seconds East, a distance of 490.87 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-807-1/1" found for corner;

South 61 degrees 15 minutes 26 seconds East, a distance of 373.27 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-807-1/2" found for corner;

South 26 degrees 49 minutes 05 seconds East, a distance of 699.90 feet to a 1/2" iron rod found for corner;

South 81 degrees 28 minutes 29 seconds East, a distance of 666.26 feet to a point for corner;

North 66 degrees 13 minute 24 seconds East, a distance of 1797.71 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-1/2" found for corner;

North 41 degrees 17 minutes 12 seconds East, a distance of 667.01 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-1/3" found for corner;

North 31 degrees 23 minutes 34 seconds East, a distance of 700.27 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-1/4" found for corner;

North 63 degrees 23 minutes 49 seconds East, a distance of 273.07 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-840-1" found for corner;

South 89 degrees 29 minutes 46 seconds East, a distance of 229.83 feet to a point for corner;

North 38 degrees 34 minutes 35 seconds East, a distance of 1360.52 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-1" found for corner;

North 80 degrees 39 minutes 19 seconds East, a distance of 243.94 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-3" found for corner;

North 59 degrees 22 minutes 33 seconds East, a distance of 168.45 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-4" found for corner;

North 44 degrees 29 minutes 05 seconds East, a distance of 399.34 feet to a 1/2" iron rod found for corner;

North 28 degrees 23 minutes 26 seconds East, a distance of 199.91 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-6" found for corner;

North 49 degrees 33 minutes 37 seconds East, a distance of 500.13 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-7" found for corner;

North 77 degrees 57 minutes 14 seconds East, a distance of 439.11 feet to the POINT OF BEGINNING, and containing 448.005 acres of land, more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect September 1, 2011.

HR 2550 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2550**, suspending the limitations on the conferees for **HB 1517**.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a conference committee meeting:

Crownover on motion of McClendon.

SB 89 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Rodriguez, the house granted the request of the senate for the appointment of a Conference Committee on **SB 89**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 89**: Rodriguez, chair; Hughes, Miles, Isaac, and Lozano.

SB 156 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative V. Gonzales, the house granted the request of the senate for the appointment of a Conference Committee on **SB 156**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 156**: V. Gonzales, chair; Coleman, J. Davis, Kolkhorst, and Zerwas.

SB 249 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Orr, the house granted the request of the senate for the appointment of a Conference Committee on **SB 249**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 249**: Orr, chair; Anchia, Flynn, Legler, and Truitt.

SB 958 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Larson, the house granted the request of the senate for the appointment of a Conference Committee on **SB 958**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 958**: Larson, chair; Guillen, Kuempel, Price, and Rodriguez.

RECESS

At 1:05 p.m., the speaker announced that the house would stand recessed until 3 p.m. today.

AFTERNOON SESSION

The house met at 3 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, House List No. 38 and Senate List No. 34).

LEAVE OF ABSENCE GRANTED

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

Castro on motion of Quintanilla.

HR 2558 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2558**, suspending the limitations on the conferees for **HB 1**.

HB 2594 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Truitt called up with senate amendments for consideration at this time,

HB 2594, A bill to be entitled An Act relating to the licensing and regulation of certain credit services organizations and the regulation of certain extensions of consumer credit obtained by those organizations or with regard to which the organizations provide assistance; providing an administrative penalty.

Representative Truitt moved to concur in the senate amendments to **HB 2594**.

The motion to concur in the senate amendments to **HB 2594** prevailed by (Record 1530): 103 Yeas, 35 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycok; Bohac; Branch; Burnam; Callegari; Chisum; Coleman; Cook; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hopson; Howard, D.; Huberty; Hughes; Hunter; Jackson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Legler; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer;

McClendon; Menendez; Miles; Miller, D.; Miller, S.; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Patrick; Peña; Pickett; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Anderson, R.; Beck; Berman; Bonnen; Brown; Burkett; Button; Cain; Carter; Christian; Craddick; Creighton; Darby; Davis, S.; Elkins; Fletcher; Flynn; Frullo; Gooden; Howard, C.; Isaac; Landtroop; Laubenberg; Lavender; Lewis; Morrison; Parker; Paxton; Perry; Phillips; Riddle; Sheffield; Taylor, V.; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Hochberg; Johnson; King, S.; King, T.; Lucio; Naishtat; Pitts; Simpson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1530. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 1530. I intended to vote no.

Huberty

When Record No. 1530 was taken, I was in the house but away from my desk. I would have voted yes.

Johnson

I was shown voting yes on Record No. 1530. I intended to vote no.

P. King

When Record No. 1530 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2594** (engrossed version) as follows:

(1) On page 13, line 24, strike "license holder" and substitute "credit access business or license holder".

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend Senate Committee Amendment No. 1 to **HB 2594** (senate committee printing, page 1, between lines 9 and 10) by adding the following item:

(2) In SECTION 2 of the bill, after added Section 393.628(a), Finance Code (page 6, between lines 27 and 28), insert the following subsection and reletter subsequent subsections of Section 393.628, Finance Code, appropriately:

(b) The commissioner shall remit to the comptroller amounts received under Subsection (a) for deposit in an interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company. Money in the account may be spent by the finance commission only for the purposes provided by this section. Amounts in the account may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from those investments shall be deposited to the credit of the account.

Senate Amendment No. 3 (Senate Committee Amendment No. 2)

Amend **HB 2594** (engrossed version) as follows:

(1) On page 2, line 27, add after the underlined period "For purposes of this chapter, this definition does not preclude repayment in more than one installment."

Senate Amendment No. 4 (Senate Floor Amendment No. 3)

Amend **HB 2594** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, strike added Section 393.602(b), Finance Code (page 2, lines 21-25), and substitute the following:

(b) A credit access business may assess fees for its services as agreed to between the parties. A credit access business fee may be calculated daily, biweekly, monthly, or on another periodic basis. A credit access business is permitted to charge amounts allowed by other laws, as applicable. A fee may not be charged unless it is disclosed.

(2) In SECTION 2 of the bill, strike added Section 393.622(c), Finance Code (page 5, lines 32-35), and substitute the following:

(c) Nothing in Section 393.201(c) or Sections 393.601-393.628 grants authority to the finance commission or the Office of Consumer Credit Commissioner to establish a limit on the fees charged by a credit access business.

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. 2).

**HB 1517 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Isaac called up with senate amendments for consideration at this time,

HB 1517, A bill to be entitled An Act relating to the disposition of fines for traffic violations collected by certain municipalities.

Representative Isaac moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1517**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1517**: Isaac, chair; Kleinschmidt, Lozano, Phillips, and Rodriguez.

HB 2761 - MOTION TO CONCUR IN SENATE AMENDMENTS

Representative Solomons called up with senate amendments for consideration at this time,

HB 2761, A bill to be entitled An Act relating to meetings and records of certain property owners' associations.

Representative Solomons moved to concur in the senate amendments to **HB 2761**.

The motion to concur in the senate amendments to **HB 2761** was lost by (Record 1531): 62 Yeas, 77 Nays, 1 Present, not voting. (The vote was reconsidered later today, and the house concurred in the senate amendments to **HB 2761** by Record No. 1535.)

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Burnam; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Gallego; Geren; Gonzales, L.; Gonzales, V.; Guillen; Gutierrez; Hernandez Luna; Howard, D.; Huberty; Hunter; Jackson; Johnson; King, S.; King, T.; Kolkhorst; Lozano; Lucio; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Otto; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Solomons; Strama; Torres; Turner; Veasey; Villarreal; Vo; Walle; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Driver; Fletcher; Flynn; Frullo; Gooden; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hilderbran; Hochberg; Hopson; Hughes; Isaac; Keffer; King, P.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Taylor, V.; Truitt; Weber; White; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Garza; Giddings; Harper-Brown; Howard, C.; Smith, W.; Taylor, L.; Thompson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1531. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1531. I intended to vote no.

Kolkhorst

HR 2569 - ADOPTED
(by Bonnen)

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HR 2569**.

The motion prevailed.

The following resolution was laid before the house:

HR 2569, Congratulating Tabbetha DuBois and Austin Powers on their wedding.

HR 2569 was adopted.

HR 2570 - ADOPTED
(by Bonnen)

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HR 2570**.

The motion prevailed.

The following resolution was laid before the house:

HR 2570, In memory of Dr. J. H. Bertheau of Lake Jackson.

HR 2570 was unanimously adopted by a rising vote.

HB 3 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 3, A bill to be entitled An Act relating to the imposition of a sentence of life without parole on certain defendants who commit certain sexual offenses.

Representative Thompson moved to concur in the senate amendments to **HB 3**.

The motion to concur in the senate amendments to **HB 3** prevailed by (Record 1532): 140 Yeas, 2 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; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Reynolds; Riddle; Ritter; Rodriguez; 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 — Carter; Kolkhorst.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Garza; Quintanilla; Raymond; Schwertner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1532. I intended to vote no.

Fletcher

I was shown voting yes on Record No. 1532. I intended to vote no.

Lewis

I was shown voting yes on Record No. 1532. I intended to vote no.

Phillips

When Record No. 1532 was taken, my vote failed to register. I would have voted yes.

Schwertner

Senate Committee Substitute

CSHB 3, A bill to be entitled An Act relating to the imposition of a sentence of life without parole on certain defendants who commit certain sexual offenses.

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

SECTION 1. Section 5(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) In all other cases the judge may grant deferred adjudication unless:

(1) the defendant is charged with an offense:

(A) under Sections 49.04-49.08, Penal Code; or

(B) for which punishment may be increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections;

(2) the defendant:

(A) is charged with an offense under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, or a felony described by Section 13B(b) of this article; and

(B) has previously been placed on community supervision for any offense under Paragraph (A) of this subdivision; or

(3) the defendant is charged with an offense under:

(A) Section 21.02, Penal Code; or

(B) Section 22.021, Penal Code, that is punishable under Subsection (f) of that section or under Section 12.42(c)(3) or (4), Penal Code.

SECTION 2. Section 508.145(d), Government Code, is amended to read as follows:

(d)(1) An inmate serving a sentence for an offense described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or (K), Article 42.12, Code of Criminal Procedure, or for an offense for which the judgment contains an affirmative finding under Section 3g(a)(2) of that article, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

(2) Notwithstanding Subdivision (1), an inmate serving a sentence for an offense described by Section 3g(a)(1)(E), Article 42.12, Code of Criminal Procedure, is not eligible for release on parole if the inmate is serving a sentence for an offense for which punishment was enhanced under Section 12.42(c)(4), Penal Code.

SECTION 3. Sections 12.42(b) and (d), Penal Code, are amended to read as follows:

(b) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a second-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a first-degree felony.

(d) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction he shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

SECTION 4. Section 12.42(c)(4), Penal Code, is amended to read as follows:

(4) Notwithstanding Subdivision (1) or (2), a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of an offense under Section 21.02 or 22.021 that the defendant has previously been finally convicted of:

(A) an offense under Section 21.02 or 22.021; or

(B) an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 21.02 or 22.021.

SECTION 5. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act takes effect September 1, 2011.

**HB 2207 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Oliveira called up with senate amendments for consideration at this time,

HB 2207, A bill to be entitled An Act relating to the authority of the board of trustees to set rates for certain municipal utility systems.

Representative Oliveira moved to concur in the senate amendments to **HB 2207**.

The motion to concur in the senate amendments to **HB 2207** prevailed by (Record 1533): 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; Chisum; Christian; Coleman; Cook; Craddick; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, V.; Gooden; Guillen; 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; Lucio; 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 — Castro; Crownover; Gonzalez.

Absent — Creighton; Garza; Gonzales, L.; Gutierrez.

Senate Committee Substitute

CSHB 2207, A bill to be entitled An Act relating to the authority of the board of trustees to set rates for certain municipal utility systems.

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

SECTION 1. Section 552.141, Local Government Code, is amended to read as follows:

Sec. 552.141. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality that owns or may own a water, wastewater, storm water, or drainage utility system, by ordinance or charter elects to have the management and control of two or more of those utility systems governed by this subchapter, and:

(1) has outstanding obligations payable solely from and secured by a lien on and pledge of the net revenue of one or more of those systems; or

(2) issues obligations that are payable solely from and secured by a lien on and pledge of the net revenue of one or more of those systems.

SECTION 2. Section 552.142(a), Local Government Code, is amended to read as follows:

(a) A municipality by ordinance may transfer management and control of two or more of its water, wastewater, storm water, or drainage systems to a board of trustees. A municipality by ordinance may grant the board authority to set rates and related terms for the systems.

SECTION 3. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2207** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. (a) Subsection (a), Section 1502.056, Government Code, is amended to read as follows:

(a) If the revenue of a utility system, park, or swimming pool secures the payment of public securities issued or obligations incurred under this chapter, each expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to provide efficient service, and each proper item of expense, is a first lien against that revenue. For a municipality with a population of more than one million but less than two million, the first lien against the revenue of a municipally owned [electric or gas] utility system that secures the payment of public securities issued or obligations incurred under this chapter also applies to funding, as a necessary operations expense, for a bill payment assistance program for utility system customers who have been threatened with disconnection from service for nonpayment of bills and who have been determined by the municipality to be low-income customers.

(b) Notwithstanding any other provision of this Act, this section takes effect immediately if this Act 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 section takes effect September 1, 2011.

**HB 1386 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Coleman called up with senate amendments for consideration at this time,

HB 1386, A bill to be entitled An Act relating to the public health threat presented by youth suicide.

HB 1386 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE KOLKHORST: My questions are on the amendment, which is really **SB 1349**, I believe.

REPRESENTATIVE COLEMAN: That's correct.

KOLKHORST: Just to clarify—what she added in those lists—does this apply to private institutions as well?

COLEMAN: No, it does not.

KOLKHORST: Okay. And then the question I had just from rural school districts—you know, sometimes we have folks, like pastors or other staff members, that counsel the students. This bill, as I understand it, the amendment adds to the list the licensed marriage and family therapists. And it has a grandfather clause, but in the future could other volunteers help—

COLEMAN: Yes.

KOLKHORST: —in that role?

COLEMAN: They're not subject to this, and I think the confusion is that licensed marriage and family therapists are a class of "provider" just like a psychologist, a doctor, an APN. This is not saying others are excluded from providing those volunteer services wherever they may come from if that school district wants that. But it says that this professional therapist or counselor is included to be able to serve in those capacities in the school district. So nothing in this mandates that a school district hire a licensed marriage and family therapist, nor does it stop them, and should not, from having community volunteers that may do the same work in their church.

REMARKS ORDERED PRINTED

Representative Kolkhorst moved to print remarks between Representative Coleman and Representative Kolkhorst.

The motion prevailed.

Representative Coleman moved to concur in the senate amendments to **HB 1386**.

The motion to concur in the senate amendments to **HB 1386** prevailed by (Record 1534): 111 Yeas, 32 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Branch; Brown; Burnam; Cain; Carter; Chisum; Christian; Coleman; Cook; Craddick; Davis, J.; Davis, S.; Davis, Y.; Deshotel;

Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Larson; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Berman; Bonnen; Burkett; Button; Callegari; Creighton; Darby; Elkins; Flynn; Gooden; Hilderbran; Hughes; Kleinschmidt; Landtroop; Laubenberg; Legler; Miller, D.; Miller, S.; Parker; Paxton; Perry; Phillips; Price; Schwertner; Sheffield; Simpson; Taylor, V.; Weber; White; Woolley; Workman; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Bohac; Garza; Taylor, L.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1534. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 1534. I intended to vote no.

Orr

I was shown voting no on Record No. 1534. I intended to vote yes.

Parker

Senate Committee Substitute

CSHB 1386, A bill to be entitled An Act relating to the public health threat presented by youth suicide.

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

SECTION 1. This Act is dedicated to every child who has fallen victim to severe emotional trauma.

SECTION 2. The legislature finds that:

(1) the United States Surgeon General's Report on Children's Mental Health estimates that one in five children and adolescents will experience a significant mental health problem during their school years;

(2) during elementary school years, children are in an ongoing developmental process where it is crucial that healthy mental and behavioral development be promoted and that a solid foundation in social-emotional skills and capacities be built;

(3) adolescence is a period of significant change, during which youth are faced with a myriad of pressures;

(4) the pressures facing youth during adolescence include pressures relating to adapting to bodily changes, succeeding academically, making college and career decisions, being accepted by peers, including pressure to engage in drugs, alcohol, and sex, measuring up to expectations of others, and coping with family and peer conflicts;

(5) increased levels of victimization also lead to increased levels of depression and anxiety and decreased levels of self-esteem;

(6) emotional trauma and mental health issues, if left unaddressed, can lead and have led to life-threatening violence and suicide;

(7) suicide committed by youth continues to present a public health threat that endangers the well-being of the youth of the state;

(8) suicide is the third leading cause of death for persons who are at least 15 years of age but younger than 25 years of age and the sixth leading cause of death for persons who are at least 5 years of age but younger than 15 years of age; and

(9) it is of the utmost importance to keep children and adolescents mentally healthy and on a course to become mentally healthy adults.

SECTION 3. Chapter 161, Health and Safety Code, is amended by adding Subchapter O-1 to read as follows:

SUBCHAPTER O-1. EARLY MENTAL HEALTH INTERVENTION AND PREVENTION OF YOUTH SUICIDE

Sec. 161.325. EARLY MENTAL HEALTH INTERVENTION AND SUICIDE PREVENTION. (a) The department, in coordination with the Texas Education Agency, shall provide and annually update a list of recommended best practice-based early mental health intervention and suicide prevention programs for implementation in public elementary, junior high, middle, and high schools within the general education setting. Each school district may select from the list a program or programs appropriate for implementation in the district.

(b) The programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

(1) recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;

(2) recognize students displaying early warning signs and a possible need for early mental health intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and

(3) intervene effectively with students described by Subdivision (1) or (2) by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health services, may be taken by a parent or guardian.

(c) In developing the list of programs, the department and the Texas Education Agency shall consider:

(1) any existing suicide prevention method developed by a school district; and

(2) any Internet or online course or program developed in this state or another state that is based on best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

(d) The board of trustees of each school district may adopt a policy concerning early mental health intervention and suicide prevention that:

(1) establishes a procedure for providing notice of a recommendation for early mental health intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);

(2) establishes a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);

(3) establishes that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health intervention or suicide prevention; and

(4) sets out available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health intervention or suicide prevention.

(e) The policy must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health intervention or suicide prevention.

(f) The policy and any necessary procedures adopted under Subsection (d) must be included in:

(1) the annual student handbook; and

(2) the district improvement plan under Section 11.252, Education

Code.

(g) The department may accept donations for purposes of this section from sources without a conflict of interest. The department may not accept donations for purposes of this section from an anonymous source.

(h) Not later than January 1, 2013, the department shall submit a report to the legislature relating to the development of the list of programs and the implementation in school districts of selected programs by school districts that choose to implement programs. This subsection expires September 1, 2013.

(i) Nothing in this section is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Policy and procedures adopted in accordance with this section are intended to notify a parent or guardian of a need for mental health intervention so that a parent or guardian may take appropriate action. Nothing in this section shall be construed as giving school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

SECTION 4. Section 11.252(a), Education Code, is amended to read as follows:

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the student achievement indicators adopted under Section 39.053. The district improvement plan must include provisions for:

(1) a comprehensive needs assessment addressing district student performance on the student achievement indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29;

(2) measurable district performance objectives for all appropriate student achievement indicators for all student populations, including students in special education programs under Subchapter A, Chapter 29, and other measures of student performance that may be identified through the comprehensive needs assessment;

(3) strategies for improvement of student performance that include:

(A) instructional methods for addressing the needs of student groups not achieving their full potential;

(B) methods for addressing the needs of students for special programs, including:

(i) [~~such as~~] suicide prevention programs, in accordance with Subchapter O-1, Chapter 161, Health and Safety Code, which includes a parental or guardian notification procedure;

(ii) [5] conflict resolution programs;

(iii) [5] violence prevention programs; and

(iv) [~~7-07~~] dyslexia treatment programs;

(C) dropout reduction;

(D) integration of technology in instructional and administrative programs;

(E) discipline management;

(F) staff development for professional staff of the district;

(G) career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities; and

(H) accelerated education;

(4) strategies for providing to middle school, junior high school, and high school students, those students' teachers and counselors, and those students' parents information about:

(A) higher education admissions and financial aid opportunities;

(B) the TEXAS grant program and the Teach for Texas grant program established under Chapter 56;

(C) the need for students to make informed curriculum choices to be prepared for success beyond high school; and

(D) sources of information on higher education admissions and financial aid;

(5) resources needed to implement identified strategies;

(6) staff responsible for ensuring the accomplishment of each strategy;

(7) timelines for ongoing monitoring of the implementation of each improvement strategy; and

(8) formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance.

SECTION 5. This Act applies beginning with the 2012-2013 school year.

SECTION 6. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1386** by adding to the bill the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (b), Section 21.003, Education Code, is amended to read as follows:

(b) Except as otherwise provided by this subsection, a [A] person may not be employed by a school district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, marriage and family therapist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession and [A person] may perform specific services within those professions for a school district only if the person holds the appropriate credential from the appropriate state agency. As long as a person employed by a district before September 1, 2011, to perform marriage and family therapy, as defined by Section 502.002, Occupations Code, is employed by the same district, the person is not required to hold a license as a marriage and family therapist to perform marriage and family therapy with that district.

SECTION _____. Section 502.004, Occupations Code, is amended to read as follows:

Sec. 502.004. APPLICATION OF CHAPTER. This chapter does not apply to:

(1) the activities, within the scope of a person's employment, of a person employed to perform marriage and family therapy by a federal, state, county, or municipal agency or, except as provided by Section 21.003(b), Education Code, by a public or private educational institution [if the activities are within the scope of the person's employment];

(2) the activities of a student, intern, or trainee in marriage and family therapy in a recognized course of study in marriage and family therapy at an accredited institution of higher education or other training institution, if:

(A) the activities constitute a part of the course of study; and

(B) the person is called a "marriage and family therapist intern" or similar title;

(3) the activities and services of a person licensed to practice another profession, including a physician, attorney, registered nurse, occupational therapist, psychologist, social worker, or licensed professional counselor; or

(4) the activities and services of a recognized religious practitioner, including a pastoral counselor or Christian Science practitioner recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, if the practitioner practices marriage and family therapy in a manner consistent with the laws of this state.

SECTION _____. As soon as practicable after the effective date of this Act, the State Board for Educator Certification shall propose rules for the administration of Subsection (b), Section 21.003, Education Code, as amended by this Act.

HB 2761 - VOTE RECONSIDERED

Representative Simpson moved to reconsider the vote by which the motion to concur in the senate amendments to **HB 2761** was lost earlier today.

The motion to reconsider prevailed.

HB 2761 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Solomons called up with senate amendments for consideration at this time,

HB 2761, A bill to be entitled An Act relating to meetings and records of certain property owners' associations.

Representative Solomons moved to concur in the senate amendments to **HB 2761**.

The motion to concur in the senate amendments to **HB 2761** prevailed by (Record 1535): 122 Yeas, 16 Nays, 1 Present, not voting.

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

Nays — Berman; Carter; Christian; Creighton; Davis, S.; Flynn; Gooden; Hardcastle; Isaac; Landtroop; Larson; Lewis; Paxton; Price; Taylor, V.; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Alonzo; Garza; Howard, C.; Jackson; Murphy; Phillips; Pitts; Smith, W.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1535. I intended to vote no.

Hochberg

Senate Committee Substitute

CSHB 2761, A bill to be entitled An Act relating to meetings, elections, and records of certain property owners' associations.

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

SECTION 1. Section 209.005, Property Code, is amended to read as follows:

Sec. 209.005. ASSOCIATION RECORDS. (a) Except as provided by Subsection (b), this section applies to all property owners' associations and controls over other law not specifically applicable to a property owners' association.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(c) Notwithstanding a provision in a dedicatory instrument, a [A] property owners' association shall make the books and records of the association, including financial records, open to and reasonably available for examination by [t] an owner, or a person designated in a writing signed by the owner as the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the association copies of information contained in the books and records [Section B, Article 2.23, Texas Non Profit Corporation Act (Article 1396-2.23, Vernon's Texas Civil Statutes)].

(d) Except as provided by this subsection, an [(a-1) A property owners' association described by Section 552.0036(2), Government Code, shall make the books and records of the association, including financial records, reasonably available to any person requesting access to the books or records in accordance with Chapter 552, Government Code. Subsection (a) does not apply to a property owners' association to which this subsection applies.

[(b) An] attorney's files and records relating to the property owners' association, excluding invoices requested by an owner under Section 209.008(d), are not[:

[(1) records of the association and are not[;

[(2) subject to inspection by the owner[;] or

~~[(2) subject to]~~ production in a legal proceeding. If a document in an attorney's files and records relating to the association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced by using the copy from the attorney's files and records if the association has not maintained a separate copy of the document. This subsection does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.

(e) An owner or the owner's authorized representative described by Subsection (c) must submit a written request for access or information under Subsection (c) by certified mail, with sufficient detail describing the property owners' association's books and records requested, to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section 209.004. The request must contain an election either to inspect the books and records before obtaining copies or to have the property owners' association forward copies of the requested books and records and:

(1) if an inspection is requested, the association, on or before the 10th business day after the date the association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the association; or

(2) if copies of identified books and records are requested, the association shall, to the extent those books and records are in the possession, custody, or control of the association, produce the requested books and records for the requesting party on or before the 10th business day after the date the association receives the request, except as otherwise provided by this section.

(f) If the property owners' association is unable to produce the books or records requested under Subsection (e) on or before the 10th business day after the date the association receives the request, the association must provide to the requestor written notice that:

(1) informs the requestor that the association is unable to produce the information on or before the 10th business day after the date the association received the request; and

(2) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.

(g) If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the property owners' association to copy and forward to the requesting party.

(h) A property owners' association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the association.

(i) A property owners' association board must adopt a records production and copying policy that prescribes the costs the association will charge for the compilation, production, and reproduction of information requested under this

section. The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3. The policy required by this subsection must be recorded as a dedicatory instrument in accordance with Section 202.006. An association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by this subsection. An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this subsection. The association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.

(j) A property owners' association must estimate costs under this section using amounts prescribed by the policy adopted under Subsection (i).

(k) Except as provided by Subsection (l) and to the extent the information is provided in the meeting minutes, the property owners' association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner of an association, an owner's personal financial information, including records of payment or nonpayment of amounts due the association, an owner's contact information, other than the owner's address, or information related to an employee of the association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.

(l) The books and records described by Subsection (k) shall be released or made available for inspection if:

(1) the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners' association; or

(2) a court orders the release of the books and records or orders that the books and records be made available for inspection.

(m) A property owners' association composed of more than 14 lots shall adopt and comply with a document retention policy that includes, at a minimum, the following requirements:

(1) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;

(2) financial books and records shall be retained for seven years;

(3) account records of current owners shall be retained for five years;

(4) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;

(5) minutes of meetings of the owners and the board shall be retained for seven years; and

(6) tax returns and audit records shall be retained for seven years.

(n) A member of a property owners' association who is denied access to or copies of association books or records to which the member is entitled under this section may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the association is located requesting relief in accordance with this subsection. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:

(1) a judgment ordering the property owners' association to release or allow access to the books or records;

(2) a judgment against the property owners' association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or

(3) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the property owners' association.

(o) If the property owners' association prevails in an action under Subsection (n), the association is entitled to a judgment for court costs and attorney's fees incurred by the association in connection with the action.

(p) On or before the 10th business day before the date a person brings an action against a property owners' association under this section, the person must send written notice to the association of the person's intent to bring the action.

The notice must:

(1) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section 209.004; and

(2) describe with sufficient detail the books and records being requested.

(q) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

SECTION 2. Chapter 209, Property Code, is amended by adding Sections 209.0051 and 209.0056 to read as follows:

Sec. 209.0051. OPEN BOARD MEETINGS. (a) This section does not apply to a property owners' association that is subject to Chapter 551, Government Code, by application of Section 551.0015, Government Code.

(b) In this section:

(1) "Board meeting":

(A) means a deliberation between a quorum of the voting board of the property owners' association, or between a quorum of the voting board and another person, during which property owners' association business is considered and the board takes formal action; and

(B) does not include the gathering of a quorum of the board at a social function unrelated to the business of the association or the attendance by a quorum of the board at a regional, state, or national convention, ceremonial event, or press conference, if formal action is not taken and any discussion of association business is incidental to the social function, convention, ceremonial event, or press conference.

(2) "Development period" means a period stated in a declaration during which a declarant reserves:

(A) a right to facilitate the development, construction, and marketing of the subdivision; and

(B) a right to direct the size, shape, and composition of the subdivision.

(c) Regular and special board meetings must be open to owners, subject to the right of the board to adjourn a board meeting and reconvene in closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the property owners' association's attorney, matters involving the invasion of privacy of individual owners, or matters that are to remain confidential by request of the affected parties and agreement of the board. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

(c-1) Except for a meeting held by electronic or telephonic means under Subsection (h), a board meeting must be held in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county.

(d) The board shall keep a record of each regular or special board meeting in the form of written minutes of the meeting. The board shall make meeting records, including approved minutes, available to a member for inspection and copying on the member's written request to the property owners' association's managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the board.

(e) Members shall be given notice of the date, hour, place, and general subject of a regular or special board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be:

(1) mailed to each property owner not later than the 10th day or earlier than the 60th day before the date of the meeting; or

(2) provided at least 72 hours before the start of the meeting by:

(A) posting the notice in a conspicuous manner reasonably designed to provide notice to property owners' association members:

(i) in a place located on the association's common property or, with the property owner's consent, on other conspicuously located privately owned property within the subdivision; or

(ii) on any Internet website maintained by the association or other Internet media; and

(B) sending the notice by e-mail to each owner who has registered an e-mail address with the association.

(f) It is an owner's duty to keep an updated e-mail address registered with the property owners' association under Subsection (e)(2)(B).

(g) If the board recesses a regular or special board meeting to continue the following regular business day, the board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this section. If a regular or special board meeting is continued to the following regular business day, and on that following day the board continues the meeting to another day, the board shall give notice of the continuation in at least one manner prescribed by Subsection (e)(2)(A) within two hours after adjourning the meeting being continued.

(h) A board may meet by any method of communication, including electronic and telephonic, without prior notice to owners under Subsection (e), if each director may hear and be heard by every other director, or the board may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate board action. Any action taken without notice to owners under Subsection (e) must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special board meeting. The board may not, without prior notice to owners under Subsection (e), consider or vote on:

(1) fines;

(2) damage assessments;

(3) initiation of foreclosure actions;

(4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;

(5) increases in assessments;

(6) levying of special assessments;

(7) appeals from a denial of architectural control approval; or

(8) a suspension of a right of a particular owner before the owner has an opportunity to attend a board meeting to present the owner's position, including any defense, on the issue.

(i) This section applies to a meeting of a property owners' association board during the development period only if the meeting is conducted for the purpose of:

(1) adopting or amending the governing documents, including declarations, bylaws, rules, and regulations of the association;

(2) increasing the amount of regular assessments of the association or adopting or increasing a special assessment;

(3) electing non-developer board members of the association or establishing a process by which those members are elected; or

(4) changing the voting rights of members of the association.

Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE. (a) Not later than the 10th day or earlier than the 60th day before the date of an election or vote, a property owners' association shall give written notice of the election or vote to:

(1) each owner of property in the property owners' association, for purposes of an association-wide election or vote; or

(2) each owner of property in the property owners' association entitled under the dedicatory instruments to vote in a particular representative election, for purposes of a vote that involves election of representatives of the association who are vested under the dedicatory instruments of the property owners' association with the authority to elect or appoint board members of the property owners' association.

(b) This section supersedes any contrary requirement in a dedicatory instrument.

(c) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

SECTION 3. Section 209.009, Property Code, is amended to read as follows:

Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN CIRCUMSTANCES. A property owners' association may not foreclose a property owners' association's assessment lien if the debt securing the lien consists solely of:

(1) fines assessed by the association; [~~or~~]

(2) attorney's fees incurred by the association solely associated with fines assessed by the association; or

(3) amounts added to the owner's account as an assessment under Section 209.005(i).

SECTION 4. Chapter 209, Property Code, is amended by adding Section 209.014 to read as follows:

Sec. 209.014. MANDATORY ELECTION REQUIRED AFTER FAILURE TO CALL REGULAR MEETING. (a) Notwithstanding any provision in a dedicatory instrument, a board of a property owners' association shall call an annual meeting of the members of the association.

(b) If a board of a property owners' association does not call an annual meeting of the association members, an owner may demand that a meeting of the association members be called not later than the 30th day after the date of the owner's demand. The owner's demand must be made in writing and sent by certified mail, return receipt requested, to the registered agent of the property owners' association and to the association at the address for the association according to the most recently filed management certificate. A copy of the notice must be sent to each property owner who is a member of the association.

(c) If the board does not call a meeting of the members of the property owners' association on or before the 30th day after the date of a demand under Subsection (b), three or more owners may form an election committee. The election committee shall file written notice of the committee's formation with the county clerk of each county in which the subdivision is located.

(d) A notice filed by an election committee must contain:

(1) a statement that an election committee has been formed to call a meeting of owners who are members of the property owners' association for the sole purpose of electing board members;

(2) the name and residential address of each committee member; and

(3) the name of the subdivision over which the property owners' association has jurisdiction under a dedicatory instrument.

(e) Each committee member must sign and acknowledge the notice before a notary or other official authorized to take acknowledgments.

(f) The county clerk shall enter on the notice the date the notice is filed and record the notice in the county's real property records.

(g) Only one committee in a subdivision may operate under this section at one time. If more than one committee in a subdivision files a notice, the first committee that files a notice, after having complied with all other requirements of this section, is the committee with the power to act under this section. A committee that does not hold or conduct a successful election within four months after the date the notice is filed with the county clerk is dissolved by operation of law. An election held or conducted by a dissolved committee is ineffective for any purpose under this section.

(h) The election committee may call meetings of the owners who are members of the property owners' association for the sole purpose of electing board members. Notice, quorum, and voting provisions contained in the bylaws of the property owners' association apply to any meeting called by the election committee.

SECTION 5. (a) Section 209.005, Property Code, as amended by this Act, applies only to a request for information received by a property owners' association on or after the effective date of this Act. A request for information received by a property owners' association 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.

(b) Subsection (m), Section 209.005, Property Code, as added by this Act, applies only with respect to books and records generated on or after the effective date of this Act. Books and records generated before the effective date of this Act 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.

(c) Section 209.014, Property Code, as added by this Act, applies to a property owners' association created before, on, or after the effective date of this Act.

SECTION 6. This Act takes effect January 1, 2012.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend CSHB 2761 (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in the recital (page 3, line 68), strike "Sections 209.0051 and 209.0056" and substitute "Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059, 209.00591, 209.00592, and 209.00593".

(2) In SECTION 2 of the bill, following added Section 209.0056, Property Code (page 6, between lines 2 and 3), insert the following:

Sec. 209.0057. RECOUNT OF VOTES. (a) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(b) Any owner may, not later than the 15th day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either:

(1) by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation service to the property owners' association's mailing address as reflected on the latest management certificate filed under Section 209.004; or

(2) in person to the property owners' association's managing agent as reflected on the latest management certificate filed under Section 209.004 or to the address to which absentee and proxy ballots are mailed.

(c) The property owners' association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this subsection. The association shall enter into a contract for the services of a person who:

(1) is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and

(2) is:

(A) a current or former:

(i) county judge;

(ii) county elections administrator;

(iii) justice of the peace; or

(iv) county voter registrar; or

(B) a person agreed on by the association and the persons requesting the recount.

(d) Any recount under Subsection (b) must be performed on or before the 30th day after the date of receipt of a request and payment for a recount in accordance with Subsections (b) and (c). If the recount changes the results of the election, the property owners' association shall reimburse the requesting owner for the cost of the recount. The property owners' association shall provide the results of the recount to each owner who requested the recount. Any action taken by the board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

Sec. 209.0058. BALLOTS. (a) Any vote cast in an election or vote by a member of a property owners' association must be in writing and signed by the member.

(b) Electronic votes cast under Section 209.00592 constitute written and signed ballots.

(c) In an association-wide election, written and signed ballots are not required for uncontested races.

Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a dedicatory instrument that would disqualify a property owner from voting in a property owners' association election of board members or on any matter concerning the rights or responsibilities of the owner is void.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.00591. BOARD MEMBERSHIP. (a) Except as provided by this section, a provision in a dedicatory instrument that restricts a property owner's right to run for a position on the board of the property owners' association is void.

(b) If a board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member has been convicted of a felony or crime involving moral turpitude, the board member is immediately ineligible to serve on the board of the property owners' association, automatically considered removed from the board, and prohibited from future service on the board.

(c) The declaration may provide for a period of declarant control of the association during which a declarant, or persons designated by the declarant, may appoint and remove board members and the officers of the association, other than board members or officers elected by members of the property owners' association. Regardless of the period of declarant control provided by the declaration, on or before the 120th day after the date 75 percent of the lots that may be created and made subject to the declaration are conveyed to owners other than a declarant, at least one-third of the board members must be elected by owners other than the declarant. If the declaration does not include the number of lots that may be created and made subject to the declaration, at least one-third of the board members must be elected by owners other than the declarant not later than the 10th anniversary of the date the declaration was recorded.

Sec. 209.00592. VOTING; QUORUM. (a) The voting rights of an owner may be cast or given:

(1) in person or by proxy at a meeting of the property owners' association;

(2) by absentee ballot in accordance with this section;

(3) by electronic ballot in accordance with this section; or

(4) by any method of representative or delegated voting provided by a dedicatory instrument.

(b) An absentee or electronic ballot:

(1) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;

(2) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and

(3) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.

(c) A solicitation for votes by absentee ballot must include:

(1) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;

(2) instructions for delivery of the completed absentee ballot, including the delivery location; and

(3) the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

(d) For the purposes of this section, "electronic ballot" means a ballot:

(1) given by:

(A) e-mail;

(B) facsimile; or

(C) posting on an Internet website;

(2) for which the identity of the property owner submitting the ballot can be confirmed; and

(3) for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.

(e) If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website.

(f) This section supersedes any contrary provision in a dedicatory instrument.

(g) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.00593. ELECTION OF BOARD MEMBERS.

(a) Notwithstanding any provision in a dedicatory instrument, any board member whose term has expired must be elected by owners who are members of the property owners' association. A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability. A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member.

(b) The board of a property owners' association may amend the bylaws of the property owners' association to provide for elections to be held as required by Subsection (a).

(c) The appointment of a board member in violation of this section is void.

(d) This section does not apply to the appointment of a board member during a development period. In this subsection, "development period" means a period stated in a declaration during which a declarant reserves:

(1) a right to facilitate the development, construction, and marketing of the subdivision; and

(2) a right to direct the size, shape, and composition of the subdivision.

(e) This section does not apply to a representative board whose members or delegates are elected or appointed by representatives of a property owners' association who are elected by owner members of a property owners' association.

(3) In SECTION 5 of the bill, insert the following appropriately designated subsection and redesignate subsections of the SECTION accordingly:

() Section 209.0059 and Subsection (a), Section 209.00591, Property Code, as added by this Act, apply to a provision in a dedicatory instrument or a restrictive covenant enacted before, on, or after the effective date of this Act.

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

SECTION _____. Section 209.003, Property Code, is amended by adding Subsection (e) to read as follows:

(e) The following provisions of this chapter do not apply to a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines:

(1) Section 209.005(c);

(2) Section 209.0056;

(3) Section 209.0057;

(4) Section 209.0058; and

(5) Section 209.00592.

HB 1043 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Christian called up with senate amendments for consideration at this time,

HB 1043, A bill to be entitled An Act relating to creating an offense for engaging in certain conduct relating to cockfighting.

Representative Christian moved to concur in the senate amendments to **HB 1043**.

The motion to concur in the senate amendments to **HB 1043** prevailed by (Record 1536): 129 Yeas, 12 Nays, 1 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hughes; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Larson; Laubenberg; Legler; Lucio; 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; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Isaac; King, T.; Kuempel; Landtroop; Lavender; Lewis; Lozano; Muñoz; Perry; Scott; Taylor, V.; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Allen; Garza; Guillen; Howard, C.; Smith, W.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1043** (senate committee printing) as follows:

(1) In added Section 42.105, Penal Code (page 1, lines 27-28), strike "or operates a facility used for cockfighting" and substitute "a cockfight".

(2) In added Section 42.105, Penal Code (page 1, line 56), strike "(b)(1), (2), (3), or (5)" and substitute "(b)(1) or (2)".

(3) In added Section 42.105, Penal Code (page 1, line 57), strike "(b)(4)" and substitute "(b)(3), (4), or (5)".

(4) In added Section 42.105, Penal Code (page 1, between lines 55 and 56), insert the following new Subsection (f) and renumber the subsequent subsections of added Section 42.105, Penal Code, accordingly:

(f) It is an exception to the application of Subsection (b)(6) that the actor is 15 years of age or younger at the time of the offense.

HB 1728 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Keffer called up with senate amendments for consideration at this time,

HB 1728, A bill to be entitled An Act relating to energy savings performance contracts and energy efficiency planning.

Representative Keffer moved to concur in the senate amendments to **HB 1728**.

The motion to concur in the senate amendments to **HB 1728** prevailed by (Record 1537): 143 Yeas, 0 Nays, 2 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; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martínez 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); Harper-Brown.

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Farrar; Garza.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1537. I intended to vote no.

Guillen

I was shown voting yes on Record No. 1537. I intended to vote no.

Peña

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1728** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike proposed Section 44.901(f-1), Education Code (page, 1 line 62, through page 2, line 6), and substitute the following:

(f-1) Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for such costs solely out of the savings realized by the school district under an energy savings performance contract. The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(2) In SECTION 3 of the bill, strike proposed Section 51.927(g-1), Education Code (page 3, lines 1 through 9), and substitute the following:

(g-1) Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for such costs solely out of the savings realized by the institution of higher education under an energy savings performance contract. The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(3) In SECTION 4 of the bill, strike proposed Section 2166.406(f-1), Government Code (page 3, line 61, through page 4, line 1), and substitute the following:

(f-1) Notwithstanding other law, the state agency may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the state agency is not required to pay for such costs solely out of the savings realized by the state agency under an energy savings performance contract. The state agency may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(4) In SECTION 6 of the bill, strike proposed Section 302.004(a-1), Local Government Code (page 4, line 69, through page 5, line 9), and substitute the following:

(a-1) Notwithstanding other law, the governing body of a local government may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the governing body is not required to pay for such costs solely out of the savings realized by the local government under an energy savings performance contract. The governing body may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

HB 1788 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Farias called up with senate amendments for consideration at this time,

HB 1788, A bill to be entitled An Act relating to capturing reptiles and amphibians by nonlethal means; providing a penalty.

Representative Farias moved to concur in the senate amendments to **HB 1788**.

The motion to concur in the senate amendments to **HB 1788** prevailed by (Record 1538): 96 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Beck; Bohac; Branch; Burnam; Cain; Chisum; Christian; Coleman; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Farias; Fletcher; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Scott; Simpson; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Aycocock; Berman; Bonnen; Brown; Burkett; Button; Callegari; Carter; Cook; Craddick; Creighton; Darby; Driver; Elkins; Flynn; Frullo; Hamilton; Hancock; Harless; Huberty; Landtroop; Laubenberg; Lavender; Legler; Lewis; Madden; Miller, D.; Miller, S.; Nash; Parker; Patrick; Paxton; Peña; Perry; Ritter; Schwertner; Sheets; Sheffield; Shelton; Smith, T.; Solomons; Truitt; Weber; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Farrar; Garza; Otto.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1538. I intended to vote no.

Orr

Senate Committee Substitute

CSHB 1788, A bill to be entitled An Act relating to capturing reptiles and amphibians by nonlethal means; providing a penalty.

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

SECTION 1. Chapter 43, Parks and Wildlife Code, is amended by adding Subchapter W to read as follows:

SUBCHAPTER W. REPTILE AND AMPHIBIAN STAMP

Sec. 43.901. REPTILE AND AMPHIBIAN STAMP REQUIRED.

(a) Except as provided by Section 43.905, a person may capture by nonlethal means an indigenous reptile or amphibian on the shoulder of a road, as defined by Section 541.302, Transportation Code, or the unpaved area of a public right-of-way only if the person possesses a reptile and amphibian stamp issued to the person by the department.

(b) The commission by rule shall prescribe the form, design, and manner of issuance of a stamp under this subchapter.

(c) The stamp is not valid unless the person to whom the stamp is issued has signed the stamp on its face.

(d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

(e) A stamp issued under this subchapter is valid only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. Each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission.

Sec. 43.902. FEE. The fee for a reptile and amphibian stamp is \$10. The department may issue other editions of the stamp that are not valid for capturing by nonlethal means a species covered by this subchapter for a fee set by the commission.

Sec. 43.903. HUNTING LICENSE REQUIRED. The possession of a reptile and amphibian stamp does not authorize a person to capture by nonlethal means an indigenous reptile or amphibian:

(1) without possessing a hunting license required by Section 42.002 or 42.005; or

(2) at a time or by means not otherwise authorized by this code.

Sec. 43.904. STAMP SALE RECEIPTS. The net revenue derived from the sale of reptile and amphibian stamps shall be credited to the game, fish, and water safety account.

Sec. 43.905. EXEMPTIONS. A person is not required to have a hunting license or reptile and amphibian stamp to capture by nonlethal means and subsequently release in another location an indigenous reptile or amphibian if the person is:

(1) performing activities related to the operation and maintenance of pipelines and related facilities or to oil or gas exploration or production;

(2) an employee of the state, a utility, as defined by Section 203.091, Transportation Code, or a power generation company, as defined by Section 31.002, Utilities Code, and is acting in the course and scope of the person's employment with the state, the utility, or the power generation company; or

(3) performing activities related to surface coal mining and reclamation operations as defined by Section 134.004, Natural Resources Code.

Sec. 43.906. PENALTY. (a) A person who violates Section 43.901 commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person, other than a person described by Section 43.905, in an area described by Section 43.901 who is engaged in capturing by nonlethal means a species covered by this subchapter and fails or refuses on the demand of any game warden or other peace officer to show a reptile and amphibian stamp is presumed to be in violation of Section 43.901.

SECTION 2. Section 62.0031, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) Except as provided by Subsections ~~[Subsection]~~ (b) and (c), a person may not hunt a wild animal or bird when the person is on a public road or right-of-way.

(c) A person may capture by nonlethal means reptiles and amphibians on the shoulder of a road, as defined by Section 541.302, Transportation Code, or the un paved area of a public right-of-way if the person:

(1) possesses a reptile and amphibian stamp issued to the person by the department and does not use a trap; or

(2) is described by Section 43.905.

(d) A person must wear reflective clothing when engaging in the capture by nonlethal means of a reptile or amphibian under a stamp issued by the department. The clothing must have at least 144 square inches of reflective material on both the front and back of the clothing.

(e) A person may not use a spotlight from a motor vehicle in capturing a reptile or amphibian under Subsection (c).

SECTION 3. (a) Not later than March 1, 2012, the Parks and Wildlife Commission shall adopt:

(1) rules to implement the changes in law made by this Act; and

(2) the form, design, and manner of issuance of, and the fee for, a reptile and amphibian stamp under Subchapter W, Chapter 43, Parks and Wildlife Code, as added by this Act.

(b) Notwithstanding Sections 43.901(e) and 43.902, Parks and Wildlife Code, as added by this Act, the initial reptile and amphibian stamps issued under Subchapter W, Chapter 43, Parks and Wildlife Code:

(1) are valid for the period beginning the date the stamps first become available and ending on the expiration of the first yearly period set by the Parks and Wildlife Commission under Section 43.901(e); and

(2) shall be issued for a fee equal to the yearly fee, plus a prorated amount for the period beginning the date the stamps first become available and ending on the day preceding the date the first yearly period begins.

SECTION 4. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1788** (senate committee printing) in SECTION 2 of the bill, in amended Section 62.0031, Parks and Wildlife Code (page 2, lines 30-31), by striking Subsection (e) and substituting the following:

(e) A person may not use an artificial light from a motor vehicle in locating, capturing, or attempting to capture a reptile or amphibian under Subsection (c).

HB 1616 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Geren called up with senate amendments for consideration at this time,

HB 1616, A bill to be entitled An Act relating to the reporting or providing of information, including information relating to political contributions, political expenditures, and personal financial information, by public servants, political candidates and committees, and persons required to register under the lobby registration law, and to complaints filed with and the functions of the Texas Ethics Commission.

Representative Geren moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1616**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1616**: Geren, chair; Hamilton, P. King, Kolkhorst, and Ritter.

**SB 144 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Thompson, the house granted the request of the senate for the appointment of a Conference Committee on **SB 144**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 144**: Thompson, chair; Alonzo, Y. Davis, Dutton, and Gallego.

**SB 747 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hamilton, the house granted the request of the senate for the appointment of a Conference Committee on **SB 747**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 747**: Hamilton, chair; Driver, Kuempel, Quintanilla, and Thompson.

(Harper-Brown in the chair)

**HB 2439 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gallego called up with senate amendments for consideration at this time,

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

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2439**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2439**: Gallego, chair; Harless, Hilderbran, Martinez, and Menendez.

HB 1754 - HOUSE CONCURS IN SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 1754, A bill to be entitled An Act relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.

Representative Gallego moved to concur in the senate amendments to **HB 1754**.

The motion to concur in the senate amendments to **HB 1754** prevailed by (Record 1539): 71 Yeas, 68 Nays, 2 Present, not voting. (The vote was reconsidered later today, and the house concurred in the senate amendments to **HB 1754** by Record No. 1547.)

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Branch; Burnam; Christian; Coleman; Cook; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Geren; Giddings; Gonzales, V.; Guillen; Gutierrez; Hardcastle; Hernandez Luna; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hunter; Jackson; Johnson; King, S.; King, T.; Kuempel; Laubenberg; Lozano; Lucio; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Sheets; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Workman.

Nays — Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Elkins; Fletcher; Flynn; Frullo; Gonzales, L.; Gooden; Hamilton; Hancock; Harless; Hartnett; Hopson; Huberty; Hughes; Isaac; Keffer; King, P.; Kleinschmidt; Landtroop; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Nash; Orr; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Sheffield; Shelton; Simpson; Smith, T.; Taylor, L.; Taylor, V.; Weber; White; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Eissler; Garza; Kolkhorst; Larson; Otto; Truitt.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1539. I intended to vote no.

Driver

I was shown voting yes on Record No. 1539. I intended to vote no.

Hunter

When Record No. 1539 was taken, I was in the house but away from my desk. I would have voted no.

Kolkhorst

I was shown voting yes on Record No. 1539. I intended to vote no.

Solomons

When Record No. 1539 was taken, my vote failed to register. I would have voted no.

Truitt

**SB 341 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Menendez, the house granted the request of the senate for the appointment of a Conference Committee on **SB 341**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 341**: Menendez, chair; Farias, Larson, Martinez Fischer, and Ritter.

HB 1754 - VOTE RECONSIDERED

Representative Gallego moved to reconsider the vote by which the house concurred in the senate amendments to **HB 1754** earlier today.

The motion to reconsider prevailed. (The vote to concur in the senate amendments to **HB 1754** was taken later today, and the motion prevailed by Record No. 1547.)

**HB 3396 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hernandez Luna called up with senate amendments for consideration at this time,

HB 3396, A bill to be entitled An Act relating to the prosecution of and punishment for the offense of breach of computer security.

Representative Hernandez Luna moved to concur in the senate amendments to **HB 3396**.

The motion to concur in the senate amendments to **HB 3396** prevailed by (Record 1540): 142 Yeas, 0 Nays, 2 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; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; 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.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Garza; Taylor, V.; Villarreal.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3396** (senate committee report) as follows:

(1) In SECTION 2 of the bill, in proposed Section 33.02(b-1), Penal Code, on page 1, strike lines 48 and 49 and substitute the following:

~~defraud [unless in committing the offense the actor knowingly obtains a benefit, defrauds] or harm [harms] another[;] or~~

(2) In SECTION 2 of the bill, in proposed Section 33.02(b-2), Penal Code, strike page 1, line 55, through page 2, line 11, and substitute the following:

(1) ~~[a Class A misdemeanor if the aggregate amount involved is less than \$1,500;~~

~~[(2)]~~ a state jail felony if [;

~~[(A)]~~ the aggregate amount involved is ~~[\$1,500 or more but]~~ less than \$20,000[; or

~~[(B)]~~ the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter];

(2) ~~[(3)]~~ a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000;

(3) ~~[(4)]~~ a felony of the second degree if:

(A) the aggregate amount involved is \$100,000 or more but less than \$200,000;

(B) the aggregate amount involved is any amount less than \$200,000 and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility; or

(C) the actor obtains the identifying information of another by accessing only one computer, computer network, or computer system; or

(4) ~~[(5)]~~ a felony of the first degree if:

REMARKS ORDERED PRINTED

Representative P. King moved to print remarks on **HB 2277**.

The motion prevailed.

**SB 1198 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Gallego, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1198**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1198**: Hartnett, chair; Bohac, Madden, Muñoz, and Thompson.

**HR 2406 - ADOPTED
(by Kleinschmidt)**

The following privileged resolution was laid before the house:

HR 2406

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 321** (employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer) to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 1 of the bill, in added Section 52.063, Labor Code, to read as follows:

Sec. 52.063. IMMUNITY FROM CIVIL LIABILITY. (a) Except in cases of gross negligence, a public or private employer, or the employer's principal, officer, director, employee, or agent, is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property under this subchapter.

(b) The presence of a firearm or ammunition on an employer's property under the authority of this subchapter does not by itself constitute a failure by the employer to provide a safe workplace.

(c) For purposes of this section, a public or private employer, or the employer's principal, officer, director, employee, or agent, does not have a duty:

(1) to patrol, inspect, or secure:

(A) any parking lot, parking garage, or other parking area the employer provides for employees; or

(B) any privately owned motor vehicle located in a parking lot, parking garage, or other parking area described by Paragraph (A); or

(2) to investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.

Explanation: This change is necessary to clarify the responsibilities and immunity from civil liability of persons under this Act.

HR 2406 was adopted by (Record 1541): 141 Yeas, 0 Nays, 2 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; Chisum; Christian; Coleman; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; 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; Lucio; 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; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Cook; Garza; Hernandez Luna; Workman.

SB 321 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kleinschmidt submitted the conference committee report on **SB 321**.

Representative Kleinschmidt moved to adopt the conference committee report on **SB 321**.

The motion to adopt the conference committee report on **SB 321** prevailed by (Record 1542): 130 Yeas, 11 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; 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.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alvarado; Burnam; Coleman; Farrar; Gonzales, V.; Gutierrez; Howard, D.; Martinez; Martinez Fischer; McClendon; Veasey.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Callegari; Garza; Larson; Taylor, V.

STATEMENTS OF VOTE

When Record No. 1542 was taken, my vote failed to register. I would have voted yes.

Larson

I was shown voting no on Record No. 1542. I intended to vote yes.

Martinez

I was shown voting yes on Record No. 1542. I intended to vote no.

Naishtat

**HB 3859 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Laubenberg called up with senate amendments for consideration at this time,

HB 3859, A bill to be entitled An Act relating to the creation of the Club Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

Representative Laubenberg moved to concur in the senate amendments to **HB 3859**.

The motion to concur in the senate amendments to **HB 3859** prevailed by (Record 1543): 141 Yeas, 0 Nays, 2 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; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Lyne; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; 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; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Chisum; Garza; Margo; Miles.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3859** (engrossed) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

**HB 1400 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Elkins called up with senate amendments for consideration at this time,

HB 1400, A bill to be entitled An Act relating to payment of costs of improvements of a public improvement district designated by a municipality or county.

Representative Elkins moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1400**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1400**: Elkins, chair; Anchia, Bonnen, T. King, and Martinez Fischer.

LEAVE OF ABSENCE GRANTED

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

Villarreal on motion of Eiland.

**HB 3090 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Creighton called up with senate amendments for consideration at this time,

HB 3090, A bill to be entitled An Act relating to the frequency of water audits by certain retail public utilities.

Representative Creighton moved to concur in the senate amendments to **HB 3090**.

The motion to concur in the senate amendments to **HB 3090** prevailed by (Record 1544): 138 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycocck; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Lyne;

Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; 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; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Phillips.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Dukes; Dutton; Farrar; Garza; Miles.

STATEMENT OF VOTE

When Record No. 1544 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

Senate Committee Substitute

CSHB 3090, A bill to be entitled An Act relating to the frequency of water audits by certain retail public utilities.

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

SECTION 1. Section 16.0121, Water Code, is amended by amending Subsections (b), (c), and (f) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (b-1) [Every five years], a retail public utility providing potable water that receives from the board financial assistance shall perform and file with the board an annual [a] water audit computing the utility's [most recent annual] system water loss during the preceding year.

(b-1) A retail public utility providing potable water that does not receive from the board financial assistance shall perform and file with the board every five years a water audit computing the utility's most recent annual system water loss.

(c) The board shall develop appropriate methodologies and submission dates for a water audit required under Subsection (b) or (b-1) for the following categories of retail public utilities:

(1) retail public utilities serving populations of 100,000 or more;

(2) retail public utilities serving populations of 50,000 or more but less than 100,000;

(3) retail public utilities serving populations of more than 10,000 [~~3,300~~] but less than 50,000; and

(4) retail public utilities serving populations of 10,000 [~~3,300~~] or less.

(f) The board shall compile the information included in the water audits required by Subsections [~~Subsection~~] (b) and (b-1) according to category of retail public utility and according to regional water planning area. The regional

planning group for a regional planning area shall use the information to identify appropriate water management strategies in the development of a regional water plan under Section 16.053.

SECTION 2. Not later than May 1, 2013, a retail public utility that receives financial assistance from the Texas Water Development Board, or a retail public utility that serves a population of more than 10,000, shall submit the first annual report required by Section 16.0121, Water Code, as amended by this Act. The initial water audit report submitted by a retail public utility under that section shall compute the utility's most recent annual system water loss.

SECTION 3. This Act takes effect September 1, 2011.

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).

HB 1228 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Dutton called up with senate amendments for consideration at this time,

HB 1228, A bill to be entitled An Act relating to foreclosure of a property owners' association assessment lien.

Representative Dutton moved to concur in the senate amendments to **HB 1228**.

The motion to concur in the senate amendments to **HB 1228** prevailed by (Record 1545): 133 Yeas, 7 Nays, 3 Present, not voting.

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

Nays — Carter; Davis, S.; Elkins; Larson; Otto; Phillips; Riddle.

Present, not voting — Mr. Speaker; Harper-Brown(C); Truitt.

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Beck; Garza; Solomons.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1545. I intended to vote no.

Harless

I was shown voting yes on Record No. 1545. I intended to vote no.

Hilderbran

Senate Committee Substitute

CSHB 1228, A bill to be entitled An Act relating to payment and collection of assessments and other charges owed to a property owners' association and foreclosure of a property owners' association assessment lien.

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

SECTION 1. Section 209.003, Property Code, is amended by adding Subsection (e) to read as follows:

(e) Section 209.0062 does not apply to a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines.

SECTION 2. Chapter 209, Property Code, is amended by adding Sections 209.0062, 209.0063, 209.0064, 209.0091, 209.0092, 209.0093, and 209.0094 to read as follows:

Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN ASSESSMENTS. (a) A property owners' association composed of more than 14 lots shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties. For purposes of this section, monetary penalties do not include reasonable costs associated with administering the payment plan or interest.

(b) The minimum term for a payment plan offered by a property owners' association is three months.

(c) A property owners' association is not required to allow a payment plan for any amount that extends more than 18 months from the date of the owner's request for a payment plan or to enter into a payment plan with an owner who failed to honor the terms of a previous payment plan during the two years following the owner's default under the previous payment plan.

(d) A property owners' association shall file the association's guidelines under this section in the real property records of each county in which the subdivision is located.

(e) A property owners' association's failure to file as required by this section the association's guidelines in the real property records of each county in which the subdivision is located does not prohibit a property owner from receiving an alternative payment schedule by which the owner may make partial

payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties, as defined by Subsection (a).

Sec. 209.0063. PRIORITY OF PAYMENTS. (a) Except as provided by Subsection (b), a payment received by a property owners' association from the owner shall be applied to the owner's debt in the following order of priority:

(1) any delinquent assessment;

(2) any current assessment;

(3) any attorney's fees or third party collection costs incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;

(4) any attorney's fees incurred by the association that are not subject to Subdivision (3);

(5) any fines assessed by the association; and

(6) any other amount owed to the association.

(b) If, at the time the property owners' association receives a payment from a property owner, the owner is in default under a payment plan entered into with the association:

(1) the association is not required to apply the payment in the order of priority specified by Subsection (a); and

(2) in applying the payment, a fine assessed by the association may not be given priority over any other amount owed to the association.

Sec. 209.0064. THIRD PARTY COLLECTIONS. (a) In this section, "collection agent" means a debt collector, as defined by Section 803 of the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692a).

(b) A property owners' association may not hold an owner liable for fees of a collection agent retained by the property owners' association unless the association first provides written notice to the owner by certified mail, return receipt requested, that:

(1) specifies each delinquent amount and the total amount of the payment required to make the account current;

(2) describes the options the owner has to avoid having the account turned over to a collection agent, including information regarding availability of a payment plan through the association; and

(3) provides a period of at least 30 days for the owner to cure the delinquency before further collection action is taken.

(c) An owner is not liable for fees of a collection agent retained by the property owners' association if:

(1) the obligation for payment by the association to the association's collection agent for fees or costs associated with a collection action is in any way dependent or contingent on amounts recovered; or

(2) the payment agreement between the association and the association's collection agent does not require payment by the association of all fees to a collection agent for the action undertaken by the collection agent.

(d) The agreement between the property owners' association and the association's collection agent may not prohibit the owner from contacting the association board or the association's managing agent regarding the owner's delinquency.

(e) A property owners' association may not sell or otherwise transfer any interest in the association's accounts receivables for a purpose other than as collateral for a loan.

Sec. 209.0091. PREREQUISITES TO FORECLOSURE: NOTICE AND OPPORTUNITY TO CURE FOR CERTAIN OTHER LIENHOLDERS. (a) A property owners' association may not foreclose a property owners' association assessment lien on real property by giving notice of sale under Section 51.002 or commencing a judicial foreclosure action unless the association has:

(1) provided written notice of the total amount of the delinquency giving rise to the foreclosure to any other holder of a lien of record on the property whose lien is inferior or subordinate to the association's lien and is evidenced by a deed of trust; and

(2) provided the recipient of the notice an opportunity to cure the delinquency before the 61st day after the date the recipient receives the notice.

(b) Notice under this section must be sent by certified mail, return receipt requested, to the address for the lienholder shown in the deed records relating to the property that is subject to the property owners' association assessment lien.

Sec. 209.0092. JUDICIAL FORECLOSURE REQUIRED. (a) Except as provided by Subsection (c) and subject to Section 209.009, a property owners' association may not foreclose a property owners' association assessment lien unless the association first obtains a court order in an application for expedited foreclosure under the rules adopted by the supreme court under Subsection (b). A property owners' association may use the procedure described by this subsection to foreclose any lien described by the association's dedicatory instruments.

(b) The supreme court, as an exercise of the court's authority under Section 74.024, Government Code, shall adopt rules establishing expedited foreclosure proceedings for use by a property owners' association in foreclosing an assessment lien of the association. The rules adopted under this subsection must be substantially similar to the rules adopted by the supreme court under Section 50(r), Article XVI, Texas Constitution.

(c) Expedited foreclosure is not required under this section if the owner of the property that is subject to foreclosure agrees in writing at the time the foreclosure is sought to waive expedited foreclosure under this section. A waiver under this subsection may not be required as a condition of the transfer of title to real property.

Sec. 209.0093. REMOVAL OR ADOPTION OF FORECLOSURE AUTHORITY. A provision granting a right to foreclose a lien on real property for unpaid amounts due to a property owners' association may be removed from a dedicatory instrument or adopted in a dedicatory instrument by a vote of at least 67 percent of the total votes allocated to property owners in the property owners' association. Owners holding at least 10 percent of all voting interests in the

property owners' association may petition the association and require a special meeting to be called for the purposes of taking a vote for the purposes of this section.

Sec. 209.0094. ASSESSMENT LIEN FILING. A lien, lien affidavit, or other instrument evidencing the nonpayment of assessments or other charges owed to a property owners' association and filed in the official public records of a county is a legal instrument affecting title to real property.

SECTION 3. (a) Section 209.0062, Property Code, as added by this Act, applies only to an assessment or other debt that becomes due on or after the effective date of this Act. An assessment or other debt that becomes due 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.

(b) Section 209.0063, Property Code, as added by this Act, applies only to a payment received by a property owners' association on or after the effective date of this Act. A payment received by a property owners' association 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) Section 209.0091, Property Code, as added by this Act, applies only to a notice of sale given under Section 51.002, Property Code, on or after the effective date of this Act or a judicial foreclosure action commenced on or after the effective date of this Act.

(d) Section 209.0092, Property Code, as added by this Act, applies only to a foreclosure sale conducted on or after the effective date of this Act. A foreclosure sale conducted 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.

(e) Section 209.0094, Property Code, as added by this Act, applies only to an instrument filed on or after January 1, 2012. An instrument filed before January 1, 2012, is governed by the law in effect on the date the instrument was filed, and that law is continued in effect for that purpose.

SECTION 4. Not later than January 1, 2012, the Supreme Court of Texas shall adopt rules of civil procedure under Section 209.0092, Property Code, as added by this Act.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2012.

(b) Subsection (b), Section 209.0092, Property Code, as added by this Act, takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1228** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 209.0062(c), Property Code (page 1, line 34), strike "is not required to" and substitute "may not".

(2) In SECTION 2 of the bill, in added Section 209.0062(c), Property Code (page 1, line 36), strike "plan or" and substitute "plan". The association is not required".

**ADDRESS BY REPRESENTATIVE THOMPSON
ON A MATTER OF PERSONAL PRIVILEGE**

The chair recognized Representative Thompson who addressed the house on a matter of personal privilege, speaking as follows:

Madam Speaker, and members, during this legislative session we've spent about 30 or 40 percent of our time kicking the reproductive organs of women down the road, and I thought that was an issue that we had finished and we had completed. I want to attest to the fact that kicking the women's can down the road, they're still being kicked. To my surprise, I became aware of two despicable flyers. I know some of you may have seen one flyer talking about **HB 2093**, and it depicts a child's pacifier. This bill is a bill that deals with insurance. And the other one that we have had a lot of controversy on: a child nursing a mother's breast, and this is talking about **HB 2093**, and this bill is about insurance.

I'm going to tell you that I am really disgusted, and I'm really ashamed that there's nothing better than some organizations find than kicking women. God made me a woman. And thank God that he made your mother a woman because you men wouldn't be here. Lawmakers, as we are, have an opportunity to shape the attitudes of the public, and those attitudes can be positive toward women, they can be negative to women, or they could be both. That's all within the ambit of all our abilities. But I find these flyers—some of you may find them funny, but I find them despicable. I find them distasteful, I find them hateful, and I find them to give thoughts of violence and disrespect toward women.

I am appalled today that the Texas Civil Justice League would go so low that they would put out this kind of hate: resentful, bitter, despicable, despicable, violent flyers toward women, just to get at a piece of legislation. They could have come and talked to me. Tuffy knows that I have an open door policy. They could have come and saw me in my office. And we know, all of us, we win some, we lose some, but kicking women down the road as an old tin can, and thoughts on disrespect and violence and hate—it may not be important to you, but some of you have mothers, and I know many of you have wives, and you have daughters and sisters, nieces—and this ought to embitter you. It ought to make you angry that somebody is this disrespectful that they have to put out this sort of thing just to get at a bill. We go up in arms about women having the ability to nurse their children in certain public places, and some of you all lose it because you don't want to allow that in certain places.

We cannot sit here and tolerate this kind of attitude. This is wrong. It cannot exist. And, I want to ask you, if you have any test in fortitude, and I believe you do, to stand up and tell this organization that this is not acceptable conduct for the members of this house. It is not acceptable conduct to put women down like this, and this is not the kind of can that they need to be kicking in the Texas Legislature.

It is an all time low, and I'll personally tell you this is not a tactic to get this passed or to concur. I don't care if you kill this bill, but I want you to remember one thing that I'm saying today. I don't appreciate this attack on women. I don't appreciate this flyer. I'm going to tell you something. I don't perpetrate violence against somebody, but if they were here, I'd probably bloody their nose right here

on this floor. I guarantee you that. And, Dr. Zerwas, I'll have to call you to the aid, and I'm not joking. I would bloody their nose because they have no right to do women this way, and we have not earned this disrespect in this house. We fight here, we get elected just like you do, and we have not earned this kind of disrespect. And I don't want to tolerate it by anybody. And, men, if you don't stand up for us today, don't you walk in this chamber tomorrow.

REMARKS ORDERED PRINTED

Representative Rodriguez moved to print remarks by Representative Thompson.

The motion prevailed.

(Speaker in the chair)

**HB 300 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 300, A bill to be entitled An Act relating to the privacy of protected health information; providing administrative and civil penalties.

Representative Kolkhorst moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 300**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 300**: Kolkhorst, chair; Flynn, Laubenberg, Naishtat, and Truitt.

**HB 3691 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gallego called up with senate amendments for consideration at this time,

HB 3691, A bill to be entitled An Act relating to the provision by certain judges or community supervision and corrections departments of certain programs and services, including certain pretrial programs and services, and to the imposition of certain sanctions against defendants supervised by those departments.

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3691**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3691**: Gallego, chair; Christian, Y. Davis, Martinez, and Zedler.

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).

HB 3302 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Reynolds submitted the following conference committee report on **HB 3302**:

Austin, Texas, May 24, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3302** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Eltife
Hinojosa
Jackson
Patrick
Hegar
On the part of the senate

R. Anderson
Miles
Murphy
Vo
Reynolds
On the part of the house

HB 3302, A bill to be entitled An Act relating to the authority of certain Type A economic development corporations to undertake certain categories of projects.

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

SECTION 1. Subchapter D, Chapter 504, Local Government Code, is amended by adding Section 504.171 to read as follows:

Sec. 504.171. AUTHORITY OF CERTAIN CORPORATIONS TO UNDERTAKE TYPE B PROJECTS. (a) This section applies only to a Type A corporation the creation of which was authorized by a municipality:

- (1) that has also authorized the creation of a Type B corporation; and
- (2) that has a population of 7,500 or less.

(b) Notwithstanding Section 504.152, if permitted by ordinance of the authorizing municipality, a Type A corporation to which this section applies may undertake any project that a Type B corporation, the creation of which was authorized by the same municipality, may undertake under Chapter 505.

(c) The governing body of an authorizing municipality may by ordinance revoke any authority granted to a Type A corporation under Subsection (b). A revocation under this subsection does not affect the authority of a corporation to complete a project already undertaken or the obligation to repay any debt incurred in connection with a project under Subsection (b).

SECTION 2. 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.

Representative Reynolds moved to adopt the conference committee report on **HB 3302**.

The motion to adopt the conference committee report on **HB 3302** prevailed by (Record 1546): 144 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; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Garza.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1546. I intended to vote no.

Hughes

(L. Taylor in the chair)

HB 1754 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 1754, A bill to be entitled An Act relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.

The house concurred in senate amendments earlier today by Record No. 1539, and the vote was reconsidered.

Representative Gallego moved to concur in the senate amendments to **HB 1754**.

The motion to concur in the senate amendments to **HB 1754** prevailed by (Record 1547): 83 Yeas, 58 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Bohac; Burkett; Burnam; Chisum; Christian; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Guillen; Gutierrez; Hancock; Harless; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Otto; Paxton; Perry; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Sheets; Simpson; Solomons; Strama; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Woolley.

Nays — Anderson, C.; Aycock; Beck; Berman; Branch; Brown; Button; Cain; Callegari; Carter; Cook; Craddick; Creighton; Darby; Davis, S.; Driver; Fletcher; Flynn; Gooden; Hamilton; Hardcastle; Harper-Brown; Hartnett; Howard, C.; Huberty; Hughes; King, P.; King, S.; Landtroop; Larson; Laubenberg; Lavender; Legler; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Parker; Patrick; Peña; Phillips; Price; Riddle; Schwertner; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, V.; Weber; White; Workman; Zedler; Zerwas.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Bonnen; Garza; Ritter.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1547. I intended to vote no.

L. Gonzales

I was shown voting yes on Record No. 1547. I intended to vote no.

Harless

I was shown voting yes on Record No. 1547. I intended to vote no.

Otto

I was shown voting yes on Record No. 1547. I intended to vote no.

Truitt

Senate Committee Substitute

CSHB 1754, A bill to be entitled An Act relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.

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

SECTION 1. Subtitle F, Title 2, Government Code, is amended by adding Chapter 79 to read as follows:

CHAPTER 79. TEXAS INDIGENT DEFENSE COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 79.001. DEFINITIONS. In this chapter:

(1) "Assigned counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.

(2) "Board" means the governing board of the Texas Indigent Defense Commission.

(3) "Commission" means the agency known as the Texas Indigent Defense Commission.

(4) "Contract defender program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to a group of unspecified indigent defendants who appear before a particular court or group of courts.

(5) "Council" means the Texas Judicial Council.

(6) "Crime" means:

(A) a misdemeanor punishable by confinement; or

(B) a felony.

(7) "Defendant" means a person accused of a crime or a juvenile offense.

(8) "Executive director" means the executive director of the Texas Indigent Defense Commission.

(9) "Indigent defense support services" means criminal defense services that:

(A) are provided by licensed investigators, experts, or other similar specialists, including forensic experts and mental health experts; and

(B) are reasonable and necessary for appointed counsel to provide adequate representation to indigent defendants.

(10) "Juvenile offense" means conduct committed by a person while younger than 17 years of age that constitutes:

(A) a misdemeanor punishable by confinement; or

(B) a felony.

(11) "Managed assigned counsel program" has the meaning assigned by Article 26.047, Code of Criminal Procedure.

(12) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78.

(13) "Public defender's office" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

Sec. 79.002. ESTABLISHMENT OF COMMISSION. (a) The Texas Indigent Defense Commission is established. The commission is an agency in the judicial branch of this state.

(b) The commission operates under the direction and supervision of a governing board.

Sec. 79.003. SUNSET PROVISION. The commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2023.

[Sections 79.004-79.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 79.011. ESTABLISHMENT OF BOARD; COMPOSITION. (a) The commission is governed by a board consisting of eight ex officio members and five appointive members.

(b) Except as provided by Section 79.038, the board shall exercise the powers and perform the duties under this chapter independently of the council.

Sec. 79.012. EXECUTIVE DIRECTOR. (a) The executive director is appointed by the board.

(b) The executive director:

(1) must be a licensed attorney;

(2) must demonstrate an interest in the standards for and provision of criminal defense services to indigent individuals;

(3) may not engage in the private practice of law; and

(4) may not accept money, property, or any other thing of value not authorized by law for services rendered under this chapter.

Sec. 79.013. EX OFFICIO MEMBERS. The ex officio members of the board are:

(1) the following six members of the council:

(A) the chief justice of the supreme court;

(B) the presiding judge of the court of criminal appeals;

(C) one of the members of the senate serving on the council who is designated by the lieutenant governor;

(D) the member of the house of representatives appointed by the speaker of the house;

(E) one of the courts of appeals justices serving on the council who is designated by the governor; and

(F) one of the county court or statutory county court judges serving on the council who is designated by the governor or, if a county court or statutory county court judge is not serving on the council, one of the statutory probate court judges serving on the council who is designated by the governor;

(2) one other member of the senate appointed by the lieutenant governor; and

(3) the chair of the House Criminal Jurisprudence Committee.

Sec. 79.014. APPOINTMENTS. (a) The governor shall appoint with the advice and consent of the senate five members of the board as follows:

(1) one member who is a district judge serving as a presiding judge of an administrative judicial region;

(2) one member who is a judge of a constitutional county court or who is a county commissioner;

(3) one member who is a practicing criminal defense attorney;

(4) one member who is a chief public defender in this state or the chief public defender's designee, who must be an attorney employed by the public defender's office; and

(5) one member who is a judge of a constitutional county court or who is a county commissioner of a county with a population of 250,000 or more.

(b) The board members serve staggered terms of two years, with two members' terms expiring February 1 of each odd-numbered year and three members' terms expiring February 1 of each even-numbered year.

(c) In making appointments to the board, the governor shall attempt to reflect the geographic and demographic diversity of the state.

(d) A person may not be appointed to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission or the council.

Sec. 79.015. PRESIDING OFFICER. The board shall select a chair from among its members.

Sec. 79.016. DISCLOSURE REQUIRED. (a) A board member who is a chief public defender or who is an attorney employed by a public defender's office in a county that applies for funds under Section 79.037 shall disclose that fact before a vote by the board regarding an award of funds to that county and may not participate in such a vote.

(b) A board member's disclosure under Subsection (a) must be entered into the minutes of the board meeting at which the disclosure is made or reported, as applicable.

(c) The commission may not award funds under Section 79.037 to a county served by a chief public defender or other attorney who fails to make a disclosure to the board as required by Subsection (a).

Sec. 79.017. VACANCIES. A vacancy on the board must be filled for the unexpired term in the same manner as the original appointment.

Sec. 79.018. MEETINGS; QUORUM; VOTING. (a) The board shall meet at least four times each year and at such other times as it considers necessary or convenient to perform its duties.

(b) Six members of the board constitute a quorum for purposes of transacting the business of the board. The board may act only on the concurrence of five board members or a majority of the board members present, whichever number is greater. The board may adopt policies and standards under Section 79.034 only on the concurrence of seven board members.

(c) Except as provided by Section 79.016, a board member is entitled to vote on any matter before the board, except as otherwise provided by rules adopted by the board.

Sec. 79.019. COMPENSATION. A board member may not receive compensation for services on the board but is entitled to be reimbursed for actual and necessary expenses incurred in discharging board duties. The expenses are paid from funds appropriated to the board.

Sec. 79.020. IMMUNITY FROM LIABILITY. A member of the board performing duties on behalf of the board is not liable for damages arising from an act or omission within the scope of those duties.

Sec. 79.021. RULES. The board shall adopt rules as necessary to implement this chapter.

[Sections 79.022-79.030 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES OF COMMISSION

Sec. 79.031. FAIR DEFENSE ACCOUNT. The fair defense account is an account in the general revenue fund that may be appropriated only to:

- (1) the commission for the purpose of implementing this chapter; and
- (2) the office of capital writs for the purpose of implementing

Subchapter B, Chapter 78.

Sec. 79.032. ACCEPTANCE OF GIFTS, GRANTS, AND OTHER FUNDS; STATE GRANTS TEAM. (a) The commission may accept gifts, grants, and other funds from any public or private source to pay expenses incurred in performing its duties under this chapter.

(b) The State Grants Team of the Governor's Office of Budget, Planning, and Policy may assist the commission in identifying grants and other resources available for use by the commission in performing its duties under this chapter.

Sec. 79.033. LEGISLATIVE APPROPRIATIONS REQUEST. The board, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request.

Sec. 79.034. POLICIES AND STANDARDS. (a) The commission shall develop policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings. The policies and standards may include:

(1) performance standards for counsel appointed to represent indigent defendants;

(2) qualification standards under which attorneys may qualify for appointment to represent indigent defendants, including:

(A) qualifications commensurate with the seriousness of the nature of the proceeding;

(B) qualifications appropriate for representation of mentally ill defendants and noncitizen defendants;

(C) successful completion of relevant continuing legal education programs approved by the council; and

(D) testing and certification standards;

(3) standards for ensuring appropriate appointed caseloads for counsel appointed to represent indigent defendants;

(4) standards for determining whether a person accused of a crime or juvenile offense is indigent;

(5) policies and standards governing the organization and operation of an assigned counsel program;

(6) policies and standards governing the organization and operation of a public defender's office consistent with recognized national policies and standards;

(7) standards for providing indigent defense services under a contract defender program consistent with recognized national policies and standards;

(8) standards governing the reasonable compensation of counsel appointed to represent indigent defendants;

(9) standards governing the availability and reasonable compensation of providers of indigent defense support services for counsel appointed to represent indigent defendants;

(10) standards governing the operation of a legal clinic or program that provides legal services to indigent defendants and is sponsored by a law school approved by the supreme court;

(11) policies and standards governing the appointment of attorneys to represent children in proceedings under Title 3, Family Code;

(12) policies and standards governing the organization and operation of a managed assigned counsel program consistent with nationally recognized policies and standards; and

(13) other policies and standards for providing indigent defense services as determined by the commission to be appropriate.

(b) The commission shall submit its proposed policies and standards developed under Subsection (a) to the board for adoption. The board shall adopt the proposed policies and standards as appropriate.

(c) Any qualification standards adopted by the board under Subsection (b) that relate to the appointment of counsel in a death penalty case must be consistent with the standards specified under Article 26.052(d), Code of Criminal Procedure. An attorney who is identified by the commission as not satisfying performance or qualification standards adopted by the board under Subsection (b) may not accept an appointment in a capital case.

Sec. 79.035. COUNTY REPORTING PLAN; COMMISSION REPORTS.

(a) The commission shall develop a plan that establishes statewide requirements for counties relating to reporting indigent defense information. The plan must include provisions designed to reduce redundant reporting by counties and provisions that take into consideration the costs to counties of implementing the plan statewide. The commission shall use the information reported by a county to monitor the effectiveness of the county's indigent defense policies, standards, and procedures and to ensure compliance by the county with the requirements of state law relating to indigent defense. The commission may revise the plan as necessary to improve monitoring of indigent defense policies, standards, and procedures in this state.

(b) The commission shall annually submit to the governor, lieutenant governor, speaker of the house of representatives, and council and shall publish in written and electronic form a report:

(1) containing any information submitted to the commission by a county under Section 79.036; and

(2) regarding:

(A) the quality of legal representation provided by counsel appointed to represent indigent defendants;

(B) current indigent defense practices in the state as compared to state and national standards;

(C) efforts made by the commission to improve indigent defense practices in the state; and

(D) recommendations made by the commission for improving indigent defense practices in the state.

(c) The commission shall annually submit to the Legislative Budget Board and council and shall publish in written and electronic form a detailed report of all expenditures made under this subchapter, including distributions under Section 79.037.

(d) The commission may issue other reports relating to indigent defense as determined to be appropriate by the commission.

Sec. 79.036. INDIGENT DEFENSE INFORMATION. (a) In each county, not later than November 1 of each odd-numbered year and in the form and manner prescribed by the commission, the following information shall be prepared and provided to the commission:

(1) a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure, including the schedule of fees required under Article 26.05 of that code;

(2) any revisions to rules or forms previously submitted under this section; or

(3) verification that rules and forms previously submitted under this section still remain in effect.

(b) Except as provided by Subsection (c):

(1) the local administrative district judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the district courts trying felony cases in the county; and

(2) the local administrative statutory county court judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the county courts and statutory county courts trying misdemeanor cases in the county.

(c) If the judges of two or more levels of courts described by Subsection (b) adopt the same formal and informal rules and forms, the local administrative judge serving the courts having jurisdiction over offenses with the highest classification of punishment, or the person designated by the judge, shall perform the action required by Subsection (a).

(d) The chair of the juvenile board in each county, or the person designated by the chair, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the juvenile board.

(e) In each county, the county auditor, or the person designated by the commissioners court if the county does not have a county auditor, shall prepare and send to the commission in the form and manner prescribed by the commission and on a monthly, quarterly, or annual basis, with respect to legal services provided in the county to indigent defendants during each fiscal year, information showing the total amount expended by the county to provide indigent defense services and an analysis of the amount expended by the county:

(1) in each district, county, statutory county, and appellate court;

(2) in cases for which a private attorney is appointed for an indigent defendant;

(3) in cases for which a public defender is appointed for an indigent defendant;

(4) in cases for which counsel is appointed for an indigent juvenile under Section 51.10(f), Family Code; and

(5) for investigation expenses, expert witness expenses, or other litigation expenses.

(f) As a duty of office, each district and county clerk shall cooperate with the county auditor or the person designated by the commissioners court and the commissioners court in retrieving information required to be sent to the commission under this section.

Sec. 79.037. TECHNICAL SUPPORT; GRANTS. (a) The commission shall:

(1) provide technical support to:

(A) assist counties in improving their indigent defense systems;

and

(B) promote compliance by counties with the requirements of state law relating to indigent defense;

(2) to assist counties in providing indigent defense services in the county, distribute in the form of grants any funds appropriated for the purposes of this section; and

(3) monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant, including enforcement by:

(A) withdrawing grant funds; or

(B) requiring reimbursement of grant funds by the county.

(b) The commission shall distribute funds as required by Subsection (a)(2) based on a county's compliance with standards adopted by the board and the county's demonstrated commitment to compliance with the requirements of state law relating to indigent defense.

(c) The board shall adopt policies to ensure that funds under Subsection (a)(2) are allocated and distributed to counties in a fair manner.

(d) A county may not reduce the amount of funds provided for indigent defense services in the county because of funds provided by the commission under this section.

Sec. 79.038. ADMINISTRATIVE SUPPORT. The Office of Court Administration of the Texas Judicial System shall provide administrative support, including information technology services support, to the commission as necessary to carry out this chapter.

SECTION 2. Section 71.001, Government Code, is amended to read as follows:

Sec. 71.001. DEFINITIONS. In this chapter:

~~(1) ["Assigned counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.~~

~~[(2)] "Chair" means the chair of the council.~~

~~(2) [(3) "Contract defender program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to a group of unspecified indigent defendants who appear before a particular court or group of courts.~~

~~[(4)] "Council" means the Texas Judicial Council.~~

~~(3) [(5) "Crime" means:~~

~~[(A) a misdemeanor punishable by confinement; or~~

~~[(B) a felony.~~

~~[(6)] "Defendant" means a person accused of a crime or [a] juvenile offense, as those terms are defined by Section 79.001.~~

~~(4) [(7) "Indigent defense support services" means criminal defense services that:~~

~~[(A) are provided by licensed investigators, experts, or other similar specialists, including forensic experts and mental health experts; and~~

~~[(B) are reasonable and necessary for appointed counsel to provide adequate representation to indigent defendants.~~

~~[(8) "Juvenile offense" means conduct committed by a person while younger than 17 years of age that constitutes:~~

~~[(A) a misdemeanor punishable by confinement; or~~

~~[(B) a felony.~~

~~[(9)] "Public defender's office [defender]" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.~~

SECTION 3. Section 78.052(b), Government Code, is amended to read as follows:

(b) The office shall receive funds for personnel costs and expenses:

(1) as specified in the General Appropriations Act; and

(2) from the fair defense account under Section 79.031 [~~71.058~~], in an amount sufficient to cover personnel costs and expenses not covered by appropriations described by Subdivision (1).

SECTION 4. Section 78.056(b), Government Code, is amended to read as follows:

(b) The Office of Court Administration of the Texas Judicial System and the Texas ~~Task Force on~~ Indigent Defense Commission shall provide administrative support necessary under this section.

SECTION 5. Section 81.054(c), Government Code, is amended to read as follows:

(c) Fees shall be paid to the clerk of the supreme court. The clerk shall retain the fees, other than fees collected under Subsection (j), until distributed to the state bar for expenditure under the direction of the supreme court to administer this chapter. The clerk shall retain the fees collected under Subsection (j) until distribution is approved by an order of the supreme court. In ordering that distribution, the supreme court shall order that the fees collected under Subsection (j) be remitted to the comptroller at least as frequently as quarterly. The comptroller shall credit 50 percent of the remitted fees to the credit of the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent and shall credit the remaining 50 percent of the remitted fees to the fair defense account in the general revenue fund which is established under Section 79.031 [~~71.058~~], to be used, subject to all requirements of Section 79.037 [~~71.062~~], for demonstration or pilot projects that develop and promote best practices for the efficient delivery of quality representation to indigent defendants in criminal cases at trial, on appeal, and in postconviction proceedings.

SECTION 6. Section 402.035(c), Government Code, is amended to read as follows:

- (c) The task force is composed of the following:
- (1) the governor or the governor's designee;
 - (2) the attorney general or the attorney general's designee;
 - (3) the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee;
 - (4) the commissioner of the Department of Family and Protective Services or the commissioner's designee;
 - (5) the public safety director of the Department of Public Safety or the director's designee;
 - (6) one representative from each of the following state agencies, appointed by the chief administrative officer of the respective agency:
 - (A) the Texas Workforce Commission;
 - (B) the Texas Department of Criminal Justice;
 - (C) the Texas Youth Commission;
 - (D) the Texas Juvenile Probation Commission; and
 - (E) the Texas Alcoholic Beverage Commission; and
 - (7) as appointed by the attorney general:

(A) a chief public defender employed by a public defender's office, as defined by Article 26.044(a) [26.044], Code of Criminal Procedure, or an attorney designated by the chief public defender;

(B) an attorney representing the state;

(C) a representative of:

(i) a hotel and motel association;

(ii) a district and county attorneys association; and

(iii) a state police association;

(D) representatives of sheriff's departments;

(E) representatives of local law enforcement agencies affected by human trafficking; and

(F) representatives of nongovernmental entities making comprehensive efforts to combat human trafficking by:

(i) identifying human trafficking victims;

(ii) providing legal or other services to human trafficking victims;

(iii) participating in community outreach or public awareness efforts regarding human trafficking;

(iv) providing or developing training regarding the prevention of human trafficking; or

(v) engaging in other activities designed to prevent human trafficking.

SECTION 7. Article 26.04, Code of Criminal Procedure, is amended by amending Subsections (a), (d), and (f) and adding Subsection (f-1) to read as follows:

(a) The judges of the county courts, statutory county courts, and district courts trying criminal cases in each county, by local rule, shall adopt and publish written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for or charged with a misdemeanor punishable by confinement or a felony. The procedures must be consistent with this article and Articles 1.051, 15.17, 26.05, and 26.052. A court shall appoint an attorney from a public appointment list using a system of rotation, unless the court appoints an attorney under Subsection (f), (f-1), (h), or (i). The court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys' names appear on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

(d) A public appointment list from which an attorney is appointed as required by Subsection (a) shall contain the names of qualified attorneys, each of whom:

(1) applies to be included on the list;

(2) meets the objective qualifications specified by the judges under Subsection (e);

(3) meets any applicable qualifications specified by the Texas [Task Force on] Indigent Defense Commission; and

(4) is approved by a majority of the judges who established the appointment list under Subsection (e).

(f) In a county in which a public defender's office is created or designated ~~[defender is appointed]~~ under Article 26.044, the court or the courts' designee may appoint that office ~~[the public defender]~~ to represent the defendant in accordance with guidelines established for the office ~~[public defender]~~.

(f-1) In a county in which a managed assigned counsel program is operated in accordance with Article 26.047, the managed assigned counsel program may appoint counsel to represent the defendant in accordance with the guidelines established for the program.

SECTION 8. The heading to Article 26.044, CODE of Criminal Procedure, is amended to read as follows:

Art. 26.044. PUBLIC DEFENDER'S OFFICE ~~[DEFENDER]~~.

SECTION 9. Article 26.044, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) and adding Subsections (b-1) and (c-1) to read as follows:

(a) In this chapter:

(1) "Governmental entity" includes a county, a group of counties, a department ~~[branch or agency]~~ of a county, an administrative judicial region created by Section 74.042, Government Code, and any entity created under the Interlocal Cooperation Act as permitted by Chapter 791, Government Code.

(2) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78, Government Code.

(3) "Oversight board" means an oversight board established in accordance with Article 26.045.

(4) "Public defender's office ~~[defender]~~" means an entity that:

(A) is either:

(i) a governmental entity; or

(ii) a nonprofit corporation;

~~[(A)]~~ operating under a written agreement with a governmental entity, other than an individual judge or court; and

(B) uses ~~[using]~~ public funds to provide~~[-and~~

~~[(C) providing]~~ legal representation and services to indigent defendants accused of a crime or juvenile offense, as those terms are defined by Section 79.001 ~~[71.001]~~, Government Code.

~~[(3) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78, Government Code.]~~

(b) The commissioners court of any county, on written approval of a judge of a county court, statutory county court, or district court trying criminal cases or cases under Title 3, Family Code, in the county, may create a department of the county or by contract may designate a ~~[appoint a governmental entity or]~~ nonprofit corporation to serve as a public defender's office ~~[defender]~~. The commissioners courts of two or more counties may enter into a written agreement to jointly create or designate ~~[appoint]~~ and jointly fund a regional public defender's office ~~[defender]~~. In creating or designating ~~[appointing]~~ a public

defender's office [defender] under this subsection, the commissioners court shall specify or the commissioners courts shall jointly specify, if creating or designating [appointing] a regional public defender's office [defender]:

(1) the duties of the public defender's office [defender];

(2) the types of cases to which the public defender's office [defender] may be appointed under Article 26.04(f) and the courts in which an attorney employed by the public defender's office [defender] may be required to appear;

(3) if the public defender's office is a nonprofit corporation, the term during which the contract designating the public defender's office is effective and how that contract may be renewed on expiration of the term [whether the public defender is appointed to serve a term or serve at the pleasure of the commissioners court or the commissioners courts]; and

(4) if an oversight board is established under Article 26.045 for the public defender's office, the powers and duties that have been delegated to the oversight board [the public defender is appointed to serve a term, the term of appointment and the procedures for removing the public defender].

(b-1) The applicable commissioners court or commissioners courts shall require a written plan from a governmental entity serving as a public defender's office.

(c) Before contracting with a nonprofit corporation to serve as [appointing] a public defender's office [defender] under Subsection (b), the commissioners court or commissioners courts shall solicit proposals for the public defender's office [defender].

(c-1) A written plan under Subsection (b-1) or a proposal under Subsection (c) must include:

(1) a budget for the public defender's office [defender], including salaries;

(2) a description of each personnel position, including the chief public defender position;

(3) the maximum allowable caseloads for each attorney employed by the public defender's office [proponent];

(4) provisions for personnel training;

(5) a description of anticipated overhead costs for the public defender's office [defender]; [and]

(6) policies regarding the use of licensed investigators and expert witnesses by the public defender's office; and

(7) a policy to ensure that the chief public defender and other attorneys employed by the public defender's office do not provide representation to a defendant if doing so would create a conflict of interest that has not been waived by the client [proponent].

(d) After considering each proposal for the public defender's office [defender] submitted by a [governmental entity or] nonprofit corporation under Subsection (c), the commissioners court or commissioners courts shall select a proposal that reasonably demonstrates that the public defender's office [proponent] will provide adequate quality representation for indigent defendants in the county or counties.

(e) The total cost of the proposal under Subsection (c) may not be the sole consideration in selecting a proposal.

(f) A ~~[To be eligible for appointment as a]~~ public defender's office ~~[defender, the governmental entity or nonprofit corporation]~~ must be directed by a chief public defender who:

- (1) is a member of the State Bar of Texas;
- (2) has practiced law for at least three years; and
- (3) has substantial experience in the practice of criminal law.

(g) A public defender's office ~~[defender]~~ is entitled to receive funds for personnel costs and expenses incurred in operating as a public defender's office ~~[defender]~~ in amounts fixed by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the public defender's office ~~[defender]~~ serves more than one county.

(h) A public defender's office ~~[defender]~~ may employ attorneys, licensed investigators, and other personnel necessary to perform the duties of the public defender's office ~~[defender]~~ as specified by the commissioners court or commissioners courts under Subsection (b)(1).

(i) Except as authorized by this article, the chief public defender and other attorneys ~~[or an attorney]~~ employed by a public defender's office ~~[defender]~~ may not:

- (1) engage in the private practice of criminal law; or
- (2) accept anything of value not authorized by this article for services rendered under this article.

(j) A public defender's office ~~[defender]~~ may not accept ~~[refuse]~~ an appointment under Article 26.04(f) if:

- (1) a conflict of interest exists that has not been waived by the client;
- (2) the public defender's office ~~[defender]~~ has insufficient resources to provide adequate representation for the defendant;
- (3) the public defender's office ~~[defender]~~ is incapable of providing representation for the defendant in accordance with the rules of professional conduct; or
- (4) the public defender's office ~~[defender]~~ shows other good cause for not accepting ~~[refusing]~~ the appointment.

(k) The judge may remove from a case a person ~~[public defender]~~ who violates a provision of Subsection (i).

(l) A public defender's office ~~[defender]~~ may investigate the financial condition of any person the public defender's office ~~[defender]~~ is appointed to represent. The public defender's office ~~[defender]~~ shall report the results of the investigation to the appointing judge. The judge may hold a hearing to determine if the person is indigent and entitled to representation under this article.

(m) If it is necessary that an attorney who is not employed by ~~[other than]~~ a public defender's office ~~[defender]~~ be appointed, the attorney is entitled to the compensation provided by Article 26.05 of this code.

SECTION 10. Chapter 26, Code of Criminal Procedure, is amended by adding Article 26.045 to read as follows:

Art. 26.045. PUBLIC DEFENDER OVERSIGHT BOARD. (a) The commissioners court of a county or the commissioners courts of two or more counties may establish an oversight board for a public defender's office created or designated in accordance with this chapter.

(b) The commissioners court or courts that establish an oversight board under this article shall appoint members of the board. Members may include one or more of the following:

(1) an attorney;

(2) the judge of a trial court in this state;

(3) a county commissioner;

(4) a county judge;

(5) a community representative; and

(6) a former client or a family member of a former client of the public defender's office for which the oversight board was established under this article.

(c) The commissioners court or courts may delegate to the board any power or duty of the commissioners court to provide oversight of the office under Article 26.044, including:

(1) recommending selection and removal of a chief public defender;

(2) setting policy for the office; and

(3) developing a budget proposal for the office.

(d) An oversight board established under this article may not gain access to privileged or confidential information.

SECTION 11. Chapter 26, Code of Criminal Procedure, is amended by adding Article 26.047 to read as follows:

Art. 26.047. MANAGED ASSIGNED COUNSEL PROGRAM. (a) In this article:

(1) "Governmental entity" has the meaning assigned by Article 26.044.

(2) "Managed assigned counsel program" or "program" means a program operated with public funds:

(A) by a governmental entity, nonprofit corporation, or bar association under a written agreement with a governmental entity, other than an individual judge or court; and

(B) for the purpose of appointing counsel under Article 26.04 of this code or Section 51.10, Family Code.

(b) The commissioners court of any county, on written approval of a judge of the juvenile court of a county or a county court, statutory county court, or district court trying criminal cases in the county, may appoint a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program. The commissioners courts of two or more counties may enter into a written agreement to jointly appoint and fund a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program. In appointing an entity to operate a managed assigned counsel program under this subsection, the commissioners court shall specify or the commissioners courts shall jointly specify:

(1) the types of cases in which the program may appoint counsel under Article 26.04 of this code or Section 51.10, Family Code, and the courts in which the counsel appointed by the program may be required to appear; and

(2) the term of any agreement establishing a program and how the agreement may be terminated or renewed.

(c) The commissioners court or commissioners courts shall require a written plan of operation from an entity operating a program under this article. The plan of operation must include:

(1) a budget for the program, including salaries;

(2) a description of each personnel position, including the program's director;

(3) the maximum allowable caseload for each attorney appointed by the program;

(4) provisions for training personnel of the program and attorneys appointed under the program;

(5) a description of anticipated overhead costs for the program;

(6) a policy regarding licensed investigators and expert witnesses used by attorneys appointed under the program;

(7) a policy to ensure that appointments are reasonably and impartially allocated among qualified attorneys; and

(8) a policy to ensure that an attorney appointed under the program does not accept appointment in a case that involves a conflict of interest for the attorney that has not been waived by all affected clients.

(d) A program under this article must have a director. Unless the program uses a review committee appointed under Subsection (e), a program under this article must be directed by a person who:

(1) is a member of the State Bar of Texas;

(2) has practiced law for at least three years; and

(3) has substantial experience in the practice of criminal law.

(e) The governmental entity, nonprofit corporation, or bar association operating the program may appoint a review committee of three or more individuals to approve attorneys for inclusion on the program's public appointment list described by Subsection (f). Each member of the committee:

(1) must meet the requirements described by Subsection (d);

(2) may not be employed as a prosecutor; and

(3) may not be included on or apply for inclusion on the public appointment list described by Subsection (f).

(f) The program's public appointment list from which an attorney is appointed must contain the names of qualified attorneys, each of whom:

(1) applies to be included on the list;

(2) meets any applicable requirements specified by the procedure for appointing counsel adopted under Article 26.04(a) and the Texas Indigent Defense Commission; and

(3) is approved by the program director or review committee, as applicable.

(g) A court may replace an attorney appointed by the program for the same reasons and in the same manner described by Article 26.04(k).

(h) A managed assigned counsel program is entitled to receive funds for personnel costs and expenses incurred in amounts fixed by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the program serves more than one county.

(i) A managed assigned counsel program may employ personnel and enter into contracts necessary to perform the program's duties as specified by the commissioners court or commissioners courts under this article.

SECTION 12. Articles 26.05(a), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(a) A counsel, other than an attorney with a public defender's office [~~defender~~] or an attorney employed by the office of capital writs, appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing, shall be paid a reasonable attorney's fee for performing the following services, based on the time and labor required, the complexity of the case, and the experience and ability of the appointed counsel:

(1) time spent in court making an appearance on behalf of the defendant as evidenced by a docket entry, time spent in trial, and time spent in a proceeding in which sworn oral testimony is elicited;

(2) reasonable and necessary time spent out of court on the case, supported by any documentation that the court requires;

(3) preparation of an appellate brief and preparation and presentation of oral argument to a court of appeals or the Court of Criminal Appeals; and

(4) preparation of a motion for rehearing.

(c) Each fee schedule adopted shall state reasonable fixed rates or minimum and maximum hourly rates, taking into consideration reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates, and shall provide a form for the appointed counsel to itemize the types of services performed. No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or, if the county operates a managed assigned counsel program under Article 26.047, to the director of the program, and until the judge or director, as applicable, approves the payment. If the judge or director disapproves the requested amount of payment, the judge or director shall make written findings stating the amount of payment that the judge or director approves and each reason for approving an amount different from the requested amount. An attorney whose request for payment is disapproved or is not otherwise acted on by the 60th day after the date the request for payment is submitted may appeal the disapproval or failure to act by filing a motion with the presiding judge of the administrative judicial region. On the filing of a motion, the presiding judge of the administrative judicial region shall review the disapproval of payment or failure to act and determine the appropriate amount of payment. In reviewing the disapproval or failure to act, the presiding judge of the administrative judicial region may conduct a hearing. Not later than the 45th day after the date an

application for payment of a fee is submitted under this article, the commissioners court shall pay to the appointed counsel the amount that is approved by the presiding judge of the administrative judicial region and that is in accordance with the fee schedule for that county.

(d) A counsel in a noncapital case, other than an attorney with a public defender's office [~~defender~~], appointed to represent a defendant under this code shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts. Expenses incurred with prior court approval shall be reimbursed in the same manner provided for capital cases by Articles 26.052(f) and (g), and expenses incurred without prior court approval shall be reimbursed in the manner provided for capital cases by Article 26.052(h).

SECTION 13. Section 11(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision and may, at any time during the period of community supervision, alter or modify the conditions. The judge may impose any reasonable condition that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. Conditions of community supervision may include, but shall not be limited to, the conditions that the defendant shall:

(1) Commit no offense against the laws of this State or of any other State or of the United States;

(2) Avoid injurious or vicious habits;

(3) Avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang;

(4) Report to the supervision officer as directed by the judge or supervision officer and obey all rules and regulations of the community supervision and corrections department;

(5) Permit the supervision officer to visit the defendant at the defendant's home or elsewhere;

(6) Work faithfully at suitable employment as far as possible;

(7) Remain within a specified place;

(8) Pay the defendant's fine, if one is assessed, and all court costs whether a fine is assessed or not, in one or several sums;

(9) Support the defendant's dependents;

(10) Participate, for a time specified by the judge, in any community-based program, including a community-service work program under Section 16 of this article;

(11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending the defendant in the case, if counsel was appointed, or if the defendant was represented by a [~~county-paid~~] public defender's office [~~defender~~], in an amount that would have been paid to an appointed attorney had the county not had a public defender's office [~~defender~~];

(12) Remain under custodial supervision in a community corrections facility, obey all rules and regulations of the facility, and pay a percentage of the defendant's income to the facility for room and board;

(13) Pay a percentage of the defendant's income to the defendant's dependents for their support while under custodial supervision in a community corrections facility;

(14) Submit to testing for alcohol or controlled substances;

(15) Attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~];

(16) With the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;

(17) Submit to electronic monitoring;

(18) Reimburse the compensation to victims of crime fund for any amounts paid from that fund to or on behalf of a victim, as defined by Article 56.32, of the defendant's offense or if no reimbursement is required, make one payment to the compensation to victims of crime fund in an amount not to exceed \$50 if the offense is a misdemeanor or not to exceed \$100 if the offense is a felony;

(19) Reimburse a law enforcement agency for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

(20) Pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense;

(21) Make one payment in an amount not to exceed \$50 to a crime stoppers organization as defined by Section 414.001, Government Code, and as certified by the Texas Crime Stoppers Council;

(22) Submit a DNA sample to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant;

(23) In any manner required by the judge, provide public notice of the offense for which the defendant was placed on community supervision in the county in which the offense was committed; and

(24) Reimburse the county in which the prosecution was instituted for compensation paid to any interpreter in the case.

SECTION 14. Section 133.107, Local Government Code, is amended to read as follows:

Sec. 133.107. FEE FOR SUPPORT OF INDIGENT DEFENSE REPRESENTATION. (a) A person convicted of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay as a court cost, in addition to other costs, a fee of \$2 to be used to fund indigent defense representation through the fair defense account established under Section 79.031 [~~71.058~~], Government Code.

(b) The treasurer shall remit a fee collected under this section to the comptroller in the manner provided by Subchapter B. The comptroller shall credit the remitted fees to the credit of the fair defense account established under Section 79.031 [~~71.058~~], Government Code.

SECTION 15. The following are repealed:

- (1) Article 26.05(i), Code of Criminal Procedure;
- (2) Section 71.0351, Government Code; and
- (3) Subchapter D, Chapter 71, Government Code.

SECTION 16. As soon as possible after the effective date of this Act, the governor shall appoint the initial governing board of the Texas Indigent Defense Commission in accordance with Subchapter B, Chapter 79, Government Code, as added by this Act. To enable the staggering of terms as required by Section 79.014(b) of that subchapter, the governor shall appoint two members whose terms expire on February 1 of the next odd-numbered year and three members whose terms expire on February 1 of the next even-numbered year.

SECTION 17. (a) On the date the last appointee to the initial governing board of the Texas Indigent Defense Commission takes office, the Task Force on Indigent Defense established under Subchapter D, Chapter 71, Government Code, is abolished. On that date, the powers, duties, obligations, rights, contracts, records, personnel, property, and unspent appropriations of the task force are transferred to the commission.

(b) All rules of the Task Force on Indigent Defense are continued in effect as rules of the Texas Indigent Defense Commission until superseded by a rule of the commission.

(c) Notwithstanding the changes in law made by this Act, until the date the Task Force on Indigent Defense is abolished as provided by this section, the members and the director of the task force on the effective date of this Act may continue in office and exercise their powers and duties under the law that governed the task force before the effective date of this Act, and the prior law is continued in effect for that purpose.

SECTION 18. Not later than December 1, 2011, the Texas Indigent Defense Commission and the Texas Judicial Council shall adopt a memorandum of understanding to facilitate the timely implementation of this Act.

SECTION 19. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1754** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 79.035(b)(2)(C), Government Code (page 5, line 7), strike "and".

(2) In added Section 79.035(b)(2)(D), Government Code (page 5, line 9), between "state" and the underlined period, insert the following:
; and

(E) the findings of a report submitted to the commission under Section 79.039

(3) In added Subchapter C, Chapter 79, Government Code (page 6, between lines 35 and 36), insert the following:

Sec. 79.039. EXONERATION REPORT. (a) Each legal clinic or program in this state that is operated by a law school and that receives financial support from the commission shall submit to the commission an annual report regarding criminal cases:

(1) in which the clinic or program has provided legal services to an indigent defendant during the preceding calendar year; and

(2) in which:

(A) based on a finding of actual innocence, the court of criminal appeals overturns a conviction; or

(B) the governor issues a pardon based on actual innocence.

(b) The report required under Subsection (a) must:

(1) identify each likely cause of a wrongful conviction listed in the report; and

(2) recommend to the judiciary and the legislature best practices, policies, and statutory changes to address or mitigate those likely causes with respect to future criminal cases.

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

SECTION ____. Not later than December 1, 2012, each legal clinic or program in this state that is operated by a law school and that receives financial support from the Texas Indigent Defense Commission shall submit the initial report required by Section 79.039, Government Code, as added by this Act.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 1754** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 79.001(3), Government Code (page 1, line 27), strike "agency" and substitute "permanent standing committee of the council".

(2) In added Section 79.002, Government Code (page 1, lines 60 through 61), strike ". The commission is an agency in the judicial branch of this state" and substitute "as a permanent standing committee of the council".

(3) Strike added Section 79.003, Government Code (page 2, lines 1 through 4).

(4) In added Section 79.011(b), Government Code (page 2, line 10), strike "79.038" and substitute "79.033(b)".

(5) Strike added Section 79.033, Government Code (page 3, lines 58 through 61), and substitute the following:

Sec. 79.033. ADMINISTRATIVE ATTACHMENT; SUPPORT; BUDGET.

(a) The commission is administratively attached to the Office of Court Administration of the Texas Judicial System.

(b) The office of court administration shall provide administrative support services, including human resources, budgetary, accounting, purchasing, payroll, information technology, and legal support services, to the commission as necessary to carry out the purposes of this chapter.

(c) The commission, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request that is separate from the legislative appropriations request

for the Office of Court Administration of the Texas Judicial System and is used to develop the commission's budget structure. The commission shall maintain the legislative appropriations request and budget structure separately from those of the office of court administration.

(6) Strike added Section 79.038, Government Code (page 6, lines 32 through 35).

HR 2546 - ADOPTED
(by Phillips)

The following privileged resolution was laid before the house:

HR 2546

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 1112** (authority and powers of regional mobility authorities) to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill by adding the following section to the bill:

SECTION 16. Subchapter H, Chapter 370, Transportation Code, is amended by adding Section 370.333 to read as follows:

Sec. 370.333. VOLUNTARY DISSOLUTION OF AUTHORITY GOVERNED BY GOVERNING BODY OF MUNICIPALITY. In addition to the requirements of Section 370.331, an authority governed under Section 370.2511 may not be dissolved unless:

(1) the dissolution is approved by a vote of at least two-thirds of the members of the governing body;

(2) all debts, obligations, and liabilities of the authority have been paid and discharged or adequate provision has been made for the payment of all debts, obligations, and liabilities;

(3) there are no suits pending against the authority, or adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against it in any pending suit; and

(4) the authority has commitments from other governmental entities to assume jurisdiction of all authority transportation facilities.

Explanation: This change is necessary to enact additional requirements for the voluntary dissolution of a regional mobility authority governed by the governing body of a municipality.

HR 2546 was adopted by (Record 1548): 137 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias;

Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Alonzo; Anderson, R.; Chisum; Eissler; Garza; Orr.

HB 1112 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Phillips submitted the following conference committee report on **HB 1112**:

Austin, Texas, May 24, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1112** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Nichols	Phillips
Shapiro	Harper-Brown
Watson	Lavender
Williams	Pickett
Rodriguez	Fletcher
On the part of the senate	On the part of the house

HB 1112, A bill to be entitled An Act relating to the authority and powers of regional mobility authorities.

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

SECTION 1. Sections 370.003(12) and (14), Transportation Code, are amended to read as follows:

(12) "Surplus revenue" means revenue that exceeds:

(A) an authority's debt service requirements for a transportation project, including the redemption or purchase price of bonds subject to redemption or purchase as provided in the applicable bond proceedings;

(A-1) an authority's payment obligations under a contract or agreement authorized by this chapter;

(B) coverage requirements of a bond indenture for a transportation project;

(C) costs of operation and maintenance for a transportation project;

(D) cost of repair, expansion, or improvement of a transportation project;

(E) funds allocated for feasibility studies; and

(F) necessary reserves as determined by the authority.

(14) "Transportation project" means:

(A) a turnpike project;

(B) a system;

(C) a passenger or freight rail facility, including:

(i) tracks;

(ii) a rail line;

(iii) switching, signaling, or other operating equipment;

(iv) a depot;

(v) a locomotive;

(vi) rolling stock;

(vii) a maintenance facility; and

(viii) other real and personal property associated with a rail operation;

(D) a roadway with a functional classification greater than a local road or rural minor collector;

(E) a ferry;

(F) an airport, other than an airport that on September 1, 2005, was served by one or more air carriers engaged in scheduled interstate transportation, as those terms were defined by 14 C.F.R. Section 1.1 on that date;

(G) a pedestrian or bicycle facility;

(H) an intermodal ~~intermodal~~ hub;

(I) an automated conveyor belt for the movement of freight;

(J) a border crossing inspection station;

(K) an air quality improvement initiative;

(L) a public utility facility;

(M) a transit system;

(M-1) a parking area, structure, or facility, or a collection device for parking fees; ~~and~~

(N) if applicable, projects and programs listed in the most recently approved state implementation plan for the area covered by the authority, including an early action compact; and

(O) improvements in a transportation reinvestment zone designated under Subchapter E, Chapter 222.

SECTION 2. Section 370.004(a), Transportation Code, is amended to read as follows:

(a) The cost of acquisition, construction, improvement, extension, or expansion of a transportation project under this chapter includes the cost of:

(1) the actual acquisition, construction, improvement, extension, or expansion of the transportation project;

(2) the acquisition of real property, rights-of-way, property rights, easements, and other interests in real property;

(3) machinery and equipment;

(4) interest payable before, during, and for not more than three years after acquisition, construction, improvement, extension, or expansion as provided in the bond proceedings;

(5) traffic estimates, revenue estimates, engineering and legal services, plans, specifications, surveys, appraisals, construction cost estimates, and other expenses necessary or incidental to determining the feasibility of the acquisition, construction, improvement, extension, or expansion;

(6) necessary or incidental administrative, legal, and other expenses;

(7) compliance with laws, regulations, and administrative rulings, including any costs associated with necessary environmental mitigation measures;

(8) financing;

(9) the assumption of debts, obligations, and liabilities of an entity relating to a transportation project transferred to an authority by that entity; ~~and~~

(10) expenses related to the initial operation of the transportation project; and

(11) payment obligations of an authority under a contract or agreement authorized by this chapter in connection with the acquisition, construction, improvement, extension, expansion, or financing of the transportation project.

SECTION 3. Sections 370.033(a), (f), and (g), Transportation Code, are amended to read as follows:

(a) An authority, through its board, may:

(1) adopt rules for the regulation of its affairs and the conduct of its business;

(2) adopt an official seal;

(3) study, evaluate, design, finance, acquire, construct, maintain, repair, and operate transportation projects, individually or as one or more systems, provided that a transportation project that is subject to Subpart C, 23 C.F.R. Part 450, is:

(A) included in the plan approved by the applicable metropolitan planning organization; and

(B) consistent with the statewide transportation plan and the statewide transportation improvement program;

(4) acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(5) enter into contracts or operating agreements with a similar authority, another governmental entity, or an agency of the United States, a state of the United States, the United Mexican States, or a state of the United Mexican States;

(6) enter into contracts or agreements necessary or incidental to its powers and duties under this chapter;

(7) cooperate and work directly with property owners and governmental entities and officials to support an activity required to promote or develop a transportation project;

(8) employ and set the compensation and benefits of administrators, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, full-time and part-time employees, agents, consultants, and other persons as the authority considers necessary or useful;

(8-a) participate in the state travel management program administered by the comptroller for the purpose of obtaining reduced airline fares and reduced travel agent fees, provided that the comptroller may charge the authority a fee not to exceed the costs incurred by the comptroller in providing services to the authority;

(9) notwithstanding Sections 221.003 and 222.031 and subject to Subsections (j) and (m), apply for, directly or indirectly receive and spend loans, gifts, grants, and other contributions for any purpose of this chapter, including the construction of a transportation project, and receive and spend contributions of money, property, labor, or other things of value from any source, including the United States, a state of the United States, the United Mexican States, a state of the United Mexican States, the commission, the department, a subdivision of this state, or a governmental entity or private entity, to be used for the purposes for which the grants, loans, or contributions are made, and enter into any agreement necessary for the grants, loans, or contributions;

(10) install, construct, or contract for the construction of public utility facilities, direct the time and manner of construction of a public utility facility in, on, along, over, or under a transportation project, or request the removal or relocation of a public utility facility in, on, along, over, or under a transportation project;

(11) organize a corporation under Chapter 431 for the promotion and development of transportation projects;

(12) adopt and enforce rules not inconsistent with this chapter for the use of any transportation project, including tolls, fares, or other user fees, speed and weight limits, and traffic and other public safety rules, provided that an authority must consider the same factors that the Texas Turnpike Authority division of the department must consider in altering a prima facie speed limit under Section 545.354;

(13) enter into leases, operating agreements, service agreements, licenses, franchises, and similar agreements with a public or private party governing the party's use of all or any portion of a transportation project and the rights and obligations of the authority with respect to a transportation project;

(14) borrow money from or enter into a loan agreement or other arrangement with the state infrastructure bank, the department, the commission, or any other public or private entity; and

(15) do all things necessary or appropriate to carry out the powers and duties expressly granted or imposed by this chapter.

(f) An authority and a governmental entity may enter into a contract, agreement, interlocal agreement, or other similar arrangement under which the authority may plan, design, construct, or operate a transportation project on behalf of the governmental entity. An authority may enter into a contract or agreement with the department under which the authority will plan, develop, operate, or maintain a transportation project on behalf of the department, subject to the transportation project being in the authority's area of jurisdiction. A contract or agreement under this subsection may contain terms and conditions as may be approved by an authority, including payment obligations of the governmental entity and the authority.

(g) Payments to be made to an authority under a contract or agreement described by Subsection (f) constitute operating expenses of the transportation project or system that is to be operated under the contract or agreement. The contract or agreement may extend for the number of years as agreed to by the parties.

SECTION 4. Sections 370.071(a) and (b), Transportation Code, are amended to read as follows:

(a) An authority may pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to the preparation and issuance of bonds for a proposed transportation project by:

(1) using legally available revenue derived from an existing transportation project;

(2) borrowing money and issuing bonds or entering into a loan agreement payable out of legally available revenue anticipated to be derived from the operation of an existing transportation project; ~~[or]~~

(3) pledging to the payment of the bonds or a loan agreement legally available revenue anticipated to be derived from the operation of transportation projects or revenue legally available to the authority from another source; or

(4) pledging to the payment of the bonds or a loan agreement the proceeds from the sale of other bonds.

(b) Money spent under this section for a proposed transportation project must be reimbursed to the transportation project from which the money was spent from the proceeds of bonds issued for the acquisition and construction of the proposed transportation project, unless the transportation projects are or become part of a system under Section 370.034.

SECTION 5. Section 370.072(c), Transportation Code, is amended to read as follows:

(c) Money in the feasibility study fund may be used only to pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to:

(1) the preparation and issuance of bonds for the acquisition and construction of a proposed transportation project;

(2) the financing of the improvement, extension, or expansion of an existing transportation project; and

(3) private participation, as authorized by law, in the financing of a proposed transportation project, the refinancing of an existing transportation project or system, or the improvement, extension, or expansion of a transportation project.

SECTION 6. Section 370.073(a), Transportation Code, is amended to read as follows:

(a) One or more municipalities, counties, or other governmental entities, a combination of municipalities, counties, and other governmental entities, or a private group or combination of individuals in this state may pay all or part of the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to:

(1) the preparation and issuance of bonds for the acquisition or construction of a proposed transportation project by an authority;

(2) the improvement, extension, or expansion of an existing transportation project of the authority; or

(3) the use of private participation under applicable law in connection with the acquisition, construction, improvement, expansion, extension, maintenance, repair, or operation of a transportation project by an authority.

SECTION 7. Section 370.113(a), Transportation Code, is amended to read as follows:

(a) The principal of, interest on, and any redemption premium on bonds issued by an authority are payable solely from:

(1) the revenue of the transportation project for which the bonds are issued;

(2) payments made under an agreement with the commission, the department, or other governmental entity as authorized [provided] by this chapter [Subchapter G];

(3) money derived from any other source available to the authority, other than money derived from a transportation project that is not part of the same system or money derived from a different system, except to the extent that the surplus revenue of a transportation project or system has been pledged for that purpose; ~~and~~

(4) amounts received under a credit agreement relating to the transportation project for which the bonds are issued; and

(5) the proceeds of the sale of other bonds.

SECTION 8. Section 370.114, Transportation Code, is amended to read as follows:

Sec. 370.114. EFFECT OF LIEN. (a) A lien on or a pledge of revenue from a transportation project under this chapter or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter or a contract or agreement entered into under this chapter:

(1) is enforceable at the time of payment for and delivery of the bond or on the effective date of the contract or agreement;

(2) applies to each item on hand or subsequently received;

(3) applies without physical delivery of an item or other act; and

(4) is enforceable against any person having a claim, in tort, contract, or other remedy, against the applicable authority without regard to whether the person has notice of the lien or pledge.

(b) A copy of any bond resolution shall [is not required to] be maintained [recorded except] in the regular records of the authority.

SECTION 9. Section 370.172, Transportation Code, is amended by amending Subsection (b) and adding Subsection (k) to read as follows:

(b) Tolls, fees, fares, or other charges must be set at rates or amounts so that the aggregate of tolls, fees, fares, or other charges from an authority's transportation project, together with other revenue of the transportation project:

(1) provides revenue sufficient to pay:

(A) the cost of maintaining, repairing, and operating the transportation project; ~~and~~

(B) the principal of and interest on any bonds issued for the transportation project as those bonds become due and payable; and

(C) any other payment obligations of an authority under a contract or agreement authorized under this chapter; and

(2) creates reserves for a purpose listed under Subdivision (1).

(k) Notwithstanding any other provision of this chapter, an authority may pledge all or any part of its revenues and any other funds available to the authority to the payment of any obligations of the authority under a contract or agreement authorized by this chapter.

SECTION 10. Section 370.173(c), Transportation Code, is amended to read as follows:

(c) The authority may use money in the revolving fund to:

(1) finance the acquisition, construction, maintenance, or operation of a transportation project, including the extension, expansion, or improvement of a transportation project;

(2) provide matching money required in connection with any federal, state, local, or private aid, grant, or other funding, including aid or funding by or with public-private partnerships;

(3) provide credit enhancement either directly or indirectly for bonds issued to acquire, construct, extend, expand, or improve a transportation project;

(4) provide security for or payment of future or existing debt for the design, acquisition, construction, operation, maintenance, extension, expansion, or improvement of a transportation project or system;

(5) borrow money and issue bonds, promissory notes, or other indebtedness payable out of the revolving fund for any purpose authorized by this chapter; and

(6) provide for any other reasonable purpose that assists in the financing of an authority as authorized by this chapter.

SECTION 11. Section 370.177, Transportation Code, is amended by adding Subsection (l) to read as follows:

(l) In addition to the other powers and duties provided by this chapter, with regard to its toll collection and enforcement powers for its turnpike projects or other toll projects developed, financed, constructed, and operated under an agreement with the authority or another entity, an authority has the same powers and duties as the department under Chapter 228, a county under Chapter 284, and a regional tollway authority under Chapter 366.

SECTION 12. Sections 370.251(a) and (b), Transportation Code, are amended to read as follows:

(a) Except as provided by Subsection (a-1), the governing body of an authority is a board of directors consisting of representatives of each county in which a transportation project of the authority is located or is proposed to be located. The commissioners court of each county that initially forms the authority shall appoint at least two directors to the board. Additional directors may be appointed to the board at the time of initial formation by agreement of the counties creating the authority to ensure fair representation of political subdivisions in the counties of the authority that will be affected by a transportation project of the authority, provided that the number of directors must be an odd number. The commissioners court of a county that is subsequently added to the authority shall appoint at least one director to the board. The governor shall appoint one director to the board who shall serve as the presiding officer of the board and shall appoint an additional director to the board if an appointment is necessary to maintain an odd number of directors on the board.

(b) The appointment ~~[Unless the commissioners courts]~~ of additional directors from a county subsequently added to an ~~[the counties of the]~~ authority or from a ~~[unanimously agree otherwise, the commissioners court of each]~~ county of an authority that contains an operating transportation project of the authority shall be by a process unanimously agreed to by the commissioners courts of all the counties of the authority [appoint one additional director].

SECTION 13. Subchapter F, Chapter 370, Transportation Code, is amended by adding Section 370.2511 to read as follows:

Sec. 370.2511. BOARD OF DIRECTORS: CERTAIN AUTHORITIES. (a) This section applies only to an authority created by a municipality.

(b) The governing body of a municipality may, by a resolution approved by at least two-thirds of the members of the governing body, establish the governing body as the board of directors of an authority.

(c) If the board of directors of an authority created by a municipality consists of the members of the governing body of the municipality, the governor shall appoint an additional director who is not a member of the governing body of the municipality and who serves as the presiding officer of the board.

(d) Each director of a board under this section has equal status and may vote.

(e) The vote of a majority attending a board meeting is necessary for any action taken by a board under this section. If a vacancy exists on a board, the majority of directors serving on the board is a quorum.

(f) The governing body of a municipality that becomes the board of an existing authority under this section shall by resolution provide for the transfer process that establishes the governing body as the board of the authority.

(g) If the board of directors of an authority created by a municipality consists of the members of the governing body of the municipality, Sections 370.251, 370.2515, 370.252, 370.2521, 370.2522, 370.2523, 370.253, 370.254, and 370.255 do not apply to the board, except that, to the extent applicable, those provisions apply to the governor's appointee under Subsection (c).

(h) This section has no effect if the attorney general issues an opinion stating that, notwithstanding the statutory authority under this section, the Texas Constitution, the common law doctrine of incompatibility, or any other legal principle would prohibit a member of the governing body of a municipality from serving as a director of an authority.

(i) A board under this section is not required to have an odd number of directors.

SECTION 14. Section 370.303, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (g) to read as follows:

(a) A governmental entity [~~other than a nonprofit corporation~~] may, consistent with the Texas Constitution, issue bonds, notes, or other obligations or enter into and make payments under agreements with an authority in connection with the financing, acquisition, construction, [to acquire, construct, maintain,] or operation of [operate] a transportation project by an authority, whether inside or outside the geographic boundaries of the governmental entity, including agreements to pay the principal of, and interest on, bonds, notes, or other obligations issued by the authority and make payments under any related credit agreements. The entity may impose and collect taxes to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

(b) In addition to the powers provided by Subsection (a), a governmental entity may, to the extent constitutionally permitted, agree with an authority to:

(1) issue bonds, notes, or other obligations;

(2) [;] create:

(A) a taxing district;

(B) a transportation reinvestment zone under Subchapter E,

Chapter 222; or

(C) an entity to promote economic development;

(3) collect and remit to an authority taxes, fees, or assessments collected for purposes of developing transportation projects;

(4) [;] fund public improvements to promote economic development;[;]

or

(5) enter into and make payments under an agreement to acquire, construct, maintain, or operate any portion of a transportation project of the authority.

(b-1) An agreement under Subsection (b) may include a means for a local governmental entity to pledge or otherwise provide funds for a transportation project that benefits the governmental entity to be developed by the authority.

(g) An agreement under this section may contain repayment or reimbursement obligations of an authority.

SECTION 15. Section 370.304, Transportation Code, is amended to read as follows:

Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An authority may enter into any contract, loan agreement, or other agreement necessary or convenient to achieve the purposes of this subchapter.

SECTION 16. Subchapter H, Chapter 370, Transportation Code, is amended by adding Section 370.333 to read as follows:

Sec. 370.333. VOLUNTARY DISSOLUTION OF AUTHORITY GOVERNED BY GOVERNING BODY OF MUNICIPALITY. In addition to the requirements of Section 370.331, an authority governed under Section 370.2511 may not be dissolved unless:

(1) the dissolution is approved by a vote of at least two-thirds of the members of the governing body;

(2) all debts, obligations, and liabilities of the authority have been paid and discharged or adequate provision has been made for the payment of all debts, obligations, and liabilities;

(3) there are no suits pending against the authority, or adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against it in any pending suit; and

(4) the authority has commitments from other governmental entities to assume jurisdiction of all authority transportation facilities.

SECTION 17. Section 370.317(d), Transportation Code, is repealed.

SECTION 18. 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.

Representative Phillips moved to adopt the conference committee report on **HB 1112**.

The motion to adopt the conference committee report on **HB 1112** prevailed by (Record 1549): 130 Yeas, 12 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Kuempel; Larson; Lavender; Lewis; Lozano; Lucio; 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; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Woolley; Workman; Zedler; Zerwas.

Nays — Bohac; Carter; Darby; Hartnett; Kolkhorst; Landtroop; Laubenberg; Legler; Perry; Sheets; Weber; White.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Alonzo; Garza.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1549. I intended to vote no.

R. Anderson

I was shown voting yes on Record No. 1549. I intended to vote no.

Brown

When Record No. 1549 was taken, I was temporarily out of the house chamber. I would have voted no.

Garza

I was shown voting yes on Record No. 1549. I intended to vote no.

Kleinschmidt

I was shown voting yes on Record No. 1549. I intended to vote no.

Larson

I was shown voting yes on Record No. 1549. I intended to vote no.

Schwertner

I was shown voting yes on Record No. 1549. I intended to vote no.

Simpson

HB 2093 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Thompson called up with senate amendments for consideration at this time,

HB 2093, A bill to be entitled An Act relating to the operation and regulation of certain consolidated insurance programs.

Representative Thompson moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2093**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2093**: Thompson, chair; Eiland, Sheets, Smithee, and V. Taylor.

HR 2482 - ADOPTED
(by Price)

The following privileged resolution was laid before the house:

HR 2482

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 313** (priority groundwater management areas), to consider and take action on the following matters:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 4 of the bill, in added Section 35.013(g-1), Water Code, to read as follows:

(g-1) If the voters do not approve the assumption of a proportional share of the debts or taxes of a district under Subsection (e), the board shall assess production fees in the added territory based on the amount of water authorized by permit to be withdrawn from a well or the amount actually withdrawn. A district may use revenue generated for any purpose authorized by Section 36.206 or 36.207. Initial production fees may not exceed production fees as set in Section 36.205(c), but may be increased by the board on a majority vote after the first anniversary of the commission order. Production fees may be raised incrementally by 40 percent and 10 percent every following year until the maximum production fees equal:

(1) \$2 per acre-foot, payable annually, for water used for an agricultural purpose; or

(2) 30 cents per 1,000 gallons, payable annually, for water used for any non-agricultural purpose.

Explanation: This change is necessary to specify the amounts to which a production fee may be set or increased.

HR 2482 was adopted by (Record 1550): 140 Yeas, 0 Nays, 2 Present, not voting.

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

Geren; Giddings; Gonzales, L.; Gonzales, V.; 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.; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Allen; Garza; Kleinschmidt; Murphy.

SB 313 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Price submitted the conference committee report on **SB 313**.

Representative Price moved to adopt the conference committee report on **SB 313**.

The motion to adopt the conference committee report on **SB 313** prevailed by (Record 1551): 141 Yeas, 0 Nays, 2 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; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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.; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Garza; Kleinschmidt; Woolley.

**SB 563 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Torres, the house granted the request of the senate for the appointment of a Conference Committee on **SB 563**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 563**: Torres, chair; Garza, Harper-Brown, Lucio, and Zedler.

HB 3109 - VOTE RECONSIDERED

Representative Craddick moved to reconsider the vote by which the house concurred in the senate amendments to **HB 3109** on May 25.

The motion to reconsider prevailed.

**HB 3109 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Craddick called up with senate amendments for consideration at this time,

HB 3109, A bill to be entitled An Act relating to the rulemaking power of certain groundwater conservation districts.

Representative Craddick moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3109**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3109**: Craddick, chair; Darby, Lewis, S. King, and Parker.

HB 1103 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1103**: Lucio, chair; Peña, Scott, Thompson, and Woolley.

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 213 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Rodriguez called up with senate amendments for consideration at this time,

HB 213, A bill to be entitled An Act relating to the duties of a mortgage servicer of certain residential mortgage loans.

Representative Rodriguez moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 213**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 213**: Rodriguez, chair; Truitt, Keffer, Anchia, and Muñoz.

PROVIDING FOR ADJOURNMENT

Representative Peña moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees and the receipt of messages from the senate, the house adjourn until 10 a.m. tomorrow.

The motion prevailed.

(C. Anderson in the chair)

RESOLUTIONS REFERRED TO COMMITTEES

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Geren in the chair)

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).

(Isaac in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 6:47 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HR 2177 (By Y. Davis), Honoring Hugh L. Brady on being named the 2010 Volunteer of the Year by Planned Parenthood of North Texas.

To Rules and Resolutions.

HR 2376 (By Truitt), Commending Emily Landon for her service as assistant clerk for the House Committee on Pensions, Investments, and Financial Services.

To Rules and Resolutions.

HR 2377 (By Truitt), Commending Jessica Myles on her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

HR 2378 (By Truitt), Commending Jonathan Connors for his service as a legislative intern in the office of State Representative Vicki Truitt.

To Rules and Resolutions.

HR 2379 (By Truitt), Commending Joseph Halbert for his service as a legislative aide in the office of State Representative Vicki Truitt.

To Rules and Resolutions.

HR 2380 (By Truitt), Commending Adam Shapiro for his service as assistant clerk for the House Committee on Pensions, Investments, and Financial Services.

To Rules and Resolutions.

HR 2381 (By Reynolds), Honoring Houston Community College trustee Neeta Sane for her contributions to HCC and to Fort Bend County.

To Rules and Resolutions.

HR 2382 (By Guillen), In memory of Jose R. Coronado of Duval County.

To Rules and Resolutions.

HR 2383 (By Peña), Commending Felicia Pilar Pena for her service as assistant clerk for the House Committee on Technology.

To Rules and Resolutions.

HR 2384 (By Fletcher), In memory of Teddy A. Klein of Tomball.

To Rules and Resolutions.

HR 2385 (By Riddle), Commending Joshua Santo for his service as an intern in the office of State Representative Debbie Riddle.

To Rules and Resolutions.

HR 2387 (By Paxton), Congratulating the girls' soccer team of Wakeland High School in Frisco on winning the UIL 4A state championship.

To Rules and Resolutions.

HR 2388 (By Guillen), In memory of the Honorable Judge Ricardo H. Garcia of Duval County.

To Rules and Resolutions.

HR 2389 (By Guillen), Congratulating the softball team of United South High School in Laredo on its successful 2011 season.

To Rules and Resolutions.

HR 2391 (By Garza), Congratulating Dr. Felix D. Almaraz, Jr., on his retirement as the Peter T. Flawn Distinguished University Professor of Borderlands History at The University of Texas at San Antonio.

To Rules and Resolutions.

HR 2393 (By Y. Davis), Congratulating Curt Krohn on being elected to the DeSoto Independent School District Board of Trustees.

To Rules and Resolutions.

HR 2394 (By Y. Davis), Congratulating Kenzie Moore on being reelected to the DeSoto Independent School District Board of Trustees.

To Rules and Resolutions.

HR 2395 (By Eissler), In memory of U.S. Air Force Captain Nathan J. Nylander of Hockley.

To Rules and Resolutions.

HR 2396 (By Craddick), Congratulating Lawrence and Patty Fuller of Midland on their 65th wedding anniversary.

To Rules and Resolutions.

HR 2397 (By Harper-Brown), Commending Brendin Gardiner James for his service as an intern in the office of State Representative Linda Harper-Brown.

To Rules and Resolutions.

HR 2398 (By Guillen), In memory of Eliseo Smith, Jr., of Rio Grande City.

To Rules and Resolutions.

HR 2399 (By Guillen), In memory of Oscar Garcia, Jr., of San Diego, Texas.

To Rules and Resolutions.

HR 2400 (By Guillen), In memory of Victoriano "Tano" Leal, Sr.

To Rules and Resolutions.

HR 2401 (By Guillen), In memory of Jose Venecia.

To Rules and Resolutions.

HR 2402 (By Guillen), In memory of Ines G. Carrera of Starr County.

To Rules and Resolutions.

HR 2403 (By Guillen), In memory of Rene Serrato.

To Rules and Resolutions.

HR 2404 (By Guillen), In memory of Felipe Victor Ramon.

To Rules and Resolutions.

HR 2405 (By Guillen), In memory of Juan "Nuno" Flores.

To Rules and Resolutions.

HR 2407 (By C. Anderson), In memory of Adelia Engelbrecht of Crawford.

To Rules and Resolutions.

HR 2408 (By C. Anderson), In memory of Helen Marie Davis of Waco.

To Rules and Resolutions.

HR 2409 (By C. Anderson), In memory of Arlene M. Tomchesson of Waco.
To Rules and Resolutions.

HR 2410 (By C. Anderson), In memory of Milton John "M. J." Norris, Jr.
To Rules and Resolutions.

HR 2411 (By C. Anderson), In memory of Mary Massie Goss.
To Rules and Resolutions.

HR 2412 (By C. Anderson), In memory of Betty Jo Smith of Waco.
To Rules and Resolutions.

HR 2413 (By C. Anderson), In memory of Curtis Rodriguez of Waco.
To Rules and Resolutions.

HR 2414 (By C. Anderson), In memory of Debra Lynn Ramirez of Waco.
To Rules and Resolutions.

HR 2415 (By C. Anderson), In memory of Charles Franklin Smith of Waco.
To Rules and Resolutions.

HR 2416 (By C. Anderson), Congratulating Wendy Willis and Brandon Dale Sharp on their wedding.
To Rules and Resolutions.

HR 2417 (By Eissler), Congratulating Dave Parsons of Conroe on being named Texas Poet Laureate for 2011.
To Rules and Resolutions.

HR 2418 (By Frullo), Commending Rise Academy superintendent Richard Baumgartner for his courageous actions that saved a woman from an assault.
To Rules and Resolutions.

HR 2419 (By Frullo), Honoring the Legal Aid Society of Lubbock.
To Rules and Resolutions.

HR 2425 (By Margo), Congratulating Justin Churchman on being named one of the top 10 youth volunteers in the nation for 2011 by the Prudential Spirit of Community Awards program.
To Rules and Resolutions.

HR 2426 (By McClendon), In memory of Merline Clack Johnson.
To Rules and Resolutions.

HR 2427 (By McClendon), Honoring the 2011 Class of UTSA Legislative Scholars.
To Rules and Resolutions.

HR 2428 (By Peña), Commending Melinda Hope Reyes for her service as an intern in the office of State Representative Aaron Pena and congratulating her on her August 2011 graduation from Texas State University.
To Rules and Resolutions.

HR 2429 (By Peña), Commending Jacob Welch for his service as assistant clerk for the House Committee on Technology.
To Rules and Resolutions.

HR 2430 (By Peña), Congratulating Isabel Garza Brown on her 80th birthday.

To Rules and Resolutions.

HR 2431 (By Peña), Honoring Mikael A. Garcia for his service as legislative director for the office of State Representative Aaron Pena.

To Rules and Resolutions.

HR 2433 (By Carter), Commending Douglas "Craig" Reid for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2434 (By Carter), Commending Suzy Pollok for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2435 (By Carter), Commending John Locus for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2436 (By Carter), Commending James Beasley for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2437 (By Carter), Commending Paulette Standefer for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2438 (By Carter), Commending Paul Freeman for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2439 (By Carter), Commending Jeni McGarry for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2440 (By Carter), Commending Mickey Kennedy for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2441 (By Carter), Commending Mary McElvany for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2442 (By Carter), Commending Penny Hajdu for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2443 (By Carter), Commending Connie Hutzell for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2444 (By Carter), Commending Darlene Howell for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2445 (By Carter), Commending Caron Hill for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2446 (By Carter), Commending Lois Neal for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2447 (By Carter), Commending Brenda Box-Bristol for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2448 (By Carter), Commending Betty Scoggin for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2449 (By Carter), Commending Dana M. Collins for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2450 (By Carter), Commending Lee Gammill for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2451 (By Carter), Commending Andrew Pavey for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2452 (By Carter), Commending Mary Ellen Cummings for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2453 (By Carter), Commending Bob Friesenhahn for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2454 (By Carter), Commending Barbara Perryman for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2455 (By Carter), Commending Don Sims for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2456 (By Carter), Commending Diann Jones for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2457 (By Carter), Commending Gary McFarland for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2458 (By Carter), Commending Tricia McFarland for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2459 (By Carter), Commending Gerrit Woning for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2460 (By Carter), Commending Annette Ratliffe for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2461 (By Carter), Commending Jana Bertrand for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2462 (By Carter), Commending John Smolik for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2463 (By Carter), Commending Linda Lawrence for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2464 (By Carter), Commending Mary McElvany for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2465 (By Carter), Commending Nella Phillips for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2466 (By Carter), Commending Sherrie Timmins for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2467 (By Carter), Commending Beverly Shukis for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2468 (By Carter), Commending Sherry Walker for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2469 (By Carter), Commending Kris Butler for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2470 (By Carter), Commending Janet Martin for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2471 (By Fletcher), Congratulating Craig E. Ferrell, Jr., on the occasion of his retirement as a deputy director of the Houston Police Department.

To Rules and Resolutions.

HR 2472 (By Craddick), Honoring Colbert L. "Tim" Baker III for his work as founder, president, and chief operating officer of the Springboard Center in Midland.

To Rules and Resolutions.

HR 2473 (By Flynn), Congratulating Devin Faber of Canton High School on winning the 2011 UIL 3A state title in the pole vault.

To Rules and Resolutions.

HR 2475 (By Pitts), Congratulating Corporal Jeremie J. Atilano, Deputy Ryan M. Connelly, Sergeant Deputy David B. "Bryan" McGee, and Deputy Manuel Valdez III of the Ellis County Sheriff's Office on their receipt of the 2010 State of Texas Law Enforcement Achievement Award for Valor.

To Rules and Resolutions.

HR 2476 (By Christian), Recognizing Jacob Soisson for his achievements as a member of the Jasper High School baseball team.

To Rules and Resolutions.

HR 2477 (By Christian), Honoring The University of Texas School of Law on winning the national championship in the 2011 John L. Costello National Criminal Law Trial Advocacy Competition.

To Rules and Resolutions.

HR 2478 (By Y. Davis), Honoring the Reverend Stephen G. Brown on his installation as pastor of Greater Bethlehem Baptist Church of Dallas.

To Rules and Resolutions.

HR 2479 (By Y. Davis), Commending Shirley Daniels for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2480 (By Y. Davis), Commending Myrtis Evans for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2481 (By Y. Davis), Commending Shirley Brown for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2483 (By Gooden), Honoring Don Thurman for his service on the Terrell City Council.

To Rules and Resolutions.

HR 2484 (By Y. Davis), Commending Sedonia Kidd for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2485 (By Y. Davis), Commending G. Virginia Hill for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2486 (By Y. Davis), Commending Thelmer Norman for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2487 (By Y. Davis), Commending Joan Young for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2488 (By Y. Davis), Commending W. O. Montgomery for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2489 (By Y. Davis), Commending Gloria Garnett for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2490 (By Y. Davis), Commending Shirley Walker for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2491 (By Y. Davis), Commending Joe Burkleo for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2492 (By Y. Davis), Commending Betty Hallum for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2493 (By Y. Davis), Commending Nancy Woertendyke for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2494 (By Torres), Honoring Paul Cameron for his service to the Corpus Christi chapter of the Texas Society of Certified Public Accountants and to Corpus Christi State University.

To Rules and Resolutions.

HR 2495 (By Torres), Congratulating Al Jones on his receipt of the 2011 Brad Lomax Spirit of Hospitality Award from the Corpus Christi Convention and Visitors Bureau.

To Rules and Resolutions.

HR 2496 (By Y. Davis), Congratulating Aubrey Hooper on being elected to the DeSoto Independent School District Board of Trustees.

To Rules and Resolutions.

HR 2497 (By Y. Davis), Honoring the Southwest Dallas County Democrats for their civic engagement.

To Rules and Resolutions.

HR 2498 (By Y. Davis), Commending Nettie Runnels for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2499 (By Y. Davis), Commending Rosa Orenstein for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2500 (By Y. Davis), Commending Lawson Turner for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2501 (By Y. Davis), Commending Martin Burrell for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2502 (By Y. Davis), Commending Gwendolyn Swann for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2503 (By Y. Davis), Commending Linda Lydia for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2504 (By Y. Davis), Commending Frances Rizo for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2505 (By Y. Davis), Commending Rosalind Wooten for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2506 (By Y. Davis), Commending Yvette Harris for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2507 (By Y. Davis), Commending Millie Williams for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2508 (By Y. Davis), Commending DeVonne Foutz for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2509 (By Y. Davis), Commending Pam Malveaux for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2510 (By Y. Davis), Commending Patrick De La Garza Und Senkel for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2511 (By Y. Davis), Commending Eli Davis for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2512 (By Y. Davis), Commending Dorothy Dean for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2513 (By Y. Davis), Commending LemLem Berhe for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2514 (By Y. Davis), Commending Betty Culbreath for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2515 (By Y. Davis), Commending Robert Smith for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2516 (By Y. Davis), Commending Paul Clarkson for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2517 (By Y. Davis), Commending Alice Cox for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2519 (By Menendez), Honoring Alex Briseno on his retirement as the chair of the board of trustees of the San Antonio Water System.

To Rules and Resolutions.

HR 2520 (By Y. Davis), Congratulating Dr. Tarron Richardson on his appointment as city manager of DeSoto.

To Rules and Resolutions.

HR 2521 (By Torres), Recognizing the first full week of May 2012 as Texas Teacher Appreciation Week.

To Rules and Resolutions.

HR 2522 (By Torres), Recognizing September 15 to October 15, 2011, as Latino Texan Month.

To Rules and Resolutions.

HR 2523 (By Alonzo), Congratulating Tom Bohanan for his many years of service to Troop No. 8 of the Circle Ten Council of the Boy Scouts of America.

To Rules and Resolutions.

HR 2524 (By Kolkhorst), Honoring Monsignors Harry Mazurkiewicz and Louis Wozniak of Brenham on 60 years of dedicated service to the Catholic Church.

To Rules and Resolutions.

HR 2526 (By Schwertner), Honoring Brianna Vogel of Cedar Park for establishing Brianna's Pennies of Love.

To Rules and Resolutions.

HR 2527 (By Schwertner), Commemorating the centennial of the Williamson County Courthouse.

To Rules and Resolutions.

HR 2528 (By Callegari), Honoring the Katy High School football team on its successful 2009 season and its appearance in the UIL 5A Division 2 title game.

To Rules and Resolutions.

HR 2529 (By Callegari), Honoring the Katy High School football team on its success during the 2010 season.

To Rules and Resolutions.

HR 2530 (By Callegari), Congratulating Andrew Joe Lopez of Katy on his graduation from Taylor High School.

To Rules and Resolutions.

HR 2531 (By Menendez), Honoring Hector and Maria Morales of San Antonio on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2532 (By Gutierrez), In memory of Monica Lisa Reyes of El Paso.

To Rules and Resolutions.

HR 2533 (By Gutierrez), Congratulating Michael Thomas Criaco on his graduation from St. Thomas High School in Houston in May 2011.

To Rules and Resolutions.

HR 2534 (By Gutierrez), Congratulating Matthew Paul Rayner on his graduation from Strake Jesuit College Preparatory.

To Rules and Resolutions.

HR 2535 (By Y. Davis), Congratulating Vonciel Jones Hill on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2536 (By Y. Davis), Congratulating Carolyn R. Davis on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2537 (By Y. Davis), Congratulating Tennell Atkins on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2538 (By Y. Davis), Congratulating Angela Hunt on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2539 (By Y. Davis), Congratulating Scott Griggs on being elected to the Dallas City Council.

To Rules and Resolutions.

HR 2540 (By Y. Davis), Congratulating Monica R. Alonzo on being elected to the Dallas City Council.

To Rules and Resolutions.

HR 2541 (By Y. Davis), Congratulating Pauline Medrano on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2542 (By Y. Davis), Congratulating Don Freeman on being elected to the Duncanville City Council.

To Rules and Resolutions.

HR 2543 (By Y. Davis), Congratulating Johnette Jameson on being reelected to the Duncanville City Council.

To Rules and Resolutions.

HR 2544 (By Y. Davis), Congratulating Leslie Thomas on being reelected to the Duncanville City Council.

To Rules and Resolutions.

HR 2545 (By Shelton), Commending Dr. Melody Johnson for her service as superintendent of the Fort Worth Independent School District.

To Rules and Resolutions.

HR 2548 (By Harless), Commending Barbara Schlattman for her efforts to bring landscaped medians to FM 1960 in Northwest Houston.

To Rules and Resolutions.

HR 2551 (By Torres), Recognizing September 15 to October 15, 2012, as Latino Texan Month.

To Rules and Resolutions.

HR 2552 (By Y. Davis), Congratulating Tayler Lanise Haggerty on her graduation from Sam Houston State University.

To Rules and Resolutions.

HR 2553 (By Y. Davis), Congratulating Dwaine Caraway on being reelected to the Dallas City Council and commending him for his service as interim mayor.

To Rules and Resolutions.

HR 2554 (By Y. Davis), Congratulating the DeSoto High School girls' track and field team on winning the 2011 UIL 5A state championship.

To Rules and Resolutions.

HR 2555 (By Thompson), Commending Steven E. Simmons for his service to the Texas Department of Transportation.

To Rules and Resolutions.

HR 2556 (By V. Gonzales), Commemorating the 35th anniversary of Freddy Gonzalez Elementary School in Edinburg.

To Rules and Resolutions.

HR 2557 (By V. Gonzales), In memory of U.S. Army Staff Sergeant Bradley Espinoza.

To Rules and Resolutions.

HR 2559 (By Pickett), Congratulating the Eastwood High School girls' golf team on its outstanding 2011 season.

To Rules and Resolutions.

HR 2560 (By Pickett), Honoring Jay T. Kimbrough for his military service during the Vietnam War and his efforts to commemorate those Texans who made the ultimate sacrifice in Vietnam.

To Rules and Resolutions.

HR 2561 (By Price), In memory of Elias Macias Jaquez of the Cactus Volunteer Fire Department.

To Rules and Resolutions.

HR 2562 (By Price), Congratulating Carole D. Baker on her receipt of the 2011 Gregg A. Cooke Memorial Award for Exceptional Environmental Excellence from the Texas Commission on Environmental Quality.

To Rules and Resolutions.

HR 2563 (By White), Recognizing the GEAR UP program and congratulating the 2011 graduating class of Lufkin High School.

To Rules and Resolutions.

HR 2564 (By Alonzo), Commending Deborah Seriki for her service as an intern in the office of State Representative Roberto R. Alonzo.

To Rules and Resolutions.

HR 2565 (By D. Howard), Congratulating Darin and Kathy Leigh of Austin on attaining U.S. citizenship.

To Rules and Resolutions.

HR 2566 (By Parker), Congratulating John Edward Carroll of Grand Prairie on his 76th birthday.

To Rules and Resolutions.

HR 2567 (By Parker), Congratulating Officer Luther E. Cosby of the Roanoke Police Department on his receipt of a 2010 State of Texas Law Enforcement Achievement Award for Valor.

To Rules and Resolutions.

HR 2568 (By Burkett), In memory of U.S. Army Private First Class Devon Jemail Harris of Mesquite.

To Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 38

HB 149, HB 254, HB 338, HB 343, HB 364, HB 412, HB 447, HB 528, HB 534, HB 577, HB 588, HB 654, HB 692, HB 737, HB 787, HB 890, HB 943, HB 963, HB 990, HB 1048, HB 1060, HB 1070, HB 1116, HB 1129, HB 1144, HB 1148, HB 1163, HB 1226, HB 1235, HB 1274, HB 1305, HB 1315, HB 1486, HB 1499, HB 1610, HB 1615, HB 1942, HB 1964, HB 1992, HB 2038, HB 2098, HB 2120, HB 2160, HB 2170, HB 2195, HB 2223, HB 2280, HB 2292, HB 2325, HB 2359, HB 2425, HB 2472, HB 2604, HB 2619, HB 2632, HB 2725, HB 2769, HB 2792, HB 2872,

HB 2994, HB 3093, HB 3134, HB 3145, HB 3167, HB 3182, HB 3270, HB 3311, HB 3336, HB 3404, HB 3410, HB 3423, HB 3439, HB 3578, HB 3727, HB 3788, HB 3796, HB 3823, HB 3829, HB 3836, HB 3862, HB 3864, HCR 24, HCR 86, HCR 130, HCR 153, HJR 109

Senate List No. 34

SB 19, SB 29, SB 43, SB 166, SB 233, SB 234, SB 266, SB 267, SB 304, SB 350, SB 367, SB 422, SB 449, SB 461, SB 471, SB 481, SB 489, SB 554, SB 577, SB 578, SB 609, SB 627, SB 650, SB 682, SB 735, SB 791, SB 792, SB 799, SB 864, SB 889, SB 898, SB 900, SB 901, SB 959, SB 966, SB 987, SB 1020, SB 1030, SB 1044, SB 1046, SB 1106, SB 1133, SB 1167, SB 1176, SB 1220, SB 1231, SB 1273, SB 1308, SB 1322, SB 1330, SB 1342, SB 1368, SB 1438, SB 1441, SB 1480, SB 1484, SB 1493, SB 1521, SB 1522, SB 1557, SB 1596, SB 1681, SB 1737, SB 1787, SB 1789, SB 1807, SB 1812, SB 1857, SB 1875, SB 1880, SB 1915, SB 1928, SCR 35, SCR 51

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
Thursday, May 26, 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:

HB 4 Pitts SPONSOR: Ogden
Relating to making supplemental appropriations and giving direction and adjustment authority regarding appropriations.
(Committee Substitute/Amended)

HB 242 Craddick SPONSOR: Hegar
Relating to the authority of certain retired peace officers to carry certain firearms.
(Amended)

HB 550 Dutton SPONSOR: Jackson
Relating to an exemption to the requirement for a fishing license for residents of a certain age.
(Amended)

HB 680 Schwertner SPONSOR: Huffman
Relating to complaints filed with the Texas Medical Board.

(Committee Substitute)

HB 1199 Gallego SPONSOR: Davis
Relating to the penalty for certain intoxication offenses.

(Committee Substitute/Amended)

HB 1844 Guillen SPONSOR: Watson
Relating to storage of local government records by the Texas State Library and Archives Commission.

HB 2853 Davis, John SPONSOR: Jackson
Relating to tax increment financing.

(Amended)

HB 2857 Gallego SPONSOR: Uresti
Relating to regulation of outdoor lighting in certain areas; providing a criminal penalty and for injunctive relief.

(Committee Substitute)

HCR 84 Cain SPONSOR: Estes
Designating 42 as the official State Domino Game of Texas.

(Amended)

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 176 (31 Yeas, 0 Nays)

SB 218 (31 Yeas, 0 Nays)

SB 220 (31 Yeas, 0 Nays)

SB 229 (31 Yeas, 0 Nays)

SB 349 (31 Yeas, 0 Nays)

SB 438 (31 Yeas, 0 Nays)

SB 548 (31 Yeas, 0 Nays)

SB 701 (31 Yeas, 0 Nays)

SB 802 (31 Yeas, 0 Nays)

SB 804 (31 Yeas, 0 Nays)

SB 812 (30 Yeas, 1 Nay)

SB 917 (31 Yeas, 0 Nays)

SB 1386 (28 Yeas, 3 Nays)

SB 1477 (31 Yeas, 0 Nays)

SB 1504 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 377

Senate Conferees: Huffman - Chair/Eltife/Nelson/Patrick/Whitmire

SB 1010

Senate Conferees: Huffman - Chair/Hegar/Nelson/Patrick/Whitmire

SB 1331

Senate Conferees: Watson - Chair/Carona/Ellis/Huffman/Whitmire

SB 1543

Senate Conferees: Wentworth - Chair/Carona/Davis/Seliger/Shapiro

SB 1600

Senate Conferees: Whitmire - Chair/Gallegos/Hinojosa/Huffman/Nelson

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 200

Senate Conferees: Whitmire - Chair/Ellis/Hegar/Huffman/Patrick

HB 414

Senate Conferees: Hegar - Chair/Estes/Hinojosa/Jackson/Seliger

HB 871

Senate Conferees: Zaffirini - Chair/Carona/Deuell/Eltife/Rodriguez

HB 1619

Senate Conferees: Patrick - Chair/Eltife/Hegar/Huffman/Nichols

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 275 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 26, 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:

HB 1960 Deshotel SPONSOR: Jackson
Relating to the regulation of boat manufacturers, distributors, and dealers; providing a civil penalty.

HCR 1 Hilderbran SPONSOR: Uresti
In memory of former Texas governor Dolph Briscoe, Jr.

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 20	(29 Yeas, 2 Nays)
SB 167	(31 Yeas, 0 Nays)
SB 408	(31 Yeas, 0 Nays)
SB 683	(31 Yeas, 0 Nays)
SB 761	(31 Yeas, 0 Nays)
SB 810	(31 Yeas, 0 Nays)
SB 1686	(31 Yeas, 0 Nays)
SB 1714	(31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 516

Senate Conferees: Patrick - Chair/Birdwell/Hinojosa/Huffman/Nichols

SB 635

Senate Conferees: Nichols - Chair/Fraser/Gallegos/Hegar/Patrick

SB 694

Senate Conferees: West - Chair/Duncan/Fraser/Harris/Uresti

SB 1588

Senate Conferees: Ogden - Chair/Estes/Hinojosa/Lucio/Seliger

SB 1717

Senate Conferees: Duncan - Chair/Harris/Hinojosa/Huffman/Uresti

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 90

Senate Conferees: Birdwell - Chair/Nichols/Patrick/Watson/Williams

HB 1178

Senate Conferees: Birdwell - Chair/Estes/Harris/Seliger/Van de Putte

HB 1335

Senate Conferees: Van de Putte - Chair/Carona/Lucio/Shapiro/Zaffirini

HB 1732

Senate Conferees: Hinojosa - Chair/Nelson/Seliger/Whitmire/Williams

HB 2226

Senate Conferees: Carona - Chair/Eltife/Gallegos/Nichols/Zaffirini

HB 2560

Senate Conferees: Estes - Chair/Hegar/Huffman/Lucio/Wentworth

HB 2605

Senate Conferees: Huffman - Chair/Hegar/Hinojosa/Nelson/Whitmire

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Thursday, May 26, 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 2810 Miller, Sid SPONSOR: Estes
Relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.
(Committee Substitute)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 1788

Senate Conferees: Patrick - Chair/Huffman/Nelson/Shapiro/West

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 753

Senate Conferees: Zaffirini - Chair/Carona/Deuell/Eltife/Rodriguez

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Thursday, May 26, 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 REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 40

Senate Conferees: Zaffirini - Chair/Carona/Duncan/Eltife/Watson

SB 158

Senate Conferees: Williams - Chair/Eltife/Hinojosa/Huffman/West

SB 1664

Senate Conferees: Duncan - Chair/Deuell/Ellis/Van de Putte/Williams

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 2048

Senate Conferees: Deuell - Chair/Hinojosa/Nelson/Seliger/Whitmire

HB 2357

Senate Conferees: Williams - Chair/Lucio/Nichols/Watson/Wentworth

HB 2734

Senate Conferees: Williams - Chair/Hinojosa/Nichols/Shapiro/Wentworth

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 5**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Thursday, May 26, 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 REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 472

Senate Conferees: West - Chair/Davis/Nelson/Nichols/Wentworth

SB 1134

Senate Conferees: Hegar - Chair/Deuell/Fraser/Jackson/Whitmire

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 1711

Senate Conferees: Jackson - Chair/Eltife/Huffman/Lucio/Williams

HB 2490

Senate Conferees: Carona - Chair/Eltife/Lucio/Van de Putte/Zaffirini

HB 2729

Senate Conferees: Watson - Chair/Ellis/Eltife/Jackson/Zaffirini

HB 2900

Senate Conferees: Harris - Chair/Huffman/Lucio/Rodriguez/Watson

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 26, 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 CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 181

(31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 875

Senate Conferees: Fraser - Chair/Duncan/Estes/Jackson/Watson

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 2380

Senate Conferees: Shapiro - Chair/Carona/Nelson/Patrick/Seliger

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

ENROLLED

May 25 - HB 109, HB 149, HB 343, HB 412, HB 588, HB 787, HB 890, HB 943, HB 1116, HB 1129, HB 1163, HB 1179, HB 1241, HB 1274, HB 1341, HB 1486, HB 1615, HB 1942, HB 1992, HB 2038, HB 2098, HB 2109, HB 2120, HB 2127, HB 2132, HB 2139, HB 2160, HB 2170, HB 2292, HB 2325, HB 2359, HB 2382, HB 2387, HB 2422, HB 2425, HB 2471, HB 2510, HB 2619, HB 2632, HB 2649, HB 2703, HB 2758, HB 2769, HB 2792, HB 2872, HB 2904, HB 2940, HB 2971, HB 3093, HB 3134, HB 3145, HB 3167, HB 3182, HB 3270, HB 3309, HB 3311, HB 3314, HB 3336, HB 3337, HB 3352, HB 3404, HB 3410, HB 3423, HB 3439, HB 3578, HB 3579, HB 3727, HB 3788, HB 3796, HB 3808, HB 3815, HB 3821, HB 3823, HB 3829, HB 3833, HB 3836, HB 3852, HB 3862, HCR 130, HCR 163, HJR 109

SENT TO THE GOVERNOR

May 25 - HB 8, HB 91, HB 159, HB 240, HB 252, HB 350, HB 417, HB 441, HB 442, HB 499, HB 675, HB 886, HB 1057, HB 1075, HB 1127, HB 1137, HB 1469, HB 1573, HB 1814, HB 1899, HB 2080, HB 2118, HB 2383, HB 2417, HB 2476, HB 2488, HB 2507, HB 2518, HB 2609, HB 2716, HB 2902, HB 2907, HB 2959, HB 2973, HB 3342, HB 3372, HB 3510, HB 3531, HB 3803

SIGNED BY THE GOVERNOR

May 25 - HB 3000

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-SEVENTH DAY — FRIDAY, MAY 27, 2011

The house met at 10 a.m. and, at the request of the speaker, was called to order by Representative Workman.

The roll of the house was called and a quorum was announced present (Record 1552).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycocock; 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; 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; Lucio; 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 — Garza.

The invocation was offered by Kermit Bridges, pastor, Southwestern Assemblies of God University, Waxahachie.

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

CAPITOL PHYSICIAN

The chair recognized Representative D. Howard who presented Dr. James R. Brown of Austin as the "Doctor for the Day."

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

HR 1680 - PREVIOUSLY ADOPTED**(by Muñoz)**

The chair laid out and had read the following previously adopted resolution:

HR 1680, Congratulating Lazaro "Larry" Gallardo, Jr., of Hidalgo County on being named the 2010 Constable of the Year by the National Constables Association.

On motion of Representative V. Gonzales, the names of all the members of the house were added to **HR 1680** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Muñoz who introduced Lazaro "Larry" Gallardo, Jr., and members of his family.

HR 2523 - ADOPTED**(by Alonzo)**

Representative Alonzo moved to suspend all necessary rules to take up and consider at this time **HR 2523**.

The motion prevailed.

The following resolution was laid before the house:

HR 2523, Congratulating Tom Bohanan for his many years of service to Troop No. 8 of the Circle Ten Council of the Boy Scouts of America.

HR 2523 was adopted.

On motion of Representatives Kuempel and Geren, the names of all the members of the house were added to **HR 2523** as signers thereof.

LEAVE OF ABSENCE GRANTED

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

Farias on motion of Raymond.

HR 1959 - PREVIOUSLY ADOPTED**(by Muñoz)**

The chair laid out and had read the following previously adopted resolution:

HR 1959, In memory of Border Patrol agent Eduardo Lee "Eddie" Vela of Mission.

On motion of Representative V. Gonzales, the names of all the members of the house were added to **HR 1959** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Muñoz who introduced family members and friends of Eduardo Lee "Eddie" Vela.

**HR 1068 - PREVIOUSLY ADOPTED
(by Raymond)**

The chair laid out and had read the following previously adopted resolution:

HR 1068, In memory of Barbara Kazen of Laredo.

On motion of Representative V. Gonzales, the names of all the members of the house were added to **HR 1068** as signers thereof.

INTRODUCTION OF GUEST

The chair recognized Representative Raymond who introduced George Kazen, son of Barbara Kazen.

HR 2549 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2549**, suspending the limitations on the conferees for **HB 3726**.

**HCR 165 - PREVIOUSLY ADOPTED
(by Guillen)**

The chair laid out and had read the following previously adopted resolution:

HCR 165, Honoring the 2011 and 2012 Texas State Artist appointees.

(Deshotel in the chair)

On motion of Representative Guillen, the names of all the members of the house were added to **HCR 165** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Guillen who introduced the 2011 and 2012 Texas State Artist appointees.

(Speaker in the chair)

**HCR 126 - ADOPTED
(by Thompson, Geren, et al.)**

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HCR 126**.

The motion prevailed.

The following resolution was laid before the house:

HCR 126, In memory of the Honorable Edmund Kuempel of Seguin.

HCR 126 was read and was unanimously adopted by a rising vote.

On motion of the speaker, the names of all the members of the house were added to **HCR 126** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Gallego who introduced family members of the Honorable Edmund Kuempel.

LEAVE OF ABSENCE GRANTED

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

Burnam on motion of Gutierrez.

HR 1984 - PREVIOUSLY ADOPTED (by Reynolds)

The chair laid out the following previously adopted resolution:

HR 1984, Congratulating Constable Ruben Davis, who is celebrating 15 years of service with Fort Bend County.

On motion of Representative Turner, the names of all the members of the house were added to **HR 1984** as signers thereof.

HR 2603 - ADOPTED (by Deshotel)

Representative Deshotel moved to suspend all necessary rules to take up and consider at this time **HR 2603**.

The motion prevailed.

The following resolution was laid before the house:

HR 2603, Honoring Roosevelt Petry, Jr., and Marlene Petry of Port Arthur for their business and community service achievements.

HR 2603 was adopted.

On motion of Representative Turner, the names of all the members of the house were added to **HR 2603** as signers thereof.

LEAVES OF ABSENCE GRANTED

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

Castro on motion of Turner.

Strama on motion of Turner.

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

Price on motion of Kuempel.

(Ritter in the chair)

SB 158 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Fletcher, the house granted the request of the senate for the appointment of a Conference Committee on **SB 158**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 158**: Fletcher, chair; Gallego, Deshotel, Woolley, and Hopson.

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).

**SB 377 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Riddle, the house granted the request of the senate for the appointment of a Conference Committee on **SB 377**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 377**: Riddle, chair; C. Anderson, Dutton, Fletcher, and Weber.

**SB 516 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Fletcher, the house granted the request of the senate for the appointment of a Conference Committee on **SB 516**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 516**: Fletcher, chair; C. Anderson, Berman, Bonnen, and P. King.

**SB 472 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Gallego, the house granted the request of the senate for the appointment of a Conference Committee on **SB 472**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 472**: Giddings, chair; Deshotel, Otto, Solomons, and Turner.

**SB 635 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Larson, the house granted the request of the senate for the appointment of a Conference Committee on **SB 635**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 635**: Larson, chair; Cook, T. King, Price, and Ritter.

**SB 773 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Gallego, the house granted the request of the senate for the appointment of a Conference Committee on **SB 773**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 773**: Gallego, chair; Chisum, Frullo, Hilderbran, and Muñoz.

**SB 875 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hancock, the house granted the request of the senate for the appointment of a Conference Committee on **SB 875**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 875**: Hancock, chair; Bonnen, Chisum, Eiland, and W. Smith.

**SB 1010 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Workman, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1010**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1010**: Workman, chair; Carter, Gallego, Lucio, and Madden.

**SB 1134 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Craddick, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1134**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1134**: Craddick, chair; Hancock, Lozano, Sheffield, and W. Smith.

**SB 1320 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative V. Gonzales, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1320**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1320**: V. Gonzales, chair; R. Anderson, Deshotel, Kleinschmidt, and Raymond.

**SB 1331 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Gallego, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1331**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1331**: Gallego, chair; Aliseda, Christian, Rodriguez, and Zedler.

**SB 1543 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Larson, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1543**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1543**: Larson, chair; Guillen, Kuempel, Price, and Rodriguez.

LEAVE OF ABSENCE GRANTED

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

Villarreal on motion of Eiland.

**SB 1600 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative P. King, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1600**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1600**: P. King, chair; Beck, Fletcher, S. Miller, and Walle.

**SB 1664 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Truitt, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1664**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1664**: Truitt, chair; Hunter, Miles, Riddle, and Turner.

**SB 1717 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Lewis, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1717**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1717**: Lewis, chair; Jackson, Hartnett, Thompson, and Raymond.

**SB 1788 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Huberty, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1788**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1788**: Huberty, chair; Aycock, Strama, L. Taylor, and Weber.

**HB 1242 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Geren called up with senate amendments for consideration at this time,

HB 1242, A bill to be entitled An Act relating to the regulation of certain metal dealers; providing criminal penalties.

Representative Geren moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1242**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1242**: Geren, chair; Cook, Frullo, Kuempel, and Ritter.

**SB 694 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative W. Smith, the house granted the request of the senate for the appointment of a Conference Committee on **SB 694**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 694**: W. Smith, chair; Cook, Deshotel, Fletcher, and Dutton.

**HB 272 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hunter called up with senate amendments for consideration at this time,

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

Representative Hunter moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 272**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 272**: Smithee, chair; Hancock, Thompson, L. Taylor, and Ritter.

**HB 2329 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hughes called up with senate amendments for consideration at this time,

HB 2329, A bill to be entitled An Act relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons; providing penalties.

Representative Hughes moved to concur in the senate amendments to **HB 2329**.

The motion to concur in the senate amendments to **HB 2329** prevailed by (Record 1553): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; 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; Lucio; 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; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Castro; Farias; Price; Strama; Villarreal.

Absent — Callegari; Garza; Weber.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2329** (senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 25.026, Tax Code, is amended to read as follows:

Sec. 25.026. CONFIDENTIALITY OF CERTAIN ~~[VIOLENCE]~~ SHELTER CENTER AND SEXUAL ASSAULT PROGRAM ADDRESS INFORMATION. (a) In this section:

(1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(2) "Sexual assault program" has the meaning assigned by Section 420.003, Government Code.

(3) "Victims of trafficking shelter center" means a program that:

(A) is operated by a public or private nonprofit organization; and

(B) provides comprehensive residential and nonresidential services

to victims of trafficking of persons under Section 20A.02, Penal Code.

(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if the information identifies the address of a family violence shelter center, ~~[or]~~ a sexual assault program, or a victims of trafficking shelter center.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2329** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Article 7B.01(a), Code of Criminal Procedure (page 1, line 22), between "the applicant and the" and "alleged", insert "offender or"

(2) In SECTION 1 of the bill, in added Article 7B.01(b)(2), Code of Criminal Procedure (page 1, line 29), between "in which the" and "alleged", insert "offender or".

(3) In SECTION 1 of the bill, in added Article 7B.02, Code of Criminal Procedure (page 1, 36) between "to the" and "alleged", insert "offender or".

(4) In SECTION 1 of the bill, in the heading to proposed Article 7B.03, Code of Criminal Procedure (page 1, line 39) between "ISSUANCE OF" and "PROTECTIVE", insert "TEMPORARY PRETRIAL".

(5) In SECTION 1 of the bill, in proposed Article 7B.03(a), Code of Criminal Procedure (page 1, line 43), between "offense" and "under", insert "for which the subject of the protective order has been charged".

(6) In SECTION 1 of the bill, in proposed Article 7B.03(b), Code of Criminal Procedure (page 1, line 49), between "offense" and "under", insert "for which the subject of the protective order has been charged".

(7) In SECTION 1 of the bill, in proposed Article 7B.03(b), Code of Criminal Procedure (page 1, line 53), between "issue a" and "protective", insert "temporary".

(8) In SECTION 1 of the bill, in proposed Article 7B.03(b), Code of Criminal Procedure (page 1, line 54), before the underlined period, insert ", to be effective until the date the alleged offender is convicted or acquitted, or until the date on which the case involving the offense under Section 20A.02, Penal Code, is finally disposed."

(9) In SECTION 1 of the bill, in proposed Chapter 7B, Code of Criminal Procedure (page 1, between lines 54 and 55), insert the following proposed article of the chapter, and renumber subsequent articles of the chapter accordingly:

Art. 7B.04. REQUIRED FINDINGS; ISSUANCE OF POST-TRIAL PROTECTIVE ORDER. (a) At the close of a hearing on an application for a protective order under this chapter, the court shall find whether there are reasonable grounds to believe that the applicant is the victim of an offense for which the subject of the protective order has been convicted under Section 20A.02, Penal Code, and:

(1) is younger than 18 years of age; or

(2) regardless of age, is the subject of a threat that reasonably places the applicant in fear of further harm from the alleged offender.

(b) If the court finds reasonable grounds to believe that the applicant is the victim of an offense for which the subject of the protective order has been convicted under Section 20A.02, Penal Code, and is younger than 18 years of age, or regardless of age, the subject of a threat that reasonably places the applicant in fear of further harm from the offender, the court shall issue a protective order that includes a statement of the required findings.

(10) In SECTION 1 of the bill, in added Article 7B.05(a)(1), Code of Criminal Procedure (page 1, line 61) between "order the" and "alleged", insert "offender or".

(11) In SECTION 1 of the bill, in added Article 7B.05(a)(2), Code of Criminal Procedure (page 2, line 2) between "prohibit the" and "alleged", insert "offender or".

(12) In SECTION 1 of the bill, in added Article 7B.05(b), Code of Criminal Procedure (page 2, line 20) between "that the" and "alleged", insert "offender or".

(13) In SECTION 1 of the bill, in added Article 7B.05(c), Code of Criminal Procedure (page 2, line 26) between "by the" and "alleged", insert "offender or".

(14) In SECTION 1 of the bill, in added Article 7B.06(b), Code of Criminal Procedure (page 2, line 39) strike "IS" and substitute "MAY BE".

(15) In SECTION 1 of the bill, in the heading to proposed Article 7B.07, Code of Criminal Procedure (page 2, line 53), between "OF" and "PROTECTIVE", insert "POST-TRIAL".

(16) In SECTION 1 of the bill, strike proposed Article 7B.07(d), Code of Criminal Procedure (page 2, line 68 through page 3, line 4), and reletter subsequent subsections of the article accordingly.

HB 1541 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Dukes called up with senate amendments for consideration at this time,

HB 1541, A bill to be entitled An Act relating to the prevention of automobile burglary and theft.

Representative Dukes moved to concur in the senate amendments to **HB 1541**.

The motion to concur in the senate amendments to **HB 1541** prevailed by (Record 1554): 112 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Brown; Burkett; Button; Callegari; Carter; Chisum; Christian; Coleman; Cook; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Muñoz; Naishtat;

Nash; Oliveira; Orr; Otto; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Taylor, L.; Thompson; Torres; Turner; Veasey; Vo; Walle; Workman; Zerwas.

Nays — Anderson, C.; Bonnen; Branch; Cain; Craddick; Creighton; Gooden; Harless; Hilderbran; Hughes; Isaac; King, P.; Landtroop; Laubenberg; Lavender; Legler; Morrison; Murphy; Parker; Perry; Simpson; Smith, T.; Taylor, V.; Truitt; Weber; White; Woolley; Zedler.

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

Absent, Excused — Burnam; Castro; Farias; Price; Strama; Villarreal.

Absent — Garza; Harper-Brown.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1554. I intended to vote no.

Carter

I was shown voting no on Record No. 1554. I intended to vote yes.

Isaac

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1541** (senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 10, Article 4413(37), Revised Statutes, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) An insurer shall pay to the authority a fee equal to \$2 [~~\$1~~] multiplied by the total number of motor vehicle years of insurance for insurance policies delivered, issued for delivery, or renewed by the insurer. The fee shall be paid not later than:

(1) March 1 of each year for a policy issued, delivered, or renewed from July 1 through December 31 of the previous calendar year; and

(2) August 1 of each year for a policy issued, delivered, or renewed from January 1 through June 30 of that year.

(e) Fifty percent of each fee collected under Subsection (b) may be appropriated only to the authority for the purposes of this article.

SECTION _____. The changes in law made by Section 10, Article 4413(37), Revised Statutes, as amended by this Act, apply only to an insurance policy issued, delivered, or renewed on or after the effective date of this Act. An insurance policy issued, delivered, or renewed before the effective date of this Act is governed by the law in effect on the date the insurance policy was issued, delivered, or renewed, and the former law is continued in effect for that purpose.

**HB 971 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative P. King called up with senate amendments for consideration at this time,

HB 971, A bill to be entitled An Act relating to removal of the requirement that an electric utility designate a preferred route for a transmission line in an application for a certificate of convenience and necessity.

Representative P. King moved to concur in the senate amendments to **HB 971**.

The motion to concur in the senate amendments to **HB 971** prevailed by (Record 1555): 138 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; Lucio; 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; Quintanilla; Raymond; Reynolds; Riddle; 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.

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

Absent, Excused — Burnam; Castro; Farias; Price; Strama; Villarreal.

Absent — Anchia; Garza; Harper-Brown.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 971** as follows:

(1) In SECTION 1 of the bill, in the introductory language (page 1, line 34), between "(c)" and "to" insert "and Subsection (d)".

(2) In SECTION 1 of the bill, in amended Section 37.053, Utilities Code (page 1, between lines 37 and 38), insert the following:

(d) For transmission facilities ordered or approved by the commission under Chapters 37 or 39 to mitigate market power in accordance with Section 39.157(a), address reliability needs, or to otherwise ensure the competitiveness of electricity markets in this state, the rights extended to an electric corporation

under Section 181.004 extend to all public and private land on which the commission has approved the construction of the line. This subsection does not limit a municipality's rights or an electric utility's obligations under Chapter 33.

(3) In SECTION 3 of the bill (page 1, line 41), strike "This Act" and substitute "The change in law made by this Act to Section 37.053(c), Utilities Code,".

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend Committee Amendment No. 1 to **HB 971** (committee report) as follows:

(1) On page 1, lines 16-19, in added Section 37.053(d), strike "to mitigate market power in accordance with Section 39.157(a), address reliability needs, or to otherwise ensure the competitiveness of electricity markets in this state".

(2) On page 1, line 20, in added Section 37.053(d), strike "extend to all public and private land" and substitute "include all public land, except land owned by the state.".

(3) On page 1, line 23, in added Section 37.053(d), after ".", insert "Nothing in this subsection shall be interpreted to prevent a public entity from expressing a route preference in a proceeding under this chapter."

Senate Amendment No. 3 (Senate Floor Amendment No. 2)

Amend **HB 971** (senate committee report) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 37.056, Utilities Code, is amended by adding Subsection (d) to read as follows:

(d) The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region, that is not necessary to meet state or federal reliability standards, and that does not serve a competitive renewable energy zone. The criteria must include a comparison of the estimated cost of the transmission project and the estimated cost savings that may result from the transmission project. The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria.

(b) The change in law made by this section applies only to a certificate application filed with the Public Utility Commission of Texas on or after the effective date of this Act and to a certificate application pending on the effective date of this Act. A certificate application filed with the Public Utility Commission of Texas before the effective date of this Act and not pending on the effective date of this Act is subject to the law in effect on the date the application is filed, and that law is continued in effect for that purpose.

HB 1244 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 1244, A bill to be entitled An Act relating to developmental education courses and the assessment of student readiness under the Texas Success Initiative for public institutions of higher education.

Representative Gallego moved to concur in the senate amendments to **HB 1244**.

The motion to concur in the senate amendments to **HB 1244** prevailed by (Record 1556): 130 Yeas, 9 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; 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; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Thompson; Torres; Turner; Veasey; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Carter; Harless; Landtroop; Miller, S.; Perry; Taylor, V.; Truitt; White; Zedler.

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

Absent, Excused — Burnam; Castro; Farias; Price; Strama; Villarreal.

Absent — Anchia; Garza; Harper-Brown.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1556. I intended to vote no.

Phillips

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1244**:

Add SECTION 54.225

SEC. 54.225 STUDENTS ENROLLED IN NON-SEMESTER-LENGTH DEVELOPMENTAL EDUCATION INTERVENTIONS.

The governing board of an institution of higher education may exempt from the payment of tuition authorized by this chapter a student who is participating in an approved non-semester-length developmental education intervention (including course-based, non-course-based, alternative-entry/exit, and other intensive developmental education activities).

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend **HB 1244** (senate committee printing) by striking SECTION 1 of the bill, amending Section 51.3062, Education Code, and substituting the following appropriately numbered SECTION:

SECTION ____ . Section 51.3062, Education Code, is amended by adding Subsections (a-1), (i-2), (i-3), and (i-4) and amending Subsections (f), (i), and (k) to read as follows:

(a-1) In this section, "program evaluation" means a systematic method of collecting, analyzing, and using information to answer questions about developmental education courses, interventions, and policies, particularly about their effectiveness and cost-efficiency.

(f) Each assessment instrument designated by the board for use under this section must be diagnostic in nature and designed to assess a student's readiness to perform freshman-level academic coursework. The board shall prescribe a single standard or set of standards for each [the] assessment instrument to effectively measure student readiness as demonstrated by current research [or instruments that reflect that student readiness. An institution of higher education may adopt more stringent assessment standards with respect to student readiness].

(i) The institution of higher education may refer a student to developmental coursework as considered necessary by the institution to address a student's deficiencies in the student's readiness to perform freshman-level academic coursework, except that the institution may not require enrollment in developmental coursework with respect to a student previously determined under Subsection (q-1) or determined by any institution of higher education to have met college-readiness standards. An institution that requires a student to enroll in developmental coursework must offer a range of developmental coursework, including online coursework, or instructional support that includes the integration of technology to efficiently address the particular developmental needs of the student.

(i-2) An institution of higher education must base developmental coursework on research-based best practices that include the following components:

- (1) assessment;
- (2) differentiated placement and instruction;
- (3) faculty development;
- (4) support services;
- (5) program evaluation;
- (6) integration of technology with an emphasis on instructional support programs;
- (7) non-course-based developmental education interventions; and
- (8) course pairing of developmental education courses with credit-bearing courses.

(i-3) The board shall adopt rules for the implementation of Subsection (i-2).

(i-4) The board, in consultation with institutions of higher education, shall develop and provide professional development programs, including instruction in differentiated instruction methods designed to address students' diverse learning needs, to faculty and staff who provide developmental coursework to students.

(k) An institution of higher education shall determine when a student is ready to perform freshman-level academic coursework. The institution must make its determination using learning outcomes for developmental education courses developed by the board based on established college and career readiness standards and student performance on one or more appropriate assessments [on an individual basis according to the needs of the student. The determination shall include:

~~[(1) requiring a student to retake a board approved assessment instrument, if the student did not initially perform within a deviation established by the board; or~~

~~[(2) other board approved means of evaluating student readiness, if the student did not initially pass the assessment instrument but performed within a deviation established by the board].~~

**HB 2770 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative W. Smith called up with senate amendments for consideration at this time,

HB 2770, A bill to be entitled An Act relating to the powers and duties of navigation districts, port authorities, and certain municipalities.

Representative W. Smith moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2770**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2770**: W. Smith, chair; Callegari, Thompson, Hunter, and Phillips.

**HB 1781 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Callegari called up with senate amendments for consideration at this time,

HB 1781, A bill to be entitled An Act relating to obsolete or redundant reporting requirements applicable to state agencies.

Representative Callegari moved to concur in the senate amendments to **HB 1781**.

The motion to concur in the senate amendments to **HB 1781** prevailed by (Record 1557): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; 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; Lucio; 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; Quintanilla; Raymond; Reynolds; Riddle; 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.

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

Absent, Excused — Burnam; Castro; Farias; Price; Strama; Villarreal.

Absent — Garza; Gonzales, V.; Harper-Brown.

Senate Committee Substitute

CSHB 1781, A bill to be entitled An Act relating to obsolete or redundant reporting requirements applicable to state agencies.

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

SECTION 1. Chapter 2052, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. OBSOLETE OR REDUNDANT REPORTING REQUIREMENTS

Sec. 2052.401. DEFINITIONS. In this subchapter:

(1) "Executive director" means the executive head of a state agency. The term includes an executive director, commissioner, or executive commissioner as appropriate for the state agency.

(2) "State agency" means:

(A) a board, commission, department, office, or other agency in the executive branch of state government that was created by the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; and

(C) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

Sec. 2052.402. EXAMINATION OF REPORTING REQUIREMENTS. (a) Not later than August 1, 2012, the executive director of each state agency shall:

(1) examine the agency's reporting requirements established by a state statute enacted before January 1, 2009, and not amended since that date, and identify each reporting requirement that the executive director determines:

(A) is not necessary to accomplish the objectives of the statute that contains the reporting requirement;

(B) is redundant of other statutory reporting requirements; or

(C) is required under statute to be provided at a frequency for which data is not available; and

(2) provide to the governor, lieutenant governor, speaker of the house of representatives, chair of the House Committee on Government Efficiency and Reform, chair of the Senate Committee on Government Organization, chair of each standing committee of the senate and house of representatives with jurisdiction over the agency, Texas State Library and Archives Commission, and Legislative Budget Board an electronic report that includes:

(A) each statutory reporting requirement for which the executive director made a determination described by Subdivision (1); and

(B) the justification for the executive director's determination for each reporting requirement.

(b) The executive director may not include in the initial report issued under Subsection (a)(2) a reporting requirement that is required by federal law.

Sec. 2052.403. EXPIRATION. This subchapter expires September 1, 2014.

SECTION 2. Section 325.011, Government Code, is amended to read as follows:

Sec. 325.011. CRITERIA FOR REVIEW. The commission and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees:

(1) the efficiency and effectiveness with which the agency or the advisory committee operates;

(2)(A) an identification of the mission, goals, and objectives intended for the agency or advisory committee and of the problem or need that the agency or advisory committee was intended to address; and

(B) the extent to which the mission, goals, and objectives have been achieved and the problem or need has been addressed;

(3)(A) an identification of any activities of the agency in addition to those granted by statute and of the authority for those activities; and

(B) the extent to which those activities are needed;

(4) an assessment of authority of the agency relating to fees, inspections, enforcement, and penalties;

(5) whether less restrictive or alternative methods of performing any function that the agency performs could adequately protect or provide service to the public;

(6) the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies, the extent to which the agency coordinates with those agencies, and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;

(7) the promptness and effectiveness with which the agency addresses complaints concerning entities or other persons affected by the agency, including an assessment of the agency's administrative hearings process;

(8) an assessment of the agency's rulemaking process and the extent to which the agency has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;

(9) the extent to which the agency has complied with:

(A) federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals; and

(B) state law and applicable rules of any state agency regarding purchasing guidelines and programs for historically underutilized businesses;

(10) the extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;

(11) the extent to which the agency complies with Chapters 551 and 552 and follows records management practices that enable the agency to respond efficiently to requests for public information; ~~and~~

(12) the effect of federal intervention or loss of federal funds if the agency is abolished; and

(13) the extent to which the purpose and effectiveness of reporting requirements imposed on the agency justifies the continuation of the requirement.

SECTION 3. Subsection (a), Section 325.012, Government Code, is amended to read as follows:

(a) In its report on a state agency, the commission shall:

(1) make recommendations on the abolition, continuation, or reorganization of each affected state agency and its advisory committees and on the need for the performance of the functions of the agency and its advisory committees;

(2) make recommendations on the consolidation, transfer, or reorganization of programs within state agencies not under review when the programs duplicate functions performed in agencies under review; ~~and~~

(3) make recommendations to improve the operations of the agency, its policy body, and its advisory committees, including management recommendations that do not require a change in the agency's enabling statute; and

(4) make recommendations on the continuation or abolition of each reporting requirement imposed on the agency by law.

SECTION 4. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1781** by adding the appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (c), Section 61.0815, Education Code, is amended to read as follows:

(c) The ~~[attorney general and the]~~ president of each institution of higher education shall collect all necessary data for inclusion in the report required by this section.

SECTION 2. Subsection (a), Section 231.005, Family Code, is amended to read as follows:

(a) The Title IV-D agency shall report to the legislature each biennium on:

(1) the effectiveness of the agency's child support enforcement activity in reducing the state's public assistance obligations; and

(2) the use and effectiveness of all enforcement tools authorized by state or federal law or otherwise available to the agency~~[-and~~

~~[(3) the progress and impact of the Title IV D agency's efforts to use private contractors to perform Title IV D program functions].~~

SECTION 3. Section 41.002, Government Code, is amended to read as follows:

Sec. 41.002. NOTIFICATION OF ADDRESS. Each district and county attorney shall notify the ~~[attorney general and]~~ comptroller of his post office address as soon as practicable after his election and qualification.

SECTION 4. Subsections (a) and (c), Section 242.005, Health and Safety Code, are amended to read as follows:

(a) The department ~~[and the attorney general each]~~ shall prepare annually a full report of the operation and administration of the department's ~~[their respective]~~ responsibilities under this chapter, including recommendations and suggestions considered advisable.

(c) The department ~~[and the attorney general]~~ shall submit the required report ~~[reports]~~ to the governor and the legislature not later than October 1 of each year.

SECTION 5. Subsection (c), Section 247.050, Health and Safety Code, is amended to read as follows:

(c) The department ~~[and the attorney general]~~ shall file a copy of the quarterly reports required by this section with the substantive committees of each house of the legislature with jurisdiction over regulation of assisted living facilities.

SECTION 6. Subsection (b), Section 311.016, Tax Code, as amended by Chapters 977 (**HB 1820**) and 1094 (**HB 2120**), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(b) The municipality or county shall send a copy of a report made under this section to~~[-~~

~~[(1) the attorney general, and~~

~~[(2)] the comptroller.~~

SECTION 7. The following provisions are repealed:

(1) Subsection (e), Section 236.002, Family Code;

(2) Section 402.034, Government Code;

(3) Section 481.168, Government Code;

(4) Section 2107.005, Government Code;

- (5) Subsection (b), Section 247.050, Health and Safety Code;
- (6) Section 240.903, Local Government Code; and
- (7) Section 395.082, Local Government Code.

SECTION 8. 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.

LEAVE OF ABSENCE GRANTED

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

Marquez on motion of Guillen.

HB 1720 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative J. Davis called up with senate amendments for consideration at this time,

HB 1720, A bill to be entitled An Act relating to improving health care provider accountability and efficiency under the child health plan and Medicaid programs.

Representative J. Davis moved to concur in the senate amendments to **HB 1720**.

The motion to concur in the senate amendments to **HB 1720** prevailed by (Record 1558): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; 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; Lucio; 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; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Castro; Farias; Marquez; Price; Strama; Villarreal.

Absent — Button; Dutton; Farrar; Garza; Taylor, L.

STATEMENT OF VOTE

When Record No. 1558 was taken, my vote failed to register. I would have voted yes.

Dutton

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1720** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 531.1131(a)(1), Government Code (page 1, line 40), between "immediately" and "notify", insert "and contemporaneously".

(2) In SECTION 2 of the bill, in added Section 531.1131(a)(1), Government Code (page 1, line 41), between "general" and the semicolon, insert "and the office of the attorney general".

(3) In SECTION 2 of the bill, in added Section 531.1131(b), Government Code (page 1, line 52), between "general" and "under", insert "and the office of the attorney general".

(4) In SECTION 2 of the bill, in added Section 531.1131(b), Government Code (page 1, line 53), strike "the office" and substitute "either office".

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 1720** (senate committee printing) as follows:

(1) In SECTION 5 of the bill, in added Section 32.068(a), Human Resources Code (page 2, line 59), strike "six-month period" and substitute "12-month period".

(2) In SECTION 5 of the bill, in added Section 32.068(b), Human Resources Code (page 2, line 67), strike "six-month period" and substitute "12-month period".

(3) In SECTION 5 of the bill, in added Section 32.068(c), Human Resources Code (page 3, line 2), immediately following the period, insert "The executive commissioner may by rule adopt limited exceptions to the requirements of this section."

Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend **HB 1720** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 142.001, Health and Safety Code, is amended by adding Subdivisions (11-a), (11-b), and (12-a) to read as follows:

(11-a) "Department" means the Department of Aging and Disability Services.

(11-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(12-a) "Home and community support services agency administrator" or "administrator" means the person who is responsible for implementing and supervising the administrative policies and operations of the home and community support services agency and for administratively supervising the provision of all services to agency clients on a day-to-day basis.

SECTION ____ . Section 142.0025, Health and Safety Code, is amended to read as follows:

Sec. 142.0025. TEMPORARY LICENSE. If a person is in the process of becoming certified by the United States Department of Health and Human Services to qualify as a certified agency, the department may issue a temporary home and community support services agency license to the person authorizing the person to provide certified home health services. A temporary license is effective as provided by ~~[board]~~ rules adopted by the executive commissioner.

SECTION ____ . Section 142.009, Health and Safety Code, is amended by adding Subsections (a-1) and (i) and amending Subsection (g) to read as follows:

(a-1) A license applicant or license holder must provide the department representative conducting the survey with a reasonable and safe workspace at the premises. The executive commissioner may adopt rules to implement this subsection.

(g) After a survey of a home and community support services agency by the department, the department shall provide to the home and community support services ~~[chief executive officer of the]~~ agency administrator:

(1) specific and timely written notice of the official findings of the survey, including:

- (A) the specific nature of the survey;
- (B) any alleged violations of a specific statute or rule;
- (C) the specific nature of any finding regarding an alleged violation or deficiency; and
- (D) if a deficiency is alleged, the severity of the deficiency;

(2) information on the identity, including the name ~~[signature]~~, of each department representative conducting or~~;~~ reviewing~~[- or approving]~~ the results of the survey and the date on which the department representative acted on the matter; and

(3) if requested by the agency, copies of all documents relating to the survey maintained by the department or provided by the department to any other state or federal agency that are not confidential under state law.

(i) Except as provided by Subsection (h), the department may not renew an initial home and community support services agency license unless the department has conducted an initial on-site survey of the agency.

SECTION ____ . The heading to Section 142.0091, Health and Safety Code, is amended to read as follows:

Sec. 142.0091. ~~[SURVEYOR]~~ TRAINING.

SECTION ____ . Section 142.0091, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) In developing and updating the training required by Subsection (a) [~~this section~~], the department shall consult with and include providers of home health, hospice, and personal assistance services, recipients of those services and their family members, and representatives of appropriate advocacy organizations.

(c) The department at least semiannually shall provide joint training for home and community support services agencies and surveyors on subjects that address the 10 most common violations of federal or state law by home and community support services agencies. The department may charge a home and community support services agency a fee, not to exceed \$50 per person, for the training.

SECTION _____. Subchapter A, Chapter 142, Health and Safety Code, is amended by adding Section 142.0104 to read as follows:

Sec. 142.0104. CHANGE IN APPLICATION INFORMATION. (a) If certain application information as specified by executive commissioner rule changes after the applicant submits an application to the department for a license under this chapter or after the department issues the license, the license holder shall report the change to the department and pay a fee not to exceed \$50 not later than the time specified by executive commissioner rule.

(b) The executive commissioner by rule shall:

(1) specify the information provided in an application that a license holder shall report to the department if the information changes;

(2) prescribe the time for reporting a change in the application information required by Subdivision (1);

(3) establish which changes required to be reported under Subdivision (1) will require department evaluation and approval; and

(4) set the amount of a late fee to be assessed against a license holder who fails to report a change in the application information within the time prescribed under Subdivision (2).

SECTION _____. Subsection (a), Section 142.011, Health and Safety Code, is amended to read as follows:

(a) The department may deny a license application or suspend or revoke the license of a person who:

(1) fails to comply with the rules or standards for licensing required by this chapter; or

(2) engages in conduct that violates Section 102.001, Occupations Code [~~161.091~~].

SECTION _____. Subsections (a), (b), and (c), Section 142.012, Health and Safety Code, are amended to read as follows:

(a) The executive commissioner [~~board, with the recommendations of the council,~~] shall adopt rules necessary to implement this chapter. The executive commissioner may adopt rules governing the duties and responsibilities of home and community support services agency administrators, including rules regarding:

(1) an administrator's management of daily operations of the home and community support services agency;

(2) an administrator's responsibility for supervising the provision of quality care to agency clients;

(3) an administrator's implementation of agency policy and procedures;
and

(4) an administrator's responsibility to be available to the agency at all times in person or by telephone.

(b) The executive commissioner [~~board~~] by rule shall set minimum standards for home and community support services agencies licensed under this chapter that relate to:

(1) qualifications for professional and nonprofessional personnel, including volunteers;

(2) supervision of professional and nonprofessional personnel, including volunteers;

(3) the provision and coordination of treatment and services, including support and bereavement services, as appropriate;

(4) the management, ownership, and organizational structure, including lines of authority and delegation of responsibility and, as appropriate, the composition of an interdisciplinary team;

(5) clinical and business records;

(6) financial ability to carry out the functions as proposed;

(7) safety, fire prevention, and sanitary standards for residential units and inpatient units; and

(8) any other aspects of home health, hospice, or personal assistance services as necessary to protect the public.

(c) The initial minimum standards adopted [~~by the board~~] under Subsection (b) for hospice services must be at least as stringent as the conditions of participation for a Medicare certified provider of hospice services in effect on April 30, 1993, under Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.).

SECTION _____. As soon as practicable after the effective date of this Act but not later than July 1, 2012, the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement the changes in law made by this article to Chapter 142, Health and Safety Code.

SECTION _____. Subsection (e), Section 242.032, Health and Safety Code, is amended to read as follows:

(e) In making the evaluation required by Subsection (d), the department shall require the applicant or license holder to file a sworn affidavit of a satisfactory compliance history and any other information required by the department to substantiate a satisfactory compliance history relating to each state or other jurisdiction in which the applicant or license holder and any other person described by Subsection (d) operated an institution at any time before [~~during the five-year period preceding~~] the date on which the application is made. The department by rule shall determine what constitutes a satisfactory compliance history. The department may consider and evaluate the compliance history of the applicant and any other person described by Subsection (d) for any period during which the applicant or other person operated an institution in this state or in

another state or jurisdiction. The department may also require the applicant or license holder to file information relating to the history of the financial condition of the applicant or license holder and any other person described by Subsection (d) with respect to an institution operated in another state or jurisdiction at any time before ~~[during the five year period preceding]~~ the date on which the application is made.

SECTION _____. Subsection (b), Section 242.0615, Health and Safety Code, is amended to read as follows:

(b) Exclusion of a person under this section must extend for a period of at least two years and ~~[, but]~~ may extend throughout the person's lifetime or existence ~~[not exceed a period of 10 years]~~.

SECTION _____. Subsection (e), Section 242.032, Health and Safety Code, as amended by this article, applies only to an application, including a renewal application, filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION _____. Subsection (b), Section 242.0615, Health and Safety Code, as amended by this article, applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose.

SECTION _____. Section 250.001, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivisions (3-a) and (3-b) to read as follows:

(1) "Nurse aide registry" means a list maintained by the ~~[Texas]~~ Department of Aging and Disability ~~[Human]~~ Services of nurse aides under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203).

(3-a) "Financial management services agency" means an entity that contracts with the Department of Aging and Disability Services to serve as a fiscal and employer agent for an individual employer in the consumer-directed service option described by Section 531.051, Government Code.

(3-b) "Individual employer" means an individual or legally authorized representative who participates in the consumer-directed service option described by Section 531.051, Government Code, and is responsible for hiring service providers to deliver program services.

SECTION _____. Section 250.002, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) A facility, a regulatory agency, a financial management services agency on behalf of an individual employer, or a private agency on behalf of a facility is entitled to obtain from the Department of Public Safety of the State of Texas criminal history record information maintained by the Department of Public Safety that relates to a person who is:

(1) an applicant for employment at a facility other than a facility licensed under Chapter 142;

(2) an employee of a facility other than a facility licensed under Chapter 142; ~~[or]~~

(3) an applicant for employment at or an employee of a facility licensed under Chapter 142 whose employment duties would or do involve direct contact with a consumer in the facility; or

(4) an applicant for employment by or an employee of an individual employer.

(c-1) A financial management services agency shall forward criminal history record information received under this section to the individual employer requesting the information.

SECTION _____. Section 250.003, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) A facility or individual employer may not employ an applicant:

(1) if the facility or individual employer determines, as a result of a criminal history check, that the applicant has been convicted of an offense listed in this chapter that bars employment or that a conviction is a contraindication to employment with the consumers the facility or individual employer serves;

(2) if the applicant is a nurse aide, until the facility further verifies that the applicant is listed in the nurse aide registry; and

(3) until the facility verifies that the applicant is not designated in the registry maintained under this chapter or in the employee misconduct registry maintained under Section 253.007 as having a finding entered into the registry concerning abuse, neglect, or mistreatment of a consumer of a facility, or misappropriation of a consumer's property.

(c-1) An individual employer shall immediately discharge any employee whose criminal history check reveals conviction of a crime that bars employment or that the individual employer determines is a contraindication to employment as provided by this chapter.

SECTION _____. Section 250.004, Health and Safety Code, is amended to read as follows:

Sec. 250.004. CRIMINAL HISTORY RECORD OF EMPLOYEES.

(a) Identifying information of an employee in a covered facility or of an employee of an individual employer shall be submitted electronically, on disk, or on a typewritten form to the Department of Public Safety to obtain the person's criminal conviction record when the person applies for employment and at other times as the facility or individual employer may determine appropriate. In this subsection, "identifying information" includes:

(1) the complete name, race, and sex of the employee;

(2) any known identifying number of the employee, including social security number, driver's license number, or state identification number; and

(3) the employee's date of birth.

(b) If the Department of Public Safety reports that a person has a criminal conviction of any kind, the conviction shall be reviewed by the facility, the financial management services agency, or the individual employer to determine if the conviction may bar the person from employment in a facility or by the individual employer under Section 250.006 or if the conviction may be a contraindication to employment.

SECTION _____. Section 250.005, Health and Safety Code, is amended to read as follows:

Sec. 250.005. NOTICE AND OPPORTUNITY TO BE HEARD CONCERNING ACCURACY OF INFORMATION. (a) If a facility, financial management services agency, or individual employer believes that a conviction may bar a person from employment in a facility or by the individual employer under Section 250.006 or may be a contraindication to employment, the facility or individual employer shall notify the applicant or employee.

(b) The Department of Public Safety of the State of Texas shall give a person notified under Subsection (a) the opportunity to be heard concerning the accuracy of the criminal history record information and shall notify the facility or individual employer if inaccurate information is discovered.

SECTION _____. Subsections (a) and (b), Section 250.006, Health and Safety Code, are amended to read as follows:

(a) A person for whom the facility or the individual employer is entitled to obtain criminal history record information may not be employed in a facility or by an individual employer if the person has been convicted of an offense listed in this subsection:

- (1) an offense under Chapter 19, Penal Code (criminal homicide);
- (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);
- (3) an offense under Section 21.02, Penal Code (continuous sexual abuse of young child or children), or Section 21.11, Penal Code (indecent with a child);
- (4) an offense under Section 22.011, Penal Code (sexual assault);
- (5) an offense under Section 22.02, Penal Code (aggravated assault);
- (6) an offense under Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
- (7) an offense under Section 22.041, Penal Code (abandoning or endangering child);
- (8) an offense under Section 22.08, Penal Code (aiding suicide);
- (9) an offense under Section 25.031, Penal Code (agreement to abduct from custody);
- (10) an offense under Section 25.08, Penal Code (sale or purchase of a child);
- (11) an offense under Section 28.02, Penal Code (arson);
- (12) an offense under Section 29.02, Penal Code (robbery);
- (13) an offense under Section 29.03, Penal Code (aggravated robbery);
- (14) an offense under Section 21.08, Penal Code (indecent exposure);
- (15) an offense under Section 21.12, Penal Code (improper relationship between educator and student);
- (16) an offense under Section 21.15, Penal Code (improper photography or visual recording);
- (17) an offense under Section 22.05, Penal Code (deadly conduct);
- (18) an offense under Section 22.021, Penal Code (aggravated sexual assault);

- (19) an offense under Section 22.07, Penal Code (terroristic threat);
- (20) an offense under Section 33.021, Penal Code (online solicitation of a minor);
- (21) an offense under Section 34.02, Penal Code (money laundering);
- (22) an offense under Section 35A.02, Penal Code (Medicaid fraud);
- (23) an offense under Section 42.09, Penal Code (cruelty to animals);

or

(24) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed by this subsection.

(b) A person may not be employed in a position the duties of which involve direct contact with a consumer in a facility or may not be employed by an individual employer before the fifth anniversary of the date the person is convicted of:

- (1) an offense under Section 22.01, Penal Code (assault), that is punishable as a Class A misdemeanor or as a felony;
- (2) an offense under Section 30.02, Penal Code (burglary);
- (3) an offense under Chapter 31, Penal Code (theft), that is punishable as a felony;
- (4) an offense under Section 32.45, Penal Code (misapplication of fiduciary property or property of a financial institution), that is punishable as a Class A misdemeanor or a felony;
- (5) an offense under Section 32.46, Penal Code (securing execution of a document by deception), that is punishable as a Class A misdemeanor or a felony;
- (6) an offense under Section 37.12, Penal Code (false identification as peace officer); or
- (7) an offense under Section 42.01(a)(7), (8), or (9), Penal Code (disorderly conduct).

SECTION _____. Subsections (a) and (b), Section 250.007, Health and Safety Code, are amended to read as follows:

(a) The criminal history records are for the exclusive use of the regulatory agency, the requesting facility, the private agency on behalf of the requesting facility, the financial management services agency on behalf of the individual employer, the individual employer, and the applicant or employee who is the subject of the records.

(b) All criminal records and reports and the information they contain that are received by the regulatory agency or private agency for the purpose of being forwarded to the requesting facility or received by the financial management services agency under this chapter are privileged information.

SECTION _____. Subsection (a), Section 250.009, Health and Safety Code, is amended to read as follows:

(a) A facility, ~~or~~ an officer or employee of a facility, a financial management services agency, or an individual employer is not civilly liable for failure to comply with this chapter if the facility, financial management services agency, or individual employer makes a good faith effort to comply.

SECTION _____. Section 411.1143, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The Health and Human Services Commission, ~~[or]~~ an agency operating part of the medical assistance program under Chapter 32, Human Resources Code, or the office of inspector general established under Chapter 531, Government Code, is entitled to obtain from the department the criminal history record information maintained by the department that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program.

(a-1) Criminal history record information an agency or the office of inspector general is authorized to obtain under Subsection (a) includes criminal history record information relating to:

(1) a person with a direct or indirect ownership or control interest, as defined by 42 C.F.R. Section 455.101, in a provider of five percent or more; and

(2) a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

SECTION _____. Subdivision (2), Subsection (g), Section 531.102, Government Code, is amended to read as follows:

(2) In addition to other instances authorized under state or federal law, the office shall impose without prior notice a hold on payment of claims for reimbursement submitted by a provider to compel production of records, ~~[or]~~ when requested by the state's Medicaid fraud control unit, or on receipt of reliable evidence that the circumstances giving rise to the hold on payment involve fraud or willful misrepresentation under the state Medicaid program in accordance with 42 C.F.R. Section 455.23, as applicable. The office must notify the provider of the hold on payment in accordance with 42 C.F.R. Section 455.23(b) [not later than the fifth working day after the date the payment hold is imposed].

SECTION _____. The heading to Section 531.1031, Government Code, is amended to read as follows:

Sec. 531.1031. DUTY TO EXCHANGE INFORMATION [~~REGARDING ALLEGATIONS OF MEDICAID FRAUD OR ABUSE~~].

SECTION _____. Subdivision (2), Subsection (a), Section 531.1031, Government Code, is amended to read as follows:

(2) "Participating agency" means:

(A) the Medicaid fraud enforcement divisions of the office of the attorney general; ~~[and]~~

(B) each board or agency with authority to license, register, regulate, or certify a health care professional or managed care organization that may participate in the state Medicaid program; and

(C) the commission's office of inspector general.

SECTION _____. Section 531.1031, Government Code, is amended by amending Subsections (b) and (c) and adding Subsection (c-1) to read as follows:

(b) This section applies only to criminal history record information held by a participating agency that relates to a health care professional and information held by a participating agency that relates to a health care professional or managed care organization that is the subject of an investigation by a participating agency for alleged fraud or abuse under the state Medicaid program.

(c) A participating agency may submit to another participating agency a written request for information described by Subsection (b) regarding a health care professional or managed care organization [~~that is the subject of an investigation by the participating agency to any other participating agency~~]. The participating agency that receives the request shall provide the requesting agency with the information regarding the health care professional or managed care organization unless:

(1) the release of the information would jeopardize an ongoing investigation or prosecution by the participating agency with possession of the information; or

(2) the release of the information is prohibited by other law.

(c-1) Notwithstanding any other law, a participating agency may enter into a memorandum of understanding or agreement with another participating agency for the purpose of exchanging criminal history record information relating to a health care professional that both participating agencies are authorized to access under Chapter 411. Confidential criminal history record information in the possession of a participating agency that is provided to another participating agency in accordance with this subsection remains confidential while in the possession of the participating agency that receives the information.

SECTION _____. Section 32.0322, Human Resources Code, is amended to read as follows:

Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION; ENROLLMENT OF PROVIDERS. (a) The department or the office of inspector general established under Chapter 531, Government Code, may obtain from any law enforcement or criminal justice agency the criminal history record information that relates to a provider under the medical assistance program or a person applying to enroll as a provider under the medical assistance program.

(a-1) The criminal history record information the department and the office of inspector general are authorized to obtain under Subsection (a) includes criminal history record information relating to:

(1) a person with a direct or indirect ownership or control interest, as defined by 42 C.F.R. Section 455.101, in a provider of five percent or more; and

(2) a person whose information is required to be disclosed in accordance with 42 C.F.R. Part 1001.

(b) The executive commissioner of the Health and Human Services Commission [department] by rule shall establish criteria for the department or the commission's office of inspector general to suspend a provider's billing privileges under the medical assistance program, revoke [revoking] a provider's enrollment under the program, or deny [denying] a person's application to enroll as a provider under the [medical assistance] program based on:

(1) the results of a criminal history check;

(2) any exclusion or debarment of the provider from participation in a state or federally funded health care program;

(3) the provider's failure to bill for medical assistance or refer clients for medical assistance within a 12-month period; or

(4) any of the provider screening or enrollment provisions contained in 42 C.F.R. Part 455, Subpart E.

(c) As a condition of eligibility to participate as a provider in the medical assistance program, the executive commissioner of the Health and Human Services Commission by rule shall:

(1) require a provider or a person applying to enroll as a provider to disclose:

(A) all persons described by Subsection (a-1)(1);

(B) any managing employees of the provider; and

(C) an agent or subcontractor of the provider if:

(i) the provider or a person described by Subsection (a-1)(1) has a direct or indirect ownership interest of at least five percent in the agent or subcontractor; or

(ii) the provider engages in a business transaction with the agent or subcontractor that meets the criteria specified by 42 C.F.R. Section 455.105; and

(2) require disclosure by persons applying for enrollment as providers and provide for screening of applicants for enrollment in conformity and compliance with the requirements of 42 C.F.R. Part 455, Subparts B and E.

(d) In adopting rules under this section, the executive commissioner of the Health and Human Services Commission shall adopt rules as authorized by and in conformity with 42 C.F.R. Section 455.470 for the imposition of a temporary moratorium on enrollment of new providers, or to impose numerical caps or other limits on the enrollment of providers, that the department or the commission's office of inspector general, in consultation with the department, determines have a significant potential for fraud, waste, or abuse.

SECTION ____ . Section 32.039, Human Resources Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A person commits a violation if the person:

(1) presents or causes to be presented to the department a claim that contains a statement or representation the person knows or should know to be false;

(1-a) engages in conduct that violates Section 102.001, Occupations Code;

(1-b) solicits or receives, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind for referring an individual to a person for the furnishing of, or for arranging the furnishing of, any item or service for which payment may be made, in whole or in part, under the medical assistance program, provided that this subdivision does not prohibit the referral of a patient to another practitioner within a multispecialty group or university medical services research and development plan (practice plan) for medically necessary services;

(1-c) solicits or receives, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind for purchasing, leasing, or ordering, or arranging for or recommending the purchasing, leasing, or ordering of, any good, facility, service, or item for which payment may be made, in whole or in part, under the medical assistance program;

(1-d) offers or pays, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind to induce a person to refer an individual to another person for the furnishing of, or for arranging the furnishing of, any item or service for which payment may be made, in whole or in part, under the medical assistance program, provided that this subdivision does not prohibit the referral of a patient to another practitioner within a multispecialty group or university medical services research and development plan (practice plan) for medically necessary services;

(1-e) offers or pays, directly or indirectly, overtly or covertly any remuneration, including any kickback, bribe, or rebate, in cash or in kind to induce a person to purchase, lease, or order, or arrange for or recommend the purchase, lease, or order of, any good, facility, service, or item for which payment may be made, in whole or in part, under the medical assistance program;

(1-f) provides, offers, or receives an inducement in a manner or for a purpose not otherwise prohibited by this section or Section 102.001, Occupations Code, to or from a person, including a recipient, provider, employee or agent of a provider, third-party vendor, or public servant, for the purpose of influencing or being influenced in a decision regarding:

(A) selection of a provider or receipt of a good or service under the medical assistance program;

(B) the use of goods or services provided under the medical assistance program; or

(C) the inclusion or exclusion of goods or services available under the medical assistance program; [☐]

(2) is a managed care organization that contracts with the department to provide or arrange to provide health care benefits or services to individuals eligible for medical assistance and:

(A) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract with the department;

(B) fails to provide to the department information required to be provided by law, department rule, or contractual provision;

(C) engages in a fraudulent activity in connection with the enrollment in the organization's managed care plan of an individual eligible for medical assistance or in connection with marketing the organization's services to an individual eligible for medical assistance; or

(D) engages in actions that indicate a pattern of:

(i) wrongful denial of payment for a health care benefit or service that the organization is required to provide under the contract with the department; or

(ii) wrongful delay of at least 45 days or a longer period specified in the contract with the department, not to exceed 60 days, in making payment for a health care benefit or service that the organization is required to provide under the contract with the department; or

(3) fails to maintain documentation to support a claim for payment in accordance with the requirements specified by department rule or medical assistance program policy or engages in any other conduct that a department rule has defined as a violation of the medical assistance program.

(b-1) A person who commits a violation described by Subsection (b)(3) is liable to the department for either the amount paid in response to the claim for payment or the payment of an administrative penalty in an amount not to exceed \$500 for each violation, as determined by the department.

SECTION _____. Subsection (a), Section 103.009, Human Resources Code, is amended to read as follows:

(a) The department may deny, suspend, or revoke the license of an applicant or holder of a license who fails to comply with the rules or standards for licensing required by this chapter or has committed an act described by Sections 103.012(a)(2)-(7).

SECTION _____. Chapter 103, Human Resources Code, is amended by adding Sections 103.012 through 103.016 to read as follows:

Sec. 103.012. ADMINISTRATIVE PENALTY. (a) The department may assess an administrative penalty against a person who:

(1) violates this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter;

(2) makes a false statement of a material fact that the person knows or should know is false:

(A) on an application for issuance or renewal of a license or in an attachment to the application; or

(B) with respect to a matter under investigation by the department;

(3) refuses to allow a representative of the department to inspect:

(A) a book, record, or file required to be maintained by an adult day-care facility; or

(B) any portion of the premises of an adult day-care facility;

(4) wilfully interferes with the work of a representative of the department or the enforcement of this chapter;

(5) wilfully interferes with a representative of the department preserving evidence of a violation of this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter;

(6) fails to pay a penalty assessed under this chapter not later than the 30th day after the date the assessment of the penalty becomes final; or

(7) fails to notify the department of a change of ownership before the effective date of the change of ownership.

(b) Except as provided by Section 103.013(c), the penalty may not exceed \$500 for each violation.

(c) Each day of a continuing violation constitutes a separate violation.

(d) The department shall establish gradations of penalties in accordance with the relative seriousness of the violation.

(e) In determining the amount of a penalty, the department shall consider any matter that justice may require, including:

(1) the gradations of penalties established under Subsection (d);

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited act and the hazard or potential hazard created by the act to the health or safety of the public;

(3) the history of previous violations;

(4) the deterrence of future violations; and

(5) the efforts to correct the violation.

(f) A penalty assessed under Subsection (a)(6) is in addition to the penalty previously assessed and not timely paid.

Sec. 103.013. RIGHT TO CORRECT BEFORE IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The department may not collect an administrative penalty from an adult day-care facility under Section 103.012 if, not later than the 45th day after the date the facility receives notice under Section 103.014(c), the facility corrects the violation.

(b) Subsection (a) does not apply to:

(1) a violation that the department determines:

(A) results in serious harm to or death of a person attending the facility;

(B) constitutes a serious threat to the health and safety of a person attending the facility; or

(C) substantially limits the facility's capacity to provide care;

(2) a violation described by Sections 103.012(a)(2)-(7); or

(3) a violation of Section 103.011.

(c) An adult day-care facility that corrects a violation must maintain the correction. If the facility fails to maintain the correction until at least the first anniversary after the date the correction was made, the department may assess and collect an administrative penalty for the subsequent violation. An administrative penalty assessed under this subsection is equal to three times the amount of the original penalty assessed but not collected. The department is not required to provide the facility with an opportunity under this section to correct the subsequent violation.

Sec. 103.014. REPORT RECOMMENDING ADMINISTRATIVE PENALTY; NOTICE. (a) The department shall issue a preliminary report stating the facts on which the department concludes that a violation of this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter has occurred if the department has:

(1) examined the possible violation and facts surrounding the possible violation; and

(2) concluded that a violation has occurred.

(b) The report may recommend a penalty under Section 103.012 and the amount of the penalty.

(c) The department shall give written notice of the report to the person charged with the violation not later than the 10th day after the date on which the report is issued. The notice must include:

(1) a brief summary of the charges;

(2) a statement of the amount of penalty recommended;

(3) a statement of whether the violation is subject to correction under Section 103.013 and, if the violation is subject to correction under that section, a statement of:

(A) the date on which the adult day-care facility must file a plan of correction with the department that the department shall review and may approve, if satisfactory; and

(B) the date on which the plan of correction must be completed to avoid assessment of the penalty; and

(4) a statement that the person charged has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(d) Not later than the 20th day after the date on which the notice under Subsection (c) is received, the person charged may:

(1) give to the department written notice that the person agrees with the department's report and consents to the recommended penalty; or

(2) make a written request for a hearing.

(e) If the violation is subject to correction under Section 103.013, the adult day-care facility shall submit a plan of correction to the department for approval not later than the 10th day after the date on which the notice under Subsection (c) is received.

(f) If the violation is subject to correction under Section 103.013 and the person reports to the department that the violation has been corrected, the department shall inspect the correction or take any other step necessary to confirm the correction and shall notify the person that:

(1) the correction is satisfactory and a penalty will not be assessed; or

(2) the correction is not satisfactory and a penalty is recommended.

(g) Not later than the 20th day after the date on which a notice under Subsection (f)(2) is received, the person charged with the violation may:

(1) give to the department written notice that the person agrees with the department's report and consents to the recommended penalty; or

(2) make a written request for a hearing.

(h) If the person charged with the violation consents to the penalty recommended by the department or does not timely respond to a notice sent under Subsection (c) or (f)(2), the department's commissioner or the commissioner's designee shall assess the penalty recommended by the department.

(i) If the department's commissioner or the commissioner's designee assesses the recommended penalty, the department shall give written notice of the decision to the person charged with the violation and the person shall pay the penalty.

Sec. 103.015. ADMINISTRATIVE PENALTY HEARING. (a) An administrative law judge shall order a hearing and give notice of the hearing if a person assessed a penalty under Section 103.013(c) requests a hearing.

(b) The hearing shall be held before an administrative law judge.

(c) The administrative law judge shall make findings of fact and conclusions of law regarding the occurrence of a violation of this chapter, a rule or order adopted under this chapter, or a term of a license issued under this chapter.

(d) Based on the findings of fact and conclusions of law, and the recommendation of the administrative law judge, the department's commissioner or the commissioner's designee by order shall find:

(1) a violation has occurred and assess an administrative penalty; or

(2) a violation has not occurred.

(e) Proceedings under this section are subject to Chapter 2001, Government Code.

Sec. 103.016. NOTICE AND PAYMENT OF ADMINISTRATIVE PENALTY; INTEREST; REFUND. (a) The department's commissioner or the commissioner's designee shall give notice of the findings made under Section 103.015(d) to the person charged with a violation. If the commissioner or the commissioner's designee finds that a violation has occurred, the commissioner or the commissioner's designee shall give to the person charged written notice of:

(1) the findings;

(2) the amount of the administrative penalty;

(3) the rate of interest payable with respect to the penalty and the date on which interest begins to accrue; and

(4) the person's right to judicial review of the order of the commissioner or the commissioner's designee.

(b) Not later than the 30th day after the date on which the order of the department's commissioner or the commissioner's designee is final, the person assessed the penalty shall:

(1) pay the full amount of the penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(c) Notwithstanding Subsection (b), the department may permit the person to pay a penalty in installments.

(d) If the person does not pay the penalty within the period provided by Subsection (b) or in accordance with Subsection (c), if applicable:

(1) the penalty is subject to interest; and

(2) the department may refer the matter to the attorney general for collection of the penalty and interest.

(e) Interest under Subsection (d)(1) accrues:

(1) at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank; and

(2) for the period beginning on the day after the date on which the penalty becomes due and ending on the date the penalty is paid.

(f) If the amount of the penalty is reduced or the assessment of a penalty is not upheld on judicial review, the department's commissioner or the commissioner's designee shall:

(1) remit to the person charged the appropriate amount of any penalty payment plus accrued interest; or

(2) execute a release of the supersedeas bond if one has been posted.

(g) Accrued interest on the amount remitted by the department's commissioner or the commissioner's designee under Subsection (f)(1) shall be paid:

(1) at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank; and

(2) for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted to the person charged with the violation.

SECTION _____. Section 22.039(c), Human Resources Code, is amended to read as follows:

(c) The department shall semiannually provide training for surveyors and providers on subjects that address ~~at least one of~~ the 10 most common violations by long-term care facilities of ~~under~~ federal or state law. The department may charge a fee not to exceed \$50 per person for the training.

SECTION _____. As soon as practicable after the effective date of this Act but not later than July 1, 2012, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Section 22.039, Human Resources Code, as amended by this article.

SECTION _____. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

LEAVE OF ABSENCE GRANTED

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

Miles on motion of Kuempel.

HB 2365 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Eissler called up with senate amendments for consideration at this time,

HB 2365, A bill to be entitled An Act relating to certain responsibilities of education research centers and to a joint advisory board for education research centers.

Representative Eissler moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2365**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2365**: Eissler, chair; Hochberg, Huberty, Strama, and Hancock.

HB 51 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Lucio called up with senate amendments for consideration at this time,

HB 51, A bill to be entitled An Act relating to energy efficiency standards for certain buildings and to high-performance design, construction, and renovation standards for certain buildings and facilities of institutions of higher education.

Representative Lucio moved to concur in the senate amendments to **HB 51**.

The motion to concur in the senate amendments to **HB 51** prevailed by (Record 1559): 86 Yeas, 53 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Berman; Carter; Chisum; Christian; Coleman; Cook; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farrar; Flynn; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, T.; Larson; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Scott; Sheets; Smith, W.; Smithee; Solomons; Taylor, L.; Thompson; Torres; Turner; Veasey; Vo; Walle; Weber; Woolley.

Nays — Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Craddick; Creighton; Darby; Davis, S.; Elkins; Fletcher; Frullo; Geren; Gooden; Hamilton; Hilderbran; Howard, C.; Hughes; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Madden; Miller, D.; Miller, S.; Morrison; Murphy; Parker; Patrick; Paxton; Peña; Perry; Riddle; Sheffield; Shelton; Simpson; Smith, T.; Taylor, V.; Truitt; White; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Castro; Farias; Marquez; Miles; Price; Strama; Villarreal.

Absent — Garza.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1559. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 1559. I intended to vote no.

Crownover

I was shown voting yes on Record No. 1559. I intended to vote no.

Harless

I was shown voting yes on Record No. 1559. I intended to vote no.

Harper-Brown

I was shown voting yes on Record No. 1559. I intended to vote no.

L. Gonzales

I was shown voting yes on Record No. 1559. I intended to vote no.

Phillips

I was shown voting yes on Record No. 1559. I intended to vote no.

Solomons

I was shown voting yes on Record No. 1559. I intended to vote no.

L. Taylor

I was shown voting yes on Record No. 1559. I intended to vote no.

Weber

Senate Committee Substitute

CSHB 51, A bill to be entitled An Act relating to energy efficiency standards for certain buildings and to high-performance design, construction, and renovation standards for certain buildings and facilities of institutions of higher education.

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

SECTION 1. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.115 to read as follows:

Sec. 55.115. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR CERTAIN FACILITIES. (a) This section applies to the construction of an institution of higher education building, structure, or other facility, or the renovation of a building, structure, or other facility the cost of which is more than \$2 million, or, if less than \$2 million, more than 50 percent of the value of the building, structure, or other facility, if any part of the construction or renovation is financed by revenue bonds issued under this subchapter.

(b) A building, structure, or other facility to which this section applies must be designed and constructed or renovated so that the building, structure, or other facility complies with high-performance building standards, approved by the board of regents of the institution, that provide minimum requirements for energy

use, natural resources use, and indoor air quality. In approving high-performance building standards, a board of regents shall consider, but is not subject to, the high-performance building evaluation system approved by the state energy conservation office under Section 447.004, Government Code, and may solicit and consider recommendations from the advisory committee appointed under that section.

(c) A building, structure, or other facility to which this section applies must be designed and constructed or renovated to comply with the applicable energy and water conservation design standards established by the state energy conservation office under Section 447.004, Government Code.

(d) This section does not apply to an institution of higher education that constructs or renovates a building, structure, or other facility if the institution:

(1) determines that compliance with the standards described by Subsection (b) is impractical;

(2) notifies the state energy conservation office of the determination;
and

(3) provides documentation supporting the determination under Subdivision (1) to the state energy conservation office.

SECTION 2. Section 447.004, Government Code, is amended by amending Subsection (b) and adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b) The standards established under Subsection (a) must:

(1) include performance and procedural standards for the maximum energy and water conservation allowed by the latest and most cost-effective technology that is consistent with the requirements of public health, safety, and economic resources;

(2) be stated in terms of energy and water consumption levels that meet energy standards adopted by the state energy conservation office and that:

(A) achieve a 15 percent reduction in water use when compared to water use based on plumbing fixtures selected in accordance with the Energy Policy Act of 1992 (Pub. L. No. 102-486); or

(B) comply with water conservation standards published by the state energy conservation office;

(3) consider the various types of building uses; and

(4) allow for design flexibility, including allowing for certification under any high-performance design evaluation system approved by the state energy conservation office.

(b-1) A building to which this section applies must be designed and constructed or renovated so that the building achieves certification under any high-performance design evaluation system approved by the state energy conservation office that:

(1) is developed and revised through a nationally recognized consensus-based process or by a municipally owned utility in this state;

(2) provides minimum requirements for energy use, natural resources use, and indoor air quality;

(3) requires substantiating documentation for certification;

(4) requires on-site, third-party, post-construction review and verification for certification, or a third-party, post-construction, rigorous review of documentation and verification for certification; and

(5) encourages the use of materials or products manufactured or produced in this state.

(b-2) The state energy conservation office shall appoint an advisory committee to advise the office in selecting one or more high-performance building design evaluation systems to approve for use under Subsection (b-1). At least once every two years, the advisory committee shall review available high-performance building standards and make recommendations to the office. The advisory committee consists of:

(1) one individual appointed by the comptroller who represents the state energy conservation office and who serves as the presiding officer of the committee;

(2) eight individuals with experience and expertise in high-performance buildings or related products, including experience and expertise in energy efficiency, water efficiency, or low-impact site development, with one individual selected from each of the following lists of nominees:

(A) a list submitted by the president of the Texas Society of Architects;

(B) a list submitted by the presidents of the Texas Council of Engineering Companies and Texas Society of Professional Engineers;

(C) a list submitted by the president of the Associated Builders and Contractors of Texas and the presiding officer of the executive committee of the Associated General Contractors, Texas Building Branch;

(D) a list submitted by the president of the Texas chapter of the American Society of Landscape Architects;

(E) a list submitted by the president of the Texas Chemical Council;

(F) a list submitted by the Texas State Building and Construction Trades Council;

(G) a list submitted by the president of the Texas chapter of the Urban Land Institute; and

(H) a list submitted by the chair of the Brick Industry Association;

(3) the director of facilities construction and space management appointed under Section 2152.104;

(4) one individual representing the Energy Systems Laboratory of the Texas Engineering Experiment Station of The Texas A&M University System;

(5) one individual representing a state agency that has a substantial ongoing construction program; and

(6) one individual representing the interests of historically underutilized businesses.

(b-3) A contract between a state agency and a private design professional relating to services in connection with the construction or renovation of a building to which this section applies must provide that, for billing purposes, any service provided by the private design professional that is necessary to satisfy the

certification requirements of Subsection (b-1) is considered an additional service rather than a basic service. A governmental entity may not disallow the allocation of federal deductions to eligible design professionals authorized by the Energy Policy Act of 2005 (Pub. L. No. 109-58).

SECTION 3. Sections 388.003(c) and (e), Health and Safety Code, are amended to read as follows:

(c) A municipality shall establish procedures:

- (1) for the administration and enforcement of the codes; ~~and~~
- (2) to ensure that code-certified inspectors shall perform inspections and enforce the code in the inspectors' jurisdictions; and
- (3) to track and report to the state energy conservation office on implementation of the codes.

(e) Local amendments may not result in less stringent energy efficiency requirements in nonattainment areas and in affected counties than the energy efficiency chapter of the International Residential Code or International Energy Conservation Code. Local amendments must comply with the National Appliance Energy Conservation Act of 1987 (42 U.S.C. Sections 6291-6309), as amended. The laboratory, at the request of a municipality or county, shall determine the relative impact of proposed local amendments to an energy code, including whether proposed amendments are substantially equal to or less stringent than the unamended code. For the purpose of establishing uniform requirements throughout a region, and on request of a council of governments, a county, or a municipality, the laboratory may recommend a climatically appropriate modification or a climate zone designation for a county or group of counties that is different from the climate zone designation in the unamended code. The laboratory shall:

(1) report its findings to the council, county, or municipality, including an estimate of any energy savings potential above the unamended ~~[base]~~ code from local amendments; and

(2) annually submit a report to the commission:

(A) identifying the municipalities and counties whose codes are more stringent than the unamended code, and whose codes are equally stringent or less stringent than the unamended code; and

(B) quantifying energy savings and emissions reductions from this program for consideration in the state implementation plan for emissions reduction credit.

SECTION 4. Section 388.007, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The laboratory may provide local jurisdictions with technical assistance concerning implementation and enforcement of the International Energy Conservation Code and the energy efficiency chapter of the International Residential Code, including local amendments to those codes.

(d) The laboratory may conduct outreach to the real estate industry, including real estate agents, home builders, remodelers, appraisers, and financial institutions, on the value of energy code compliance and verified, above-code, high-performance construction.

SECTION 5. Section 55.115, Education Code, as added by this Act, and Section 447.004, Government Code, as amended by this Act, apply only to an institution of higher education building, structure, or other facility or a state building for which the contract for design services is entered into on or after September 1, 2013.

SECTION 6. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 51** as follows:

In SECTION 1 of the bill, strike Subsections (c) and (d) of added Section 55.115, Education Code and substitute the following:

(c) Except as provided by this section, a building, structure, or other facility to which this section applies must be designed and constructed or renovated to comply with the applicable energy and water conservation design standards established by the state energy conservation office under Section 447.004, Government Code, unless the institution constructing the building determines that compliance with those standards is impractical and notifies the state energy conservation office of the determination and provides to the office documentation supporting the determination.

HB 1206 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Guillen called up with senate amendments for consideration at this time,

HB 1206, A bill to be entitled An Act relating to training for members of governing boards of public junior college districts.

Representative Guillen moved to concur in the senate amendments to **HB 1206**.

The motion to concur in the senate amendments to **HB 1206** prevailed by (Record 1560): 101 Yeas, 36 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Berman; Bonnen; Branch; Carter; Chisum; Christian; Coleman; Cook; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kuempel; Larson; Lewis; Lucio; Lyne; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Shelton; Simpson; Smith, W.; Smithee; Solomons; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Aycock; Beck; Bohac; Brown; Burkett; Button; Cain; Callegari; Craddick; Creighton; Darby; Davis, S.; Frullo; Gooden; Hancock; Harper-Brown; Hilderbran; Hughes; King, S.; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Madden; Miller, S.; Parker; Patrick; Perry; Sheets; Sheffield; Smith, T.; Taylor, V.; Weber; White; Zedler.

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

Absent, Excused — Burnam; Castro; Farias; Marquez; Miles; Price; Strama; Villarreal.

Absent — Garza; Lozano; Oliveira.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1560. I intended to vote no.

Huberty

I was shown voting yes on Record No. 1560. I intended to vote no.

Paxton

I was shown voting yes on Record No. 1560. I intended to vote no.

Phillips

Senate Committee Substitute

CSHB 1206, A bill to be entitled An Act relating to training for members of governing boards of public junior college districts.

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

SECTION 1. Section 61.084, Education Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) The board by rule shall establish a training program for members of the governing boards of institutions of higher education. Each member of a governing board of an institution of higher education [~~the members of which are appointed~~] shall attend, during the member's first two years of service as a member of a governing board of an institution of higher education, at least one training program under this section. [~~A member of a governing board of an institution of higher education the members of which are elected may attend a training program conducted under this section.~~] A member of a governing board who is required to attend a training program under this section may[, ~~but need not,~~] attend additional training programs under this section.

(e) In addition to the content of the instruction at a training program required under Subsection (d), topics covered by the training program for members of a governing board of a public junior college district must include information about best practices in campus financial management, financial ratio analysis, and case studies using financial indicators.

(f) The minutes of the last regular meeting held by a governing board of a public junior college district during a calendar year must reflect whether each member of the governing board has completed any training required to be completed by the member under this section as of the meeting date.

(g) The board shall provide an equivalent training program by electronic means in the event a member of governing board is unable to attend the training program required by this Section. Completion of the training program by electronic means is deemed to satisfy the requirements of this Section.

SECTION 2. This Act takes effect September 1, 2011.

**SB 1588 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Pitts, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1588**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1588**: Pitts, chair; Chisum, Frullo, Guillen, and Zerwas.

**HB 1646 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 1646, A bill to be entitled An Act relating to representation of certain applicants for writs of habeas corpus in cases involving the death penalty.

Representative Gallego moved to concur in the senate amendments to **HB 1646**.

The motion to concur in the senate amendments to **HB 1646** prevailed by (Record 1561): 132 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; 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; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anderson, R.; Callegari; Fletcher; Landtroop; Miller, S.

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

Absent, Excused — Burnam; Castro; Farias; Marquez; Miles; Price; Strama; Villarreal.

Absent — Coleman; Garza; Veasey.

Senate Committee Substitute

CSHB 1646, A bill to be entitled An Act relating to representation of certain applicants for writs of habeas corpus in cases involving the death penalty.

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

SECTION 1. Section 6, Article 11.071, Code of Criminal Procedure, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) If the convicting court receives notice that the requirements of Section 5(a) for consideration of a subsequent application have been met and if the applicant has not elected to proceed pro se and is not represented by retained counsel, the convicting court shall appoint, in order of priority:

(1) the attorney who represented the applicant in the proceedings under Section 5, if the attorney seeks the appointment;

(2) the office of capital writs, if the office represented the applicant in the proceedings under Section 5 or otherwise accepts the appointment; or

(3) counsel from a list of competent counsel maintained by the presiding judges of the administrative judicial regions under Section 78.056, Government Code, if the office of capital writs:

(A) did not represent the applicant as described by Subdivision (2);

or

(B) does not accept or is prohibited from accepting the appointment under Section 78.054, Government Code.

(b-2) Regardless of whether the subsequent application is ultimately dismissed, compensation and reimbursement of expenses for counsel appointed under Subsection (b-1) shall be provided as described by Section 2, 2A, or 3, including compensation for time previously spent and reimbursement of expenses previously incurred with respect to the subsequent application.

SECTION 2. The change in law made by this Act applies to a subsequent application for a writ of habeas corpus filed on or after January 1, 2012. A subsequent application filed before January 1, 2012, is covered by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.

**HB 2910 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Branch called up with senate amendments for consideration at this time,

HB 2910, A bill to be entitled An Act relating to agreements between the Texas Higher Education Coordinating Board and certain organizations for increasing degree completion rates.

Representative Branch moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2910**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2910**: Branch, chair; Bonnen, Pitts, D. Howard, and Johnson.

**HB 1560 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Scott called up with senate amendments for consideration at this time,

HB 1560, A bill to be entitled An Act relating to the authority of counties to nominate projects in the extraterritorial jurisdictions of certain municipalities for designation as enterprise projects.

Representative Scott moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1560**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1560**: Scott, chair; Keffer, Eiland, S. Miller, and Creighton.

**HB 2643 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hamilton called up with senate amendments for consideration at this time,

HB 2643, A bill to be entitled An Act relating to safety standards for elevators, escalators, and related equipment.

Representative Hamilton moved to concur in the senate amendments to **HB 2643**.

The motion to concur in the senate amendments to **HB 2643** prevailed by (Record 1562): 112 Yeas, 24 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Burkett; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kolkhorst; Kuempel; Larson; Laubenberg; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Martinez; Martinez

Fischer; McClendon; Menendez; Miller, D.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Brown; Cain; Callegari; Carter; Davis, S.; Gooden; Harper-Brown; Hilderbran; Hughes; King, P.; Kleinschmidt; Landtroop; Lavender; Legler; Madden; Miller, S.; Morrison; Patrick; Perry; Simpson; Taylor, L.; Weber; White; Zedler.

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

Absent, Excused — Burnam; Castro; Farias; Marquez; Miles; Price; Strama; Villarreal.

Absent — Button; Fletcher; Garza; Riddle.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1562. I intended to vote no.

Paxton

I was shown voting yes on Record No. 1562. I intended to vote no.

Phillips

Senate Committee Substitute

CSHB 2643, A bill to be entitled An Act relating to safety standards for elevators, escalators, and related equipment.

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

SECTION 1. Sections 754.015(a), (b), and (d), Health and Safety Code, are amended to read as follows:

(a) The commission by rule shall provide for:

(1) an annual inspection and certification of the equipment covered by standards adopted under this subchapter;

(2) enforcement of those standards;

(3) registration of qualified inspectors and contractors;

(4) the form of inspection documents, contractor reports, and certificates of compliance;

(5) notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment;

(6) approval of continuing education programs for registered QEI-1 certified inspectors; ~~and~~

(7) standards of conduct for individuals who are registered under this subchapter;

(8) general liability insurance as a condition of contractor registration with coverage of not less than:

(A) \$1 million for each single occurrence of bodily injury or death;

and

(B) \$500,000 for each single occurrence of property damage;

(9) the submission and review of plans for the installation or alteration of equipment; and

(10) continuing education requirements for renewal of contractor registration.

(b) The commission by rule may not:

(1) require inspections of equipment to be made more often than every 12 months, except as provided by Subsection (c);

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration, except as otherwise provided by this chapter;

~~[(3) require building owners to submit to the department proposed plans for equipment installation or alteration;]~~ or

(3) ~~[(4)]~~ prohibit a QEI-1 certified inspector who is registered with the department from inspecting equipment.

(d) The executive director may charge a reasonable fee as set by the commission for:

(1) registering or renewing registration of an inspector;

(2) registering or renewing registration of a contractor;

(3) applying for a certificate of compliance;

(4) filing an inspection report as required by Section 754.019(a)(3), 30 days or more after the date the report is due, for each day the report remains not filed after the date the report is due;

(5) submitting for review plans for the installation or alteration of equipment;

(6) reviewing and approving continuing education providers and courses for renewal of contractor registration;

(7) applying for a waiver, variance, or delay; and

(8) ~~[(6)]~~ attending a continuing education program sponsored by the department for registered QEI-1 inspectors.

SECTION 2. Section 754.0171(b), Health and Safety Code, is amended to read as follows:

(b) A contractor shall submit an application for registration or renewal of registration, as applicable, and pay appropriate fees to the department. The registration application form shall ~~may~~ require:

(1) information concerning the background, experience, and ~~of~~ identity of the applicant;

(2) designation of and information regarding the responsible party or parties under Section 754.0173; and

(3) documentation of fulfillment of the continuing education requirements for renewal of registration, if applicable.

SECTION 3. Subchapter B, Chapter 754, Health and Safety Code, is amended by adding Sections 754.0173 and 754.0174 to read as follows:

Sec. 754.0173. DESIGNATION OF RESPONSIBLE PARTY OR PARTIES. (a) Each contractor who registers with the department must designate at least one but not more than two responsible parties.

(b) A responsible party designated under this section must:

(1) have a minimum of three years of elevator contractor experience related to elevator installation, repair, and maintenance; and

(2) comply with continuing education requirements as determined by commission rule in order for an elevator contractor to renew an elevator contractor registration.

(c) The commission shall adopt rules regarding documentation of the completion of the continuing education to accompany the application for registration.

(d) A responsible party may be added to or removed from the registration at any time by providing written notice to the department. If a responsible party is added to a registration, the written notice must include evidence that the responsible party meets the requirements of this section.

Sec. 754.0174. CONTINUING EDUCATION FOR RENEWAL OF CONTRACTOR REGISTRATIONS. (a) Each contractor's responsible party must complete continuing education requirements set by commission rule before the contractor may renew the contractor's registration.

(b) A provider of continuing education under this section must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education for a designated responsible party.

SECTION 4. The Texas Commission of Licensing and Regulation shall adopt the rules required by Sections 754.015(a)(8), (9), and (10), Health and Safety Code, as added by this Act, not later than June 1, 2012.

SECTION 5. (a) The rules adopted under Section 754.015(a)(8), Health and Safety Code, as added by this Act, apply only to an application or renewal application for registration of a contractor filed on or after September 1, 2012. An application or renewal application for registration of a contractor filed before that date 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.

(b) The rules adopted under Section 754.015(a)(9), Health and Safety Code, as added by this Act, apply only to installation or alteration of equipment performed under a contract or work order entered into or issued on or after September 1, 2012. Installation or alteration of equipment performed under a contract or work order entered into or issued before September 1, 2012, 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.

(c) Section 754.0173, Health and Safety Code, as added by this Act, applies only to a registration issued or renewed on or after September 1, 2012. A registration issued or renewed before September 1, 2012, is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(d) Section 754.0174, Health and Safety Code, as added by this Act, and the rules adopted under Section 754.015(a)(10), Health and Safety Code, as added by this Act, apply only to a registration that is renewed on or after January

1, 2013. A registration that is renewed before January 1, 2013, is covered 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 6. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2643** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 1302.002, Occupations Code, is amended by amending Subdivision (5-b) and adding Subdivision (5-c) to read as follows:

(5-b) "Apprenticeship program" means an air conditioning and refrigeration training program that is:

(A) recognized by the Texas Workforce Commission or the Texas Higher Education Coordinating Board;

(B) registered with the United States Department of Labor; or

(C) a competency-based standardized craft training program that meets the standards of the United States Department of Labor Office of Apprenticeship.

(5-c) "Certified technician" means a registered technician who has completed a certification examination.

SECTION _____. Subchapter C, Chapter 1302, Occupations Code, is amended by adding Section 1302.1011 to read as follows:

Sec. 1302.1011. RULES. The commission shall adopt rules:

(1) providing for the licensing and registration of persons under this chapter, including requirements for the issuance and renewal of a contractor license and a technician registration;

(2) establishing fees necessary for the administration of this chapter, including fees for issuance and renewal of a contractor license and a technician registration; and

(3) implementing the requirements of this chapter as applicable to persons, entities, and activities regulated under this chapter.

SECTION _____. Subsection (a), Section 1302.102, Occupations Code, is amended to read as follows:

(a) The commission by rule [~~executive director~~] shall set insurance requirements for a license holder under this chapter.

SECTION _____. Section 1302.105, Occupations Code, is amended to read as follows:

Sec. 1302.105. PERSONNEL [~~EXAMINERS~~]. [~~(a)~~] The department may employ personnel necessary to administer this chapter.

~~[(b) The department shall employ at least two full-time air conditioning and refrigeration contractors to serve as examiners.]~~

SECTION _____. Section 1302.202, Occupations Code, is amended to read as follows:

Sec. 1302.202. APPOINTED MEMBERS. (a) Except for the public member, each ~~Each~~ appointed advisory board member must be experienced in the design, installation, construction, maintenance, service, repair, or modification of equipment used for environmental air conditioning, commercial refrigeration, or process cooling or heating. Other than the public member, of ~~Of~~ the appointed members:

(1) one must be an official of a municipality with a population of more than 250,000;

(2) one must be an official of a municipality with a population of not more than 250,000; and

(3) four must be full-time licensed air conditioning and refrigeration contractors, as follows:

(A) one member who holds a Class A license and practices in a municipality with a population of more than 250,000;

(B) one member who holds a Class B license and practices in a municipality with a population of more than 250,000;

(C) one member who holds a Class A license and practices in a municipality with a population of more than 25,000 but not more than 250,000; and

(D) one member who holds a Class B license and practices in a municipality with a population of not more than 25,000.

(b) At least one ~~appointed~~ advisory board member appointed under Subsection (a)(3) must be an air conditioning and refrigeration contractor who employs organized labor ~~[and at least two appointed members must be air conditioning and refrigeration contractors who are licensed engineers].~~

SECTION _____. The heading to Subchapter F, Chapter 1302, Occupations Code, is amended to read as follows:

SUBCHAPTER F. AIR CONDITIONING AND REFRIGERATION
CONTRACTORS [LICENSE REQUIREMENTS]

SECTION _____. Section 1302.251, Occupations Code, is amended to read as follows:

Sec. 1302.251. LICENSE REQUIRED. (a) A person may not engage in air conditioning and refrigeration contracting unless the person holds an air conditioning and refrigeration contractor ~~a~~ license under this subchapter or Subchapter G.

(b) An air conditioning and refrigeration contractor ~~A~~ license issued under this subchapter is valid throughout the state. A person who holds a license issued under this subchapter is not required to hold a municipal license under Subchapter G to engage in air conditioning and refrigeration contracting in any municipality in this state.

(c) A person holding an air conditioning and refrigeration contractor license may assign that license to only one permanent office of one air conditioning and refrigeration contracting company.

SECTION _____. Section 1302.255, Occupations Code, is amended to read as follows:

Sec. 1302.255. ELIGIBILITY REQUIREMENTS. (a) An applicant for a license under this subchapter ~~[chapter]~~ must:

(1) be at least 18 years old; and
(2) have at least 48 ~~[36]~~ months of practical experience in air conditioning and refrigeration-related work under the supervision of a licensed air conditioning and refrigeration contractor ~~[with the tools of the trade]~~ in the preceding 72 months ~~[five years]~~.

(a-1) An applicant who has equivalent experience in another state or who held an equivalent license in another state may receive credit for the experience as determined by the executive director.

(b) Notwithstanding the requirements of [For purposes of determining an applicant's practical experience under] Subsection (a)(2), an applicant may satisfy a portion of the practical experience requirement as provided by Subsection (c).

(c) An applicant who obtains a degree or diploma or completes a certification program from an institution of higher education that holds a certificate of authority issued by the Texas Higher Education Coordinating Board, or an equivalent governing body in another state as approved by the executive director, may satisfy a portion of the practical experience requirement as follows:

(1) completing a four-year degree or diploma in air conditioning engineering or technology, refrigeration engineering or technology, or mechanical engineering is equivalent to 24 months ~~[two years]~~ of practical experience ~~[if~~

~~[(1) the degree or diploma is from an institution of higher education];~~
~~[and]~~

(2) completing a two-year associate's degree, a two-year diploma, or a two-year certification program primarily focused on air conditioning and refrigeration-related work is equivalent to 12 months of practical experience;

(3) completing a one-year certification program, or a program of at least two semesters, in air conditioning and refrigeration-related work is equivalent to six months of practical experience; and

(4) completing a program resulting in another applicable degree, diploma, or certification shall be equivalent to the amount of practical experience determined by the department under commission rule ~~[the institution's program is approved by the Texas Board of Professional Engineers for the purpose of licensing engineers].~~

(d) Every 2,000 hours of on-the-job training in an apprenticeship program is equivalent to 12 months of practical experience under Subsection (a)(2).

(e) Notwithstanding the requirements of Subsection (a)(2), each of the following qualifies as practical experience for purposes of satisfying the 48-month requirement:

(1) verified military service in which the person was trained in or performed air conditioning and refrigeration-related work as part of the person's military occupational specialty; and

(2) experience performing air conditioning and refrigeration-related work as described by Section 1302.055, 1302.056, or 1302.057 or while employed by a governmental entity.

SECTION _____. Subsections (a) and (c), Section 1302.256, Occupations Code, are amended to read as follows:

(a) An applicant for an air conditioning and refrigeration contractor [a] license must submit a verified application on a form prescribed by the executive director.

(c) The application must be accompanied by:

(1) a statement containing evidence satisfactory to the executive director of the applicant's practical experience required by Section 1302.255 [~~1302.255(a)(2)~~]; and

(2) the required fees [~~examination fee~~].

SECTION _____. Subsection (b), Section 1302.257, Occupations Code, is amended to read as follows:

(b) The executive director shall prescribe the method and content of an examination administered under this subchapter [~~chapter~~] and shall set compliance requirements for the examination. To obtain an endorsement, an applicant must pass the examination for the endorsement.

SECTION _____. Section 1302.260, Occupations Code, is amended to read as follows:

Sec. 1302.260. ISSUANCE AND TERM OF LICENSE. (a) The department [~~On payment of the license fee, the executive director~~] shall issue an air conditioning and refrigeration contractor license to an applicant who:

(1) submits a verified application;

(2) passes the applicable examination;

(3) meets the requirements of this chapter and rules adopted under this chapter [~~subchapter~~];

(4) pays the required fees; and

(5) [(2)] provides evidence of insurance coverage required by rule [~~the executive director~~] in accordance with this chapter[; ~~and~~

[(3)] ~~passes the applicable examination~~].

(b) A license issued under this chapter expires on the first anniversary of the date of issuance [~~at the end of the license period set by the commission~~].

SECTION _____. Section 1302.263, Occupations Code, is amended to read as follows:

Sec. 1302.263. LIMITATION ON LICENSE HOLDER [~~OR REGISTERED TECHNICIAN~~]. A person licensed as a contractor under this subchapter [~~chapter~~] may not:

(1) perform or offer or attempt to perform an act, service, or function that is:

(A) defined as the practice of engineering under Chapter 1001, unless the person holds a license under that chapter;

(B) regulated under Chapter 113, Natural Resources Code, unless the person holds a license or is exempt by rule under that chapter; or

(C) defined as plumbing under Chapter 1301, unless the person holds a license under that chapter; or

(2) use the services of a person who is not a registered technician or a licensed air conditioning and refrigeration contractor to assist in the performance of air conditioning and refrigeration maintenance work.

SECTION _____. Subsection (a), Section 1302.453, Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person:

(1) knowingly engages in air conditioning and refrigeration contracting without holding a license issued under this chapter; ~~or~~

(2) knowingly engages in air conditioning and refrigeration maintenance work without holding a contractor license or technician registration issued under this chapter; or

(3) purchases a refrigerant or equipment containing a refrigerant in this state in violation of Section 1302.353, 1302.355, or 1302.356.

SECTION _____. Section 1302.501, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) An air conditioning and refrigeration technician [A] registration is valid throughout the state.

(c) A person is not required to obtain an air conditioning and refrigeration technician registration if the person only assists a licensed contractor in performing:

(1) the total replacement of a system; or

(2) the installation or repair of a boiler or pressure vessel that must be installed in accordance with rules adopted under Chapter 755, Health and Safety Code.

SECTION _____. Subchapter K, Chapter 1302, Occupations Code, is amended by adding Section 1302.5035 to read as follows:

Sec. 1302.5035. ELIGIBILITY REQUIREMENTS. (a) An applicant for a technician registration under this subchapter must be at least 18 years old.

(b) An applicant for a technician registration is not required to have practical experience or to take an examination to obtain the registration.

SECTION _____. Section 1302.504, Occupations Code, is amended to read as follows:

Sec. 1302.504. APPLICATION; FEE. (a) An applicant for an air conditioning and refrigeration technician registration must submit a verified [an] application on a form prescribed by the executive director [commission].

(b) The completed application must be accompanied by the required fees [application fee].

SECTION _____. Section 1302.505, Occupations Code, is amended to read as follows:

Sec. 1302.505. ISSUANCE AND TERM OF REGISTRATION. (a) The department shall issue an air conditioning and refrigeration technician registration to an applicant who:

(1) submits a verified application;

(2) meets the requirements of this chapter and rules adopted under this chapter; and

(3) pays the required fees [~~On receipt of a completed application, the department shall register an applicant who meets the requirements of this subchapter.~~].

(b) A registration issued under this subchapter is valid for one year from the date of issuance.

SECTION _____. Subchapter K, Chapter 1302, Occupations Code, is amended by adding Section 1302.509 to read as follows:

Sec. 1302.509. LIMITATIONS ON REGISTRANT. A person registered under this subchapter may not:

(1) perform, offer to perform, or attempt to perform an act that is:

(A) defined as the practice of engineering under Chapter 1001, unless the person holds a license under that chapter;

(B) regulated under Chapter 113, Natural Resources Code, unless the person holds a license under that chapter or is exempt by a rule adopted under that chapter; or

(C) defined as plumbing under Chapter 1301, unless the person holds a license under that chapter; or

(2) assist a person who is not a licensed air conditioning and refrigeration contractor in the performance of air conditioning and refrigeration maintenance work.

SECTION _____. The following sections of the Occupations Code are repealed:

- (1) Section 1302.062;
- (2) Section 1302.106;
- (3) Section 1302.209;
- (4) Subsections (c) and (d), Section 1302.257;
- (5) Section 1302.502; and
- (6) Section 1302.507.

SECTION _____. (a) Not later than March 1, 2012, the Texas Commission of Licensing and Regulation shall adopt rules to implement Chapter 1302, Occupations Code, as amended by this Act.

(b) Section 1302.255, Occupations Code, as amended by this Act, applies only to an application for a license or registration under that section submitted to the Texas Department of Licensing and Regulation on or after November 1, 2012. An application for a license, registration, or certification submitted under that section before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 2643** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 711.008, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) Subsection (a) does not apply to:

- (1) a cemetery heretofore established and operating;

(2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;

(3) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(A) is owned by the society or sect; and

(B) is part of the campus on which an existing principal church building is located;

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus; ~~or~~

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect; or

(6) the establishment and operation, if authorized in accordance with Subsection (h), of a perpetual care cemetery by an organized religious society or sect that:

(A) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code;

(B) has been in existence for at least five years;

(C) has at least \$500,000 in assets; and

(D) establishes and operates the cemetery on land that:

(i) is owned by the society or sect;

(ii) together with any other land owned by the society or sect and adjacent to the land on which the cemetery is located, is not less than 10 acres; and

(iii) is in a municipality with a population of at least one million that is located predominantly in a county that has a total area of less than 1,000 square miles.

(h) The governing body of a municipality described by Subsection (b)(6)(D)(iii) may authorize the establishment and use in accordance with Subsection (b)(6) of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

(Castro and Strama now present)

**HB 290 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Jackson called up with senate amendments for consideration at this time,

HB 290, A bill to be entitled An Act relating to the punishment for the offense of employment harmful to children.

Representative Jackson moved to concur in the senate amendments to **HB 290**.

The motion to concur in the senate amendments to **HB 290** prevailed by (Record 1563): 136 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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 — Dutton.

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

Absent, Excused — Burnam; Farias; Marquez; Miles; Price; Villarreal.

Absent — Bohac; Castro; Garza; Miller, S.; Strama.

STATEMENTS OF VOTE

When Record No. 1563 was taken, I was temporarily out of the house chamber. I would have voted yes.

Bohac

I was shown voting yes on Record No. 1563. I intended to vote no.

Carter

Senate Committee Substitute

CSHB 290, A bill to be entitled An Act relating to the punishment for the offense of employment harmful to children.

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

SECTION 1. Section 43.251(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if it is shown on the trial of the offense that the defendant has been previously convicted one time of an offense under this section; and

(2) a felony of the third degree if it is shown on the trial of the offense that the defendant has been previously convicted two or more times of an offense under this section.

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

SECTION 3. This Act takes effect September 1, 2011.

HB 2728 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 2728, A bill to be entitled An Act relating to the operation and regulation of charitable bingo.

Representative Thompson moved to concur in the senate amendments to **HB 2728**.

The motion to concur in the senate amendments to **HB 2728** prevailed by (Record 1564): 74 Yeas, 63 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Callegari; Chisum; Coleman; Cook; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Hernandez Luna; Hochberg; Howard, D.; Hunter; Jackson; Johnson; Keffer; King, S.; King, T.; Kolkhorst; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Muñoz; Naishtat; Oliveira; Otto; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Sheffield; Thompson; Turner; Veasey; Vo; Walle; Workman; Zerwas.

Nays — Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Christian; Creighton; Crownover; Darby; Davis, J.; Fletcher; Flynn; Frullo; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; King, P.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Madden; Morrison; Murphy; Nash; Orr; Parker; Patrick; Paxton; Peña; Perry; Phillips; Riddle; Schwertner; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Truitt; Weber; White; Woolley; Zedler.

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

Absent, Excused — Burnam; Farias; Marquez; Miles; Price; Villarreal.

Absent — Castro; Craddick; Garza; Strama; Torres.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1564. I intended to vote no.

Lewis

When Record No. 1564 was taken, I was temporarily out of the house chamber. I would have voted no.

Torres

I was shown voting yes on Record No. 1564. I intended to vote no.

Workman

Senate Committee Substitute

CSHB 2728, A bill to be entitled An Act relating to the operation and regulation of charitable bingo.

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

SECTION 1. Section 2001.002(8-a), Occupations Code, is amended to read as follows:

(8-a) "Crime of moral turpitude" means:

(A) a felony;

(B) a gambling offense;

(C) criminal fraud;

(D) forgery;

(E) theft;

(F) an offense that involves knowingly filing false information with a governmental agency; or

(G) any ~~offense that~~

~~[(i) is classified in this state as a]~~ Class A misdemeanor defined by another state law as a crime of moral turpitude ~~;~~ and

~~[(ii) puts the honesty and integrity of the individual who committed the offense in question].~~

SECTION 2. Sections 2001.160(a), (b), (c), and (f), Occupations Code, are amended to read as follows:

(a) On approval by the commission, a ~~[A]~~ licensed commercial lessor may ~~[not]~~ transfer a commercial lessor license ~~[except as provided by this section].~~

~~[(b) A transfer of a commercial lessor license under this section may be made only with the prior approval of the commission. The commission shall approve the transfer under this section] if the person to whom the license will be transferred otherwise meets the requirements of this subchapter [section].~~

(e) Unless the commission revokes or suspends the license under this chapter, or an injunction is issued under this section, a licensed authorized organization that conducts bingo lawfully at premises under a license to which Subsection (d) applies may continue conducting bingo at the premises after the death or incapacity of the commercial lessor license holder.

(f) On the showing by the commission of a cause that would be sufficient for the commission to revoke or suspend ~~[obtain]~~ a license under this chapter or an applicable commission rule ~~[suspension under Section 2001.355]~~, a district court in the county for which a commercial lessor license was issued or the commission by order may temporarily or permanently enjoin the conduct of bingo at premises under a license to which Subsection (d) applies.

SECTION 3. The change in law made by this Act to Section 2001.160, Occupations Code, applies to a license to operate bingo gaming issued under Chapter 2001, Occupations Code, regardless of whether the license was issued before, on, or after the effective date of this Act.

SECTION 4. 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.

HB 3246 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Elkins called up with senate amendments for consideration at this time,

HB 3246, A bill to be entitled An Act relating to public improvement districts designated by a municipality or county.

Representative Elkins moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3246**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3246**: Elkins, chair; D. Miller, Jackson, Paxton, and T. King.

HB 736 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Patrick called up with senate amendments for consideration at this time,

HB 736, A bill to be entitled An Act relating to required online information regarding public institutions of higher education.

Representative Patrick moved to concur in the senate amendments to **HB 736**.

The motion to concur in the senate amendments to **HB 736** prevailed by (Record 1565): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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.

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

Absent, Excused — Burnam; Farias; Marquez; Miles; Price; Villarreal.

Absent — Elkins; Garza; Martinez Fischer; Strama.

STATEMENT OF VOTE

When Record No. 1565 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

Senate Committee Substitute

CSHB 736, A bill to be entitled An Act relating to required online information regarding public institutions of higher education.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9745 to read as follows:

Sec. 51.9745. INTERNET ACCESS TO FACULTY INFORMATION.

(a) Each general academic teaching institution, as defined by Section 61.003, shall make available to the public on the institution's Internet website the following information for the institution:

(1) the student/faculty ratio;

(2) the percentage of all full-time equivalent faculty members with teaching responsibility who are tenured or tenure track;

(3) the percentage of semester credit hours taken by students classified as freshmen or sophomores that are taught by tenured and tenure track faculty members;

(4) the number of faculty members in each of the following faculty ranks, including a breakdown for each rank showing the numbers of faculty members by race, ethnicity, and gender:

(A) professor;

(B) associate professor;

(C) assistant professor;

(D) instructor;

(E) nontenured or nontenure track; and

(F) teaching assistant;

(5) average faculty salaries by rank;

(6) the amount of money appropriated by the legislature per full-time equivalent faculty member and full-time equivalent student;

(7) the total revenue the institution spent per full-time equivalent faculty member and full-time equivalent student;

(8) the amount of federal and private research expenditures per tenured or tenure track full-time equivalent faculty member;

(9) the number and percentage of faculty members holding extramural research grants;

(10) the number and names of awards to faculty members from nationally recognized entities, including those identified by The Center for Measuring University Performance; and

(11) the number of endowed professorships or chairs.

(b) Each institution to which this section applies shall update the information required by Subsection (a) for the preceding academic or fiscal year, as applicable, not later than December 31 of each year.

(c) The administrator designated under Section 51.974 by an institution to which this section applies is responsible for ensuring implementation of this section. The administrator may assign duties under this section to one or more administrative employees.

(d) The Texas Higher Education Coordinating Board may adopt rules necessary to administer this section, including rules to ensure the consistency of information made available under this section.

SECTION 2. Section 51A.002, Education Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) The coordinating board shall:

(1) request from each institution of higher education to which this chapter applies any information the coordinating board considers necessary for the coordinating board to include information or calculate data required to be included in the institution's resume;

(2) establish for each institution of higher education to which this chapter applies a list of representative in-state and out-of-state peer institutions and maintain that list on the coordinating board's Internet website;

(3) ensure that each of an institution of higher education's online resumes:

(A) is available to the public on the coordinating board's Internet website, in a one-page format if possible, and is accessible through a link that appears ~~[in a prominent place]~~ on the first frame of the coordinating board's Internet website home page in a font that is larger than the font of the majority of the text on the home page;

(B) uses enhanced, user-friendly search capabilities to ensure that the information required to be included in the resume is easily accessible to the persons for whom the resume is designed; and

(C) includes a clearly identifiable link to information on the coordinating board's Internet website regarding the coordinating board's higher education accountability system; and

(4) ensure that the information provided in each resume is accurate and up to date and includes the most recent — data available for out-of-state peer institutions.

(e) The data relating to student loans, grants, or scholarships included by the coordinating board on an institution's resume under this subchapter must be the same as that published in regard to the institution by the United States Department of Education on its "College Navigator" website, or a successor or related website maintained by the United States Department of Education.

SECTION 3. Section 51A.003, Education Code, is amended to read as follows:

Sec. 51A.003. DUTIES OF INSTITUTIONS OF HIGHER EDUCATION RELATING TO INSTITUTION RESUMES. Each institution of higher education to which this chapter applies shall:

(1) submit to the coordinating board any information requested by the coordinating board as necessary for the coordinating board to include information or calculate data required to be included in the institution's resumes; and

(2) ensure that the first frame of the institution's Internet website home page includes, in a font that is larger than the font of the majority of the text on the home page ~~[prominent place]~~, an accessible link to the institution's online resumes maintained on the coordinating board's Internet website.

SECTION 4. Subchapter A, Chapter 51A, Education Code, is amended by adding Section 51A.004 to read as follows:

Sec. 51A.004. LINK TO FEDERAL STUDENT FINANCIAL AID INFORMATION. An institution may satisfy a requirement of this chapter relating to student loan, grant, or scholarship information by linking the online resume of the institution to that information as it appears on the website known as "College Navigator," or a successor or related website, maintained by the National Center for Education Statistics of the U.S. Department of Education.

SECTION 5. Section 51A.052, Education Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) The resume must include the following information relating to the institution for the most recent state fiscal year for which the information is available and compare that information to the same information for the state fiscal

year preceding the most recent state fiscal year for which the information is available and the state fiscal year preceding the most recent state fiscal year for which the information is available by five years:

(1) under the heading "ENROLLMENT":

(A) [~~"ENROLLMENT,"~~] the total number of students enrolled in the institution during the fall semester that ended in the fiscal year covered by the resume; and

(B) the percentage of undergraduate students enrolled in the institution for the first time during the fall semester that ended in the fiscal year covered by the resume who are transfer students;

(2) under the heading "COSTS":

(A) [~~"COSTS,"~~] the average annual total academic costs for a resident undergraduate student enrolled in 30 semester credit hours:

(i) [~~(A)~~] at the institution; and

(ii) [~~(B)~~] at the institution's in-state and out-of-state peer institutions;

(B) the percentage of undergraduate students receiving student loans:

(i) at the institution; and

(ii) at the institution's in-state and out-of-state peer institutions;

(C) the average annual amount of an undergraduate student's student loans:

(i) at the institution; and

(ii) at the institution's in-state and out-of-state peer institutions;

(D) the percentage of undergraduate students receiving federal or state grants:

(i) at the institution; and

(ii) at the institution's in-state and out-of-state peer institutions;

and

(E) the average annual amount of federal and state grants received by an undergraduate student:

(i) at the institution; and

(ii) at the institution's in-state and out-of-state peer institutions;

(3) under the heading "STUDENT SUCCESS":

(A) the retention rate of first-time, full-time, degree-seeking entering undergraduate students:

(i) enrolled in the institution after one academic year and after two academic years; and

(ii) enrolled in the institution's in-state peer institutions after two academic years;

(B) the percentage of undergraduate students requiring developmental education who, after six years from entering the institution, graduated from or are still enrolled in:

(i) the institution; and

(ii) the institution's in-state peer institutions;

(C) the four-year, five-year, and six-year graduation rates of full-time bachelor's degree-seeking students:

(i) at the institution; and

(ii) at the institution's in-state and out-of-state peer institutions;

and

(D) the average number of fall and spring semesters of enrollment attempted by a student to obtain a bachelor's degree:

(i) at the institution; and

(ii) at the institution's in-state peer institutions; and

(4) under the heading "FUNDING":

(A) the total amount of money appropriated by the legislature to the institution, including money appropriated for faculty and staff health coverage and retirement benefits, for that state fiscal year and the corresponding percentage of the institution's operating budget for that state fiscal year that the total amount of money appropriated by the legislature represents; ~~and~~

(B) the total amount of federal funds from all federal sources, including grants and research funds, received by the institution in that state fiscal year and the corresponding percentage of the institution's operating budget for that state fiscal year that the total amount of federal funds represents;

(C) the total academic costs charged to students by the institution in that state fiscal year and the corresponding percentage of the institution's operating budget for that state fiscal year that the total academic costs represent; and

(D) the total amount of money from any source available to the institution in that state fiscal year.

(e) In addition to the information required by Subsection (d)(2), the resume must include under the heading "COSTS" the average annual amount and percentage by which the total academic costs charged to a resident undergraduate student enrolled in 30 semester credit hours have increased in each of the five most recent state fiscal years for which the information is available:

(1) at the institution; and

(2) at the institution's in-state and out-of-state peer institutions.

SECTION 6. Section 51A.053, Education Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as otherwise provided by the coordinating board under Subsection (a), the resume must include the following information relating to the most recent state fiscal year for which the information is available:

(1) under the heading "ENROLLMENT":

(A) the total number of students enrolled in the institution during the fall semester that ended in the fiscal year covered by the resume; ~~and~~

(B) the percentage of undergraduate students enrolled in the institution for the first time during the fall semester that ended in the fiscal year covered by the resume who are transfer students; and

(C) a clearly identifiable link to the information described by Paragraph (A) disaggregated by student ethnicity;

(2) under the heading "DEGREES AWARDED":

(A) the number of bachelor's degrees, number of master's degrees, number of doctoral degrees, and number of professional degrees awarded by the institution; and

(B) a clearly identifiable link to the information described by Paragraph (A) disaggregated by student ethnicity;

(3) under the heading "COSTS":

(A) the average annual total academic costs for a resident undergraduate student enrolled in 30 semester credit hours at the institution;

(B) clearly identifiable links to information regarding:

(i) the rate or rates of tuition per semester credit hour charged by the institution; and

(ii) any mandatory fees, as defined by the coordinating board, imposed by the institution; ~~and~~

~~[(iii) the amount and percentage by which the institution has increased tuition for a degree program or course level during the state fiscal year covered by the resume;]~~

(C) the average cost of on-campus room and board per student; and

(D) the average cost to a resident undergraduate student enrolled in 30 semester credit hours for total academic costs and on-campus room and board, excluding the cost of books, supplies, transportation, or other expenses;

(4) under the heading "FINANCIAL AID":

(A) the percentage of undergraduate students enrolled in the institution who receive need-based grants or scholarships;

(B) the percentage of undergraduate students enrolled in the institution who receive need-based grants, scholarships, loans, or work-study funds;

(C) the percentage of undergraduate students enrolled in the institution who receive student loans;

(D) the average amount of an undergraduate student's need-based grant and scholarship package; ~~and~~

(E) ~~(D)~~ the average amount of an undergraduate student's need-based grant, scholarship, loan, and work-study package; and

(F) the average amount of an undergraduate student's student loans;

(5) under the heading "ADMISSIONS":

(A) the middle 50 percent test score range of first-time undergraduate students at the institution whose Scholastic Assessment Test (SAT) scores were in the 25th to 75th percentile of students' scores at that institution;

(B) the middle 50 percent test score range of first-time undergraduate students at the institution whose American College Test (ACT) scores were in the 25th to 75th percentile of students' scores at that institution; and

(C) the percentage of the students who applied for first-time undergraduate admission to the institution who were offered admission to the institution;

(6) under the heading "INSTRUCTION":

- (A) the student/faculty ratio at the institution;
- (B) the percentage of organized undergraduate classes offered by the institution in which fewer than 20 students are enrolled;
- (C) the percentage of organized undergraduate classes offered by the institution in which more than 50 students are enrolled; and
- (D) the percentage of teaching faculty members of the institution who are tenured or tenure-track;

(7) under the heading "BACCALAUREATE SUCCESS":

(A) four-year, five-year, and six-year graduation rates for full-time bachelor's degree-seeking students at the institution, and links to that information disaggregated by student ethnicity; ~~and~~

(B) the average number of fall and spring semesters of enrollment attempted by a student to obtain a bachelor's degree; and

(C) the retention rate of first-time, full-time, degree-seeking entering undergraduate students enrolled in the institution after one academic year and after two academic years;

(8) under the heading "FIRST-TIME LICENSURE OR CERTIFICATION EXAMINATION PASS RATES," the first-time licensure or certification examination pass rates in the fields of education, law, pharmacy, nursing, and engineering of students enrolled in the institution or who have graduated from the institution; and

(9) under the heading "FUNDING":

(A) the total amount of money appropriated by the legislature to the institution, including money appropriated for faculty and staff health coverage and retirement benefits, for that state fiscal year and the corresponding percentage of the institution's operating budget for that state fiscal year that the total amount of money appropriated by the legislature represents;

(B) the total amount of federal funds from all federal sources, including grants and research funds, received by the institution in that state fiscal year and the corresponding percentage of the institution's operating budget for that state fiscal year that the total amount of federal funds represents;

(C) the total academic costs charged to students by the institution in that state fiscal year and the corresponding percentage of the institution's operating budget for that state fiscal year that the total academic costs represent; and

(D) the total amount of money from any source available to the institution in that state fiscal year.

(d) In addition to the information required by Subsection (c)(3), the resume must include under the heading "COSTS" the average annual amount and percentage by which the total academic costs charged to a resident undergraduate student enrolled in 30 semester credit hours have increased in each of the five most recent state fiscal years for which the information is available:

(1) at the institution; and

(2) at the institution's in-state peer institutions.

SECTION 7. Section 51A.102, Education Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) The resume must include the following information relating to the institution for the most recent state fiscal year for which the information is available and compare that information to the same information for the state fiscal year preceding the most recent state fiscal year for which the information is available and the state fiscal year preceding the most recent state fiscal year for which the information is available by five years:

(1) under the heading "ENROLLMENT":

(A) [ENROLLMENT,] the total number of students enrolled in the institution for course credit during the fall semester that ended in the fiscal year covered by the resume;

(B) the percentage of students enrolled in the institution who are enrolled in one or more developmental education courses; and

(C) the percentage of students enrolled in the institution who are enrolled in one or more dual credit courses;

(2) under the heading "COSTS":

(A) [COSTS,] the average annual total academic costs, which for a junior college must include those costs for an in-district and an out-of-district student, for a student enrolled in 30 semester credit hours toward a two-year degree or certificate:

(i) [~~(A)~~] at the institution; and

(ii) [~~(B)~~] at the institution's in-state peer institutions;

(B) the percentage of students receiving student loans:

(i) at the institution; and

(ii) at the institution's in-state peer institutions;

(C) the average annual amount of student loans received by a

student:

(i) at the institution; and

(ii) at the institution's in-state peer institutions;

(D) the percentage of students receiving federal or state grants:

(i) at the institution; and

(ii) at the institution's in-state peer institutions; and

(E) the average annual amount of federal and state grants received

by a student:

(i) at the institution; and

(ii) at the institution's in-state peer institutions;

(3) under the heading "STUDENT SUCCESS":

(A) the retention rate of first-time, full-time, credential-seeking entering undergraduate students:

(i) enrolled in the institution after two academic years; and

(ii) enrolled in the institution's in-state peer institutions after two academic years;

(B) the percentage of undergraduate students requiring developmental education who, after three years from entering the institution, graduated from or are still enrolled in:

(i) the institution; and

(ii) the institution's in-state peer institutions;

(C) the three-year, four-year, and six-year graduation rates of full-time credential-seeking students:

- (i) at the institution; and
- (ii) at the institution's in-state peer institutions;

(D) the percentage of students who transferred to a general academic teaching institution or equivalent institution of higher education, as determined using the accountability system definition of a transfer student:

- (i) from the institution; and
- (ii) from the institution's in-state peer institutions; and

(E) the percentage of graduates from the preceding academic year who, as of the fall semester that ended in the fiscal year covered by the resume, were either employed or enrolled in a general academic teaching institution or equivalent institution of higher education for:

- (i) the institution; and
- (ii) the institution's in-state peer institutions; and

(4) under the heading "FUNDING":

(A) the total amount of money appropriated by the legislature to the institution ~~[for that state fiscal year]~~, including money appropriated for faculty and staff health coverage and retirement benefits, for that state fiscal year and the corresponding percentage of the institution's operating budget for that state fiscal year that the total amount of money appropriated by the legislature represents;

(B) the total amount of money from any source available to the institution in that state fiscal year; ~~[and]~~

(C) the total amount of federal funds from all federal sources, including grants and research funds, received by the institution in that state fiscal year and the corresponding percentage of the institution's operating budget for that state fiscal year that the total amount of federal funds represents;

(D) the total academic costs charged to students by the institution in that state fiscal year and the corresponding percentage of the institution's operating budget for that state fiscal year that the total academic costs represent; and

(E) the tax rate per \$100 valuation of taxable property imposed by the junior college district, if the institution is a public junior college.

(e) In addition to the information required by Subsection (d)(2), the resume must include under the heading "COSTS" the average annual amount and percentage by which the total academic costs charged to a student enrolled in 30 semester credit hours toward a two-year degree or certificate have increased in each of the five most recent state fiscal years for which the information is available:

- (1) at the institution; and
- (2) at the institution's in-state peer institutions.

SECTION 8. Section 51.9745, Education Code, as added by this Act, applies beginning with the 2012 fall semester.

SECTION 9. The Texas Higher Education Coordinating Board and public institutions of higher education shall comply with the changes made by this Act to Chapter 51A, Education Code, as soon as practicable following the effective date of this Act, but not later than February 1, 2012.

SECTION 10. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 736** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0778 to read as follows:

Sec. 61.0778. ONLINE INFORMATION REGARDING CERTAIN FOR-PROFIT EDUCATIONAL ENTITIES. (a) In this section, "commission" means the Texas Workforce Commission.

(b) The board and commission jointly shall develop a comprehensive strategy to improve and coordinate the dissemination of online information regarding the operation and performance of for-profit private postsecondary educational institutions and for-profit career schools or colleges in this state. As part of the comprehensive strategy, the board and the commission shall compile, share, and compare existing data and other applicable information under the control of each agency and shall organize that information as nearly as possible according to the categories of information required for the online resumes of lower-division public institutions under Section 51A.103. The websites must:

(1) present information regarding those institutions, schools, and colleges in a manner that is:

(A) to the extent practicable, consistent among the institutions, schools, and colleges; and

(B) easily accessible and readily understandable to the public.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 736** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.09021 to read as follows:

Sec. 61.09021. COMPARISON TOOL. (a) The board shall make available to the public on the board's Internet website a search tool that allows a person to compare general academic teaching institutions that meet certain criteria selected by the person, including offering a particular major or program of study.

(b) The comparison tool required under this section must:

(1) be accessible from the board's Internet website;

(2) allow a user to identify general academic teaching institutions according to selection criteria as determined by the board; and

(3) be accessible to the public without requiring registration or use of a user name, password, or other user identification.

(c) The comparison tool required under this section must generate a comparison chart in a grid format that:

(1) lists the general academic teaching institutions that match a user's search criteria; and

(2) provides information for each institution listed that the board has determined would aid a prospective student in evaluating the institution.

(d) The Internet page displaying the comparison chart must include a link to the Internet website of the Texas Workforce Commission.

(e) To the extent practicable, the information provided under Subsection (c) must consist of information that a general academic teaching institution is required to report to the board under another provision of law, including board rule.

(f) Each general academic teaching institution shall provide to the board the information to be provided under Subsection (c) not later than October 1, or a date determined by the board, of each year. The board shall update the comparison tool as soon as practicable after receiving information from each institution.

SECTION 2. Not later than February 1, 2013, the Texas Higher Education Coordinating Board shall create and post on the board's Internet website the comparison tool required by Section 61.09021, Education Code, as added by this Act.

HB 335 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Shelton called up with senate amendments for consideration at this time,

HB 335, A bill to be entitled An Act relating to implementation and requirements of certain health care reform laws.

Representative Shelton moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 335**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 335**: Shelton, chair; Branch, Creighton, Darby, and Thompson.

HB 2327 - MOTION TO CONCUR IN SENATE AMENDMENTS

Representative McClendon called up with senate amendments for consideration at this time,

HB 2327, A bill to be entitled An Act relating to the establishment and operation of a motor-bus-only lane pilot program in certain counties.

Representative McClendon moved to concur in the senate amendments to **HB 2327**.

The motion to concur in the senate amendments to **HB 2327** was lost by (Record 1566): 66 Yeas, 71 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Branch; Castro; Chisum; Christian; Coleman; Cook; Davis, J.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Farrar; Flynn; Gallego; Geren; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Hernandez Luna; Hilderbran; Hochberg; Howard, D.; Huberty; Hunter; Johnson; Keffer; King, T.; Kolkhorst; Larson; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Otto; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Smithee; Thompson; Turner; Veasey; Vo; Walle; Workman.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Craddick; Creighton; Crownover; Darby; Davis, S.; Elkins; Fletcher; Frullo; Gonzales, L.; Gooden; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hopson; Howard, C.; Hughes; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Parker; Patrick; Paxton; Perry; Phillips; Riddle; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Truitt; Weber; White; Woolley; Zedler; Zerwas.

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

Absent, Excused — Burnam; Farias; Marquez; Miles; Price; Villarreal.

Absent — Deshotel; Garza; Peña; Strama; Torres.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1566. I intended to vote no.

Huberty

When Record No. 1566 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

I was shown voting yes on Record No. 1566. I intended to vote no.

Workman

HB 2327 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS

Representative Solomons called up with senate amendments for consideration at this time,

HB 2327, A bill to be entitled An Act relating to the establishment and operation of a motor-bus-only lane pilot program in certain counties.

Representative Solomons moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2327**.

The motion prevailed.

**HB 1173 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Riddle called up with senate amendments for consideration at this time,

HB 1173, A bill to be entitled An Act relating to the release on bond of certain persons arrested for a misdemeanor without a warrant in certain counties.

Representative Riddle moved to concur in the senate amendments to **HB 1173**.

The motion to concur in the senate amendments to **HB 1173** prevailed by (Record 1567): 136 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Castro.

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

Absent, Excused — Burnam; Farias; Marquez; Miles; Price; Villarreal.

Absent — Eiland; Elkins; Garza; Hilderbran; Taylor, V.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1567. I intended to vote no.

Dutton

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1173** (senate committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 11-22) and substitute the following:

SECTION 1. Article 17.033, Code of Criminal Procedure, is amended by adding Subsections (a-1) and (e) and amending Subsections (c) and (d) to read as follows:

(a-1) Notwithstanding Subsection (a) and except as provided by Subsection (c), a person who, in a county with a population of three million or more, is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed \$5,000, not later than the 36th hour after the person's arrest if the person was arrested for a misdemeanor and a magistrate has not determined whether probable cause exists to believe that the person committed the offense.

(c) On the filing of an application by the attorney representing the state, a magistrate may postpone the release of a person under Subsection (a), (a-1), or (b) for not more than 72 hours after the person's arrest. An application filed under this subsection must state the reason a magistrate has not determined whether probable cause exists to believe that the person committed the offense for which the person was arrested.

(d) The time limits imposed by Subsections (a), (a-1), and (b) do not apply to a person arrested without a warrant who is taken to a hospital, clinic, or other medical facility before being taken before a magistrate under Article 15.17. For a person described by this subsection, the time limits imposed by Subsections (a), (a-1), and (b) begin to run at the time, as documented in the records of the hospital, clinic, or other medical facility, that a physician or other medical professional releases the person from the hospital, clinic, or other medical facility.

(e) Subsection (a-1) and this subsection expire on September 1, 2013.

(2) In SECTION 2 of the bill (page 1, line 23), between "by this Act" and "applies", insert "in amending Article 17.033, Code of Criminal Procedure,".

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

SECTION _____. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.0331 to read as follows:

Art. 17.0331. IMPACT STUDY. (a) This article applies only to a county with a population of three million or more.

(b) Each county to which this article applies shall conduct an impact study to determine the effect of Article 17.033(a-1) on the county's ability to control and process the county's misdemeanor caseload, including a specific assessment of the effect of that subsection on:

(1) the average number of hours a person who is arrested for a misdemeanor is detained in jail before being released on bond;

(2) bonding practices, including the number of persons released on personal bond;

(3) the inmate population in a county jail and in each municipal jail located in the county;

(4) the number of arrests for misdemeanor offenses;
(5) public safety;
(6) costs to the criminal justice system; and
(7) the number of applications filed by the attorney representing the state under Article 17.033(c).

(c) The county shall also determine whether a more cost-effective method of controlling and processing misdemeanor caseloads exists than an extension of the period for which a person may be detained after a misdemeanor arrest.

(d) Not later than October 15, 2012, the county must file the impact study with:

- (1) the commissioners court of the county;
- (2) the Senate Committee on Criminal Justice;
- (3) the Senate Committee on Jurisprudence; and
- (4) the House Criminal Jurisprudence Committee.

(e) The county shall make the results of the impact study available to the public.

(f) This article expires on September 1, 2013.

HB 2367 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Parker called up with senate amendments for consideration at this time,

HB 2367, A bill to be entitled An Act relating to the creation of an advisory panel to study certain parental rights relating to possession of or access to the parent's child.

Representative Parker moved to concur in the senate amendments to **HB 2367**.

The motion to concur in the senate amendments to **HB 2367** prevailed by (Record 1568): 138 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.;

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

Nays — Miller, S.

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

Absent, Excused — Burnam; Farias; Marquez; Miles; Price; Villarreal.

Absent — Christian; Garza; Riddle.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2367** (senate committee printing) in SECTION 1 of the bill as follows:

(1) Strike proposed Subsections (c) and (d) of that section (page 1, lines 40-48) and substitute the following:

(c) The advisory panel consists of nine members appointed by the governor.

(d) When making initial appointments under Subsection (c), the governor shall designate one of the appointees as presiding officer of the advisory panel.

(2) Strike proposed Subsection (g) of that section (page 1, lines 55-57) and substitute the following:

(g) The governor shall appoint members to the panel not later than December 31, 2011.

HB 411 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 411, A bill to be entitled An Act relating to the confidentiality of newborn screening information.

Representative Kolkhorst moved to concur in the senate amendments to **HB 411**.

The motion to concur in the senate amendments to **HB 411** prevailed by (Record 1569): 134 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; 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.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips;

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

Nays — Landtroop; Legler; Miller, S.; Perry.

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

Absent, Excused — Burnam; Farias; Marquez; Miles; Price; Villarreal.

Absent — Christian; Garza; Huberty; Shelton.

STATEMENTS OF VOTE

When Record No. 1569 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

I was shown voting no on Record No. 1569. I intended to vote yes.

Landtroop

I was shown voting no on Record No. 1569. I intended to vote yes.

Legler

I was shown voting no on Record No. 1569. I intended to vote yes.

S. Miller

I was shown voting no on Record No. 1569. I intended to vote yes.

Perry

Senate Committee Substitute

CSHB 411, A bill to be entitled An Act relating to the confidentiality of newborn screening information.

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

SECTION 1. Section 33.017, Health and Safety Code, as added by Chapter 179 (**HB 1672**), Acts of the 81st Legislature, Regular Session, 2009, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1), (c-1), (e), (f), (g), (h), and (i) to read as follows:

(a) In this section:

(1) "Affiliated with a health agency" means a person who is an employee or former employee of a health agency.

(2) "Commission" means the Health and Human Services Commission.

(3) "Commissioner" means the commissioner of state health services.

(4) "Health agency" means the commission and the health and human services agencies listed in Section 531.001, Government Code.

(5) "Public health purpose" means a purpose that relates to cancer, a birth defect, an infectious disease, a chronic disease, environmental exposure, or newborn screening.

(a-1) Reports, records, and information obtained or developed by the department under this chapter are confidential and are not subject to disclosure under Chapter 552, Government Code, are not subject to subpoena, and may not otherwise be released or made public except as provided by this section.

(b) Notwithstanding other law, reports, records, and information obtained or developed by the department under this chapter may be disclosed:

(1) for purposes of diagnosis or follow-up authorized under Section 33.014;

(2) with the consent of each identified individual or an individual authorized to consent on behalf of an identified child;

(3) as authorized by court order;

(4) to a medical examiner authorized to conduct an autopsy on a child or an inquest on the death of a child; or

(5) to public health programs of the department for public health research purposes, provided that the disclosure is approved by:

(A) the commissioner or the commissioner's designee; and

(B) an institutional review board or privacy board of the department as authorized by the federal privacy requirements adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

(c) Notwithstanding other law, reports, records, and information that do not identify a child or the family of a child may be released without consent if the disclosure is for:

(1) statistical purposes;

(2) purposes related to obtaining or maintaining federal certification, including related ~~to approval, or~~ quality assurance, for:

(A) the department's laboratory; or

(B) a public or private laboratory to perform newborn screening tests that are not part of inter-laboratory exchanges required for federal certification of the department's laboratory, provided that the disclosure is approved by the commissioner or the commissioner's designee;

(3) purposes relating to:

(A) review ~~or~~ quality assurance ~~or improvement~~ of the department's newborn screening under this chapter or the department's newborn screening program services under Subchapter C; or

(B) improvement of the department's newborn screening under this chapter or the department's newborn screening program services under Subchapter C, provided that the disclosure is approved by the commissioner or the commissioner's designee; or

(4) other ~~research purposes, provided that the disclosure is approved by an institutional review board or privacy board of the department; or~~

~~(5)~~ quality assurance purposes related to public health testing equipment and supplies, provided that the disclosure is approved by:

(A) the commissioner or the commissioner's designee ~~[assessment is performed by a person who is not a laboratory]; and~~

~~(B) [only newborn screening specimens are disclosed; and
 (C) the disclosure is approved by]~~ an institutional review board or privacy board of the department.

(c-1) Notwithstanding other law, reports, records, and information that do not identify a child or the family of a child may be released for public health research purposes if:

(1) a parent of the child consents to the disclosure; and

(2) the disclosure is approved by:

(A) an institutional review board or privacy board of the department; and

(B) the commissioner or the commissioner's designee.

(e) If disclosure is approved by the commissioner or the commissioner's designee under Subsection (c)(4) or (c-1), the department shall post notice on the newborn screening web page on the department's Internet website that disclosure has been approved. The commissioner shall determine the form and content of the notice.

(f) In accordance with this section, the commissioner or the commissioner's designee:

(1) may approve disclosure of reports, records, or information obtained or developed under this chapter only for a public health purpose; and

(2) may not approve disclosure of reports, records, or information obtained or developed under this chapter for purposes related to forensic science or health insurance underwriting.

(g) An institutional review board or privacy board of the department that approves disclosure under this section must include at least three persons who are not affiliated with a health agency, one of whom must be a member of the public.

(h) The requirement that consent be obtained before certain disclosures of reports, records, or information may be made under this section does not affect the requirement that screening tests be performed under Section 33.011.

(i) If a parent of a child consents to disclosure under this section:

(1) a parent of the child may revoke the consent, in whole or in part, at any time; and

(2) the child may revoke the consent, in whole or in part, at any time on or after the date the child attains the age of majority.

SECTION 2. (a) Except as provided by Subsection (b) of this section, 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.

(b) Section 33.017(c-1), Health Safety Code, as added by this Act, takes effect June 1, 2012.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 411** (senate committee printing) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 15), strike "and (i)" and substitute "(i), and (j)".

(2) In SECTION 1 of the bill, strike amended Sections 33.017(b) and (c), Health and Safety Code (page 1, line 35, through page 2, line 27), and substitute the following:

(b) Notwithstanding other law, reports, records, and information obtained or developed by the department under this chapter may be disclosed:

(1) for purposes of diagnosis or follow-up authorized under Section 33.014;

(2) with the consent of each identified individual or an individual authorized to consent on behalf of an identified child;

(3) as authorized by court order;

(4) to a medical examiner authorized to conduct an autopsy on a child or an inquest on the death of a child; ~~[or]~~

(5) to public health programs of the department for public health research purposes, provided that the disclosure is approved by:

(A) the commissioner or the commissioner's designee; and

(B) an institutional review board or privacy board of the department as authorized by the federal privacy requirements adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E;

(6) for purposes relating to review or quality assurance of the department's newborn screening under this chapter or the department's newborn screening program services under Subchapter C, provided that no disclosure occurs outside of the department's newborn screening program;

(7) for purposes related to obtaining or maintaining federal certification, including related quality assurance, for the department's laboratory, provided that no disclosure occurs outside of the department's newborn screening program; or

(8) for purposes relating to improvement of the department's newborn screening under this chapter or the department's newborn screening program services under Subchapter C, provided that the disclosure is approved by the commissioner or the commissioner's designee.

(c) Notwithstanding other law, reports, records, and information that do not identify a child or the family of a child may be released without consent if the disclosure is for:

(1) statistical purposes;

(2) purposes related to obtaining or maintaining federal certification, including related review and ~~[approval, or]~~ quality assurance:

(A) for the department's laboratory that require disclosure outside of the department's newborn screening program; or

(B) for a public or private laboratory to perform newborn screening tests that are not part of inter-laboratory exchanges required for federal certification of the department's laboratory, provided that the disclosure is approved by the commissioner or the commissioner's designee; or

(3) ~~other [purposes relating to review, quality assurance, or improvement of the department's newborn screening under this chapter or the department's newborn screening program services under Subchapter C;~~

~~[(4) research purposes, provided that the disclosure is approved by an institutional review board or privacy board of the department; or~~

~~[(5)] quality assurance purposes related to public health testing equipment and supplies, provided that the disclosure is approved by:~~

~~(A) the commissioner or the commissioner's designee [assessment is performed by a person who is not a laboratory]; and~~

~~(B) [only newborn screening specimens are disclosed; and~~

~~[(C) the disclosure is approved by] an institutional review board or privacy board of the department.~~

(3) In SECTION 1 of the bill, in added Section 33.017(c-1), Health and Safety Code (page 2, line 30), between "public health research purposes" and "if", insert "not described by Subsection (b)(5)".

(4) In SECTION 1 of the bill, in added Section 33.017(c-1)(1), Health and Safety Code (page 2, line 31), strike "a parent" and substitute "a parent, managing conservator, or guardian".

(5) In SECTION 1 of the bill, in added Section 33.017(e), Health and Safety Code (page 2, line 39), strike "Subsection (c)(4)" and substitute "Subsection (c)(3)".

(6) In SECTION 1 of the bill, in added Section 33.017(g), Health and Safety Code (page 2, line 53), strike "approves" and substitute "reviews a potential".

(7) In SECTION 1 of the bill, strike added Sections 33.017(h) and (i), Health and Safety Code (page 2, lines 56-66), and substitute the following:

(h) Nothing in this section affects the requirement that screening tests be performed under Section 33.011.

(i) If a parent, managing conservator, or guardian of a child consents to disclosure under this section:

(1) the parent, managing conservator, or guardian who consented to the disclosure may revoke the consent, in writing, at any time by using a form designated by the department; and

(2) the child may revoke the consent, in writing, at any time on or after the date the child attains the age of majority by using a form designated by the department.

(j) If a person revokes consent under Subsection (i), the department shall destroy any genetic material obtained from the child as provided by Section 33.0112.

(8) In SECTION 2 of the bill, strike Subsection (b) (page 3, lines 4-5) and substitute the following:

(b) The changes made to Sections 33.0111 and 33.0112, Health and Safety Code, as amended by this Act, and Section 33.017(c-1), as added by this Act, take effect June 1, 2012.

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

SECTION _____. The heading to Section 33.0111, Health and Safety Code, is amended to read as follows:

Sec. 33.0111. DISCLOSURE STATEMENT AND CONSENT.

SECTION _____. Section 33.0111, Health and Safety Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e), (f), and (g) to read as follows:

(a) The department shall develop a disclosure statement that clearly discloses to the parent, managing conservator, or guardian of a newborn child subjected to screening tests under Section 33.011:

(1) that the department or a laboratory established or approved by the department under Section 33.016 may retain for use by the department or laboratory genetic material used to conduct the newborn screening tests and discloses how the material is managed and used subject to this section and Sections 33.0112 and 33.017; and

(2) that reports, records, and information obtained by the department under this chapter that do not identify a child or the family of a child will not be released for public health research purposes under Section 33.017(c-1) unless a parent, managing conservator, or guardian of the child consents to disclosure; and

(3) that newborn screening blood spots and associated data are confidential under law and may only be used as described by Section 33.017 [~~that the parent, managing conservator, or guardian may limit the use of the genetic material by providing to the department in accordance with Section 33.0112 a written statement prohibiting the department or laboratory from retaining the genetic material or using the genetic material for any purpose other than the conduct of newborn screening tests authorized under this chapter~~].

(b) The disclosure statement required by Subsection (a) must be included on the form developed by the department to inform parents about newborn screening. The disclosure statement must:

(1) ~~be on a separate sheet of the form;~~

(2) be ~~presented together with the written statement described by Subsection (a)(2)~~ in a format that allows a parent, managing conservator, or guardian of a newborn child to consent to disclosure under Section 33.017(c-1) ~~either:~~

~~[(A) sign, detach, and mail a portion of the form to the department to require the department or laboratory to destroy the genetic material on completion of the newborn screening tests; or~~

~~[(B) check a box and sign next to the box on the form a statement indicating the parent, managing conservator, or guardian is requiring the department or laboratory to destroy the genetic material on completion of the newborn screening tests];~~

(2) ~~[(3)]~~ include instructions on how to complete the portions of the form described by Subdivision (1) ~~[Subdivisions (2)(A) and (B)]~~;

(3) ~~[(4)]~~ include the department's mailing address; and

(4) describe how ~~[(5) be made available to]~~ a parent, managing conservator, or guardian of a newborn child may obtain information regarding consent through alternative sources.

(d) The department shall establish procedures for a physician attending a newborn child or the person attending the delivery of a newborn child to provide verification to the department that the physician or person has provided the parent, managing conservator, or guardian of the newborn child the disclosure statement required under this section.

(e) The physician attending a newborn child or the person attending the delivery of a newborn child that is not attended by a physician shall submit any document required by the department.

(f) This section does not supersede the requirements imposed by Section 33.017.

(g) A reference in this section to Section 33.017 means Section 33.017 as added by Chapter 179 (HB 1672), Acts of the 81st Legislature, Regular Session, 2009.

SECTION _____. Section 33.0112, Health and Safety Code, is amended to read as follows:

Sec. 33.0112. DESTRUCTION [STATEMENT PROHIBITING RETENTION] OF GENETIC MATERIAL. (a) The department shall destroy any genetic material obtained from a child under this chapter not later than the second anniversary of the date the department receives the genetic material unless a parent, managing conservator, or guardian of the child consents to disclosure under Section 33.017(c-1) [A parent, managing conservator, or guardian of a newborn child may file with the department a signed written statement prohibiting the department or a laboratory established or approved by the department from retaining any genetic material related to the newborn screening tests conducted under this chapter or using the genetic material for any purpose other than the conduct of the newborn screening tests. A parent, managing conservator, or guardian may file the written statement on a form provided by the department].

(b) The department shall destroy any genetic material obtained from a child under this chapter not later than the second anniversary of the date the department receives the genetic material if:

(1) a parent, managing conservator, or guardian of the child consents to disclosure under Section 33.017(c-1);

(2) the parent, managing conservator, or guardian who consented to the disclosure revokes the consent under Section 33.017(i); and

(3) the department receives the written revocation of consent under Section 33.017(i) not later than the second anniversary of the date the department received the genetic material [Not later than the 60th day after the department receives the written statement, the department or laboratory shall destroy the genetic material used in the screening tests].

(c) The department shall destroy any genetic material obtained from a child under this chapter not later than the 60th day after the date the department receives a written revocation of consent under Section 33.017(i) if:

(1) a parent, managing conservator, or guardian of the child consented to disclosure under Section 33.017(c-1);

(2) the parent, managing conservator, or guardian who consented to the disclosure or the child revokes the consent under Section 33.017(i); and

(3) the department receives the written revocation of consent later than the second anniversary of the date the department received the genetic material ~~[An adult individual may file with the department a written statement instructing the department or a laboratory established or approved by the department to destroy any genetic material of the individual that is retained and used under this chapter].~~

(d) A reference in this section to Section 33.017 means Section 33.017 as added by Chapter 179 (HB 1672), Acts of the 81st Legislature, Regular Session, 2009.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 411** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subdivision (2), Section 47.001, Health and Safety Code, is amended to read as follows:

(2) "Birthing facility" means:

(A) a hospital licensed under Chapter 241 that offers obstetrical services ~~[and is located in a county with a population of more than 50,000]; [or]~~

(B) a birthing center licensed under Chapter 244;

(C) a children's hospital; or

(D) a facility, maintained or operated by this state or an agency of this state, that provides obstetrical services ~~[that is located in a county with a population of more than 50,000 and that has 100 or more births per year].~~

SECTION _____. Section 47.003, Health and Safety Code, is amended by amending Subsections (a), (c), (d), and (e) and adding Subsections (a-1) and (f) to read as follows:

(a) A birthing facility, through a program certified by the department under Section 47.004, shall perform, either directly or through a transfer agreement, ~~[offer the parents of a newborn]~~ a hearing screening ~~[for the newborn]~~ for the identification of hearing loss on each newborn or infant born at the facility before the newborn or infant is discharged from the facility unless:

(1) the parent declines the screening;

(2) the newborn or infant is transferred to another facility before the screening is performed; or

(3) the screening has previously been completed.

(a-1) The birthing facility [screening] shall inform the parents ~~[be offered]~~ during ~~[the birth]~~ admission that:

(1) the facility is required by law to screen a newborn or infant for hearing loss; and

(2) the parents may decline the screening, ~~[and the parents shall be informed that information may be provided to the department upon their written consent].~~

(c) Subject to Section 47.008, the [The] department shall [may] maintain data and information on each newborn or infant who receives a hearing screening under Subsection (a) [services under a program].

(d) The department shall ensure that intervention is available to families for a newborn or infant identified as having hearing loss and that the intervention is managed by state programs operating under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(e) The department shall ensure that the intervention described by Subsection (d) is available for a newborn or infant identified as having hearing loss not later than the sixth month after the newborn's or infant's birth and through the time the child is an infant unless the infant has been hospitalized since birth.

(f) If a newborn or an infant receives medical intervention services, including a hearing aid or cochlear implant, the intervention specialist shall report the results of the intervention to the department.

SECTION ____ Chapter 47, Health and Safety Code, is amended by adding Section 47.0031 to read as follows:

Sec. 47.0031. FOLLOW-UP SCREENING. (a) The program that performed the hearing screening under Section 47.003 shall provide the newborn's or infant's parents with the screening results. A birthing facility, through the program, shall offer a follow-up hearing screening to the parents of a newborn or infant who does not pass the screening, or refer the parents to another program for the follow-up hearing screening. The follow-up hearing screening should be performed not later than the 30th day after the date the newborn or infant is discharged from the facility.

(b) If a newborn or an infant does not pass the screening in a follow-up hearing screening, the program that performed the follow-up hearing screening on the newborn or infant shall:

(1) provide the newborn's or infant's parents with the screening results;
(2) assist in scheduling a diagnostic audiological evaluation for the newborn or infant, consistent with the most current guidelines in the Joint Committee on Infant Hearing Position Statement, or refer the newborn or infant to a licensed audiologist who provides diagnostic audiological evaluations for newborns or infants that are consistent with the most current guidelines in the Joint Committee on Infant Hearing Position Statement; and

(3) refer the newborn or infant to early childhood intervention services.

SECTION ____ Subsections (b) and (d), Section 47.004, Health and Safety Code, are amended to read as follows:

(b) In order to be certified, the program must:

(1) provide hearing screening using equipment recommended by the department;

(2) use appropriate staff to provide the screening;

(3) maintain and report data electronically as required by the department;

(4) distribute family, health care provider, and physician educational materials standardized by the department; ~~and~~

(5) provide information, as recommended by the department, to the parents on follow-up services for newborns and infants who do not pass the ~~[with abnormal]~~ screening; and

(6) be supervised by:

(A) a physician;

(B) an audiologist;

(C) a registered nurse; or

(D) a physician assistant ~~[results]~~.

(d) The department may renew the certification of a program on a periodic basis as established by board rule in order to ensure quality services to newborns, infants, and families.

SECTION _____. Section 47.005, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

(a) A birthing facility that operates a program shall distribute to the parents of each newborn or infant who is screened educational materials that are standardized by the department regarding screening results and follow-up care.

(b) A birthing facility that operates a program shall report screening results to:

(1) the parents;

(2) [;] the newborn's or infant's attending physician, primary care physician, or other applicable health care provider; [;] and

(3) the department.

(d) The department may coordinate the diagnostic audiological evaluation required under Section 47.0031(b)(2). A diagnostic audiological evaluation must be completed on the newborn or infant:

(1) not later than the third month after the newborn's or infant's birth unless the newborn or infant has been hospitalized since birth; or

(2) upon referral by the newborn's or infant's primary care physician or other applicable health care provider.

(e) An audiologist who performs a diagnostic audiological evaluation under this chapter shall report the results of the evaluation to:

(1) the parents;

(2) the newborn's or infant's primary care physician or other applicable health care provider; and

(3) the department under Section 47.007(b).

SECTION _____. Section 47.007, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (d) through (h) to read as follows:

(b) Subject to Section 47.008, a ~~[A]~~ qualified hearing screening provider, hospital, health care provider, physician, audiologist, or intervention specialist shall ~~[may]~~ access the information management, reporting, and tracking system to provide information~~[, where available,]~~ to the department and may obtain information from the department~~[, including information]~~ relating to:

(1) the results of each hearing screening performed under Section 47.003(a) or 47.0031(a);

(2) the results of each diagnostic audiological evaluation required under Section 47.0031(b)(2);

(3) [~~(1)~~] infants who receive follow-up care;

(4) [~~(2)~~] infants identified with hearing loss;

(5) [~~(3)~~] infants who are referred for intervention services; and

(6) [~~(4)~~] case level information necessary to report required statistics to:

(A) the Maternal and Child Health Bureau on an annual basis; and

(B) the federal Centers for Disease Control and Prevention.

(d) A birthing facility described by Subsection (a) shall report the resulting information in the format and within the time frame specified by the department.

(e) A qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who receives a referral from a program under this chapter shall:

(1) provide the services needed by the newborn or infant or refer the newborn or infant to a person who provides the services needed by the newborn or infant; and

(2) provide, with the consent of the newborn's or infant's parent, the following information to the department or the department's designee:

(A) results of follow-up care;

(B) results of audiologic testing of an infant identified with hearing loss; and

(C) reports on the initiation of intervention services.

(f) A qualified hearing screening provider, audiologist, intervention specialist, educator, or other person who provides services to an infant who is diagnosed with hearing loss shall provide, with the consent of the infant's parent, the following information to the department or the department's designee:

(1) results of follow-up care;

(2) results of audiologic testing; and

(3) reports on the initiation of intervention services.

(g) A hospital that provides services under this chapter shall use the information management, reporting, and tracking system described by this section, access to which has been provided to the hospital by the department, to report, with the consent of the infant's parent, the following information to the department or the department's designee:

(1) results of all follow-up services for an infant who does not pass the screening described by Section 47.003(a) if the hospital provides the follow-up services; or

(2) the name of the provider or facility to which the hospital refers an infant who does not pass the screening described by Section 47.003(a) for follow-up services.

(h) Subject to Section 47.008, a qualified hearing screening provider, hospital, health care provider, physician, audiologist, or intervention specialist may obtain information from the department relating to:

(1) the results of each hearing screening performed under Section 47.003(a) or 47.0031(a);

(2) the results of each diagnostic audiological evaluation required under Section 47.0031(b)(2);

(3) infants who receive follow-up care;

(4) infants identified with hearing loss; and

(5) infants who are referred for intervention services.

SECTION _____. Chapter 47, Health and Safety Code, is amended by adding Sections 47.010 and 47.011 to read as follows:

Sec. 47.010. RULEMAKING. (a) The executive commissioner of the Health and Human Services Commission may adopt rules for the department to implement this chapter.

(b) If the executive commissioner adopts rules, the executive commissioner shall consider the most current guidelines established by the Joint Committee on Infant Hearing.

Sec. 47.011. DUTIES OF MIDWIFE. (a) In this section, "midwife" has the meaning assigned by Section 203.002, Occupations Code, and includes a nurse midwife described by Section 301.152, Occupations Code.

(b) A midwife who attends the birth of a newborn:

(1) is not required to offer the parents of the newborn a hearing screening for the newborn for the identification of hearing loss; and

(2) shall refer the parents of the newborn to a birthing facility or a provider that participates in the program and make a record of the referral.

SECTION _____. Section 47.002, Health and Safety Code, is repealed.

SECTION _____. (a) Not later than January 1, 2012, the executive commissioner of the Health and Human Services Commission shall prescribe a form to document a parent's decision to decline screening under Subdivision (1), Subsection (a), Section 47.003, Health and Safety Code, as added by this Act, in consultation with persons and organizations interested in newborn hearing screening.

(b) The Department of State Health Services may post the form prescribed under Subsection (a) of this section on the department's Internet website.

(c) A person or facility is not required to comply with the changes in law made by this Act to Chapter 47, Health and Safety Code, until January 1, 2012.

LEAVE OF ABSENCE GRANTED

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

Garza on motion of Isaac.

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, House List No. 39 and Senate List Nos. 35 and 36).

(T. King in the chair)

RECESS

At 1:31 p.m., the chair announced that the house would stand recessed until 3:30 p.m. today.

AFTERNOON SESSION

The house met at 3:30 p.m. and was called to order by Representative Ritter.
(Farias and Marquez now present)

HR 2335 - ADOPTED
(by Anchia)

Representative Anchia moved to suspend all necessary rules to take up and consider at this time **HR 2335**.

The motion prevailed.

The following resolution was laid before the house:

HR 2335, Honoring the Reverend Albert K. Haynes, Sr., on his 40th pastoral anniversary.

HR 2335 was read and was adopted.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 2335** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Anchia who introduced Reverend Albert K. Haynes, Sr., and representatives of the Bethany Missionary Baptist Church.

HR 2374 - ADOPTED
(by Gutierrez)

Representative Gutierrez moved to suspend all necessary rules to take up and consider at this time **HR 2374**.

The motion prevailed.

The following resolution was laid before the house:

HR 2374, Congratulating Velma Sue De Leon on being elected president of the Texas Funeral Directors Association.

HR 2374 was adopted.

On motion of Representative Hamilton, the names of all the members of the house were added to **HR 2374** as signers thereof.

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).

(Villarreal now present)

HCR 172 - ADOPTED
(by **Hamilton**)

The following privileged resolution was laid before the house:

HCR 172

WHEREAS, **HB 2643** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains technical errors that should be corrected; now, therefore, be it

RESOLVED, by the 82nd Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 2643**, in the SECTION of the bill amending Section 1302.263, Occupations Code, by striking "A person licensed as a contractor under this subchapter [~~chapter~~]" and substituting "A person licensed as a contractor under this chapter".

HCR 172 was adopted by (Record 1570): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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; 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; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Ritter(C).

Absent, Excused — Burnam; Garza; Miles; Price.

Absent — Harper-Brown; Johnson; Parker.

HR 2519 - ADOPTED
(by **Menendez**)

Representative Menendez moved to suspend all necessary rules to take up and consider at this time **HR 2519**.

The motion prevailed.

The following resolution was laid before the house:

HR 2519, Honoring Alex Briseno on his retirement as the chair of the board of trustees of the San Antonio Water System.

HR 2519 was adopted.

**HB 1760 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Dukes called up with senate amendments for consideration at this time,

HB 1760, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 5; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

Representative Dukes moved to concur in the senate amendments to **HB 1760**.

The motion to concur in the senate amendments to **HB 1760** prevailed by (Record 1571): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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 — Carter.

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

Absent, Excused — Burnam; Garza; Miles; Price.

Senate Committee Substitute

CSHB 1760, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 5; providing authority to impose a tax and issue bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8374 to read as follows:

CHAPTER 8374. PILOT KNOB MUNICIPAL UTILITY DISTRICT NO. 5SUBCHAPTER A. GENERAL PROVISIONSSec. 8374.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Commission" means the Texas Commission on Environmental

Quality.

- (3) "Director" means a board member.
- (4) "District" means the Pilot Knob Municipal Utility District No. 5.
- (5) "Municipality" means a municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8374.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.Sec. 8374.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect permanent directors as provided by Section 8374.051 of this code and Section 49.102, Water Code.Sec. 8374.004. CONSENT OF MUNICIPALITY REQUIRED. (a) The temporary directors may not hold an election under Section 8374.003 until each municipality has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.(b) If a municipality does not consent to the creation of the district or if the district does not enter into an agreement required by the terms of the municipal ordinance or resolution consenting to the creation of the district under this section before September 1, 2012:(1) the district is dissolved September 1, 2012, except that:(A) any debts incurred shall be paid;
(B) any assets that remain after the payment of debts shall be transferred to the municipality or another local governmental entity to be used for a public purpose; and(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and(2) this chapter expires September 1, 2012.Sec. 8374.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.(b) The district is created to accomplish the purposes of:(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, or improvement of macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.Sec. 8374.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;
- (3) right to impose a tax; or
- (4) legality or operation.

[Sections 8374.007-8374.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8374.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (b), the district is governed by a board of five elected directors.

(b) If required under the terms of the agreement, ordinance, or resolution by which a municipality consents to the creation of the district, the board consists of:

- (1) four elected directors; and
 - (2) one director appointed by the governing body of the municipality.
- (c) A director appointed under Subsection (b)(2) is not required to be a qualified voter of the district or to own land subject to taxation in the district.

(d) Except as provided by Section 8374.052, directors serve staggered four-year terms. A permanent director may not serve more than two four-year terms.

(e) The common law doctrine of incompatibility does not disqualify an official or employee of a municipality from being appointed a director by the governing body of a municipality under Subsection (b)(2), and a director appointed to the board may continue to serve in a public office of or be employed by the municipality.

Sec. 8374.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

- (1) the date permanent directors are elected under Section 8374.003; or
- (2) the fourth anniversary of the effective date of the Act enacting this

chapter.

(c) If permanent directors have not been elected under Section 8374.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 8374.003; or
- (2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8374.053-8374.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8374.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8374.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8374.103. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the commission as required by Section 54.234, Water Code.

Sec. 8374.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8374.103 unless:

(1) each municipality or county that will operate and maintain the road has approved the plans and specifications of the road project, if a municipality or county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8374.105. COMPLIANCE WITH AND ENFORCEABILITY OF MUNICIPAL CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION.

(a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) Any agreement between the district and a municipality related to the municipality's consent to the creation of the district is valid and enforceable.

(c) On the issuance of bonds by the district, the district is considered to have waived sovereign immunity to suit by a municipality for the purpose of adjudicating a claim for breach of an agreement described by this section.

Sec. 8374.106. CONTRACT TO FURTHER REGIONAL COOPERATION. The district and a municipality may contract on terms that the board and governing body of the municipality agree will further regional cooperation between the district and the municipality.

Sec. 8374.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8374.108-8374.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8374.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

- (1) revenue other than ad valorem taxes; or
- (2) contract payments described by Section 8374.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8374.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8374.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

(c) If required by an agreement between the district and a municipality under Section 8374.105, the total ad valorem tax rate of the district may not be less than the total ad valorem tax rate of the municipality.

Sec. 8374.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8374.154-8374.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8374.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8374.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8374.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

[Sections 8374.204-8374.250 reserved for expansion]

SUBCHAPTER F. STRATEGIC PARTNERSHIP AGREEMENT; MUNICIPAL ANNEXATION AND NOTICE

Sec. 8374.251. STRATEGIC PARTNERSHIP; CONTINUATION OF DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) The district may continue to exist as a limited district after full-purpose annexation by a municipality if the district and the annexing municipality state the terms of the limited district's existence in a strategic partnership agreement under Section 43.0751, Local Government Code.

(b) The strategic partnership agreement may provide for a term of any number of years. The limitation in Section 43.0751(g)(2), Local Government Code, on the length of the term does not apply to a limited district created under this section.

Sec. 8374.252. MUNICIPAL ANNEXATION; NOTICE. (a) Sections 43.0561 and 43.0562, Local Government Code, do not apply to the annexation of the district by a municipality that consents to the creation of the district under Section 8374.004.

(b) Not later than the 30th day after the date a municipality adopts a resolution or ordinance consenting to the creation of the district, the municipality shall file, in the real property records of the county in which the land to be included in the district is located, a notice to a purchaser of real property in the district that describes:

- (1) the municipality's authority and intention to annex the district; and
- (2) the anticipated date of the annexation.

(c) After the notice is filed, a person who proposes to sell or otherwise convey real property in the district must include the information contained in the municipality's notice in the Notice to Purchasers required by Section 49.452, Water Code.

SECTION 2. The Pilot Knob Municipal Utility District No. 5 initially includes all the territory contained in the following area: 327.482 acres of land described below:

A DESCRIPTION OF 339.352 ACRES IN THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 167.748 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 13, 2006 AND RECORDED IN DOCUMENT NO. 2006241307 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 98.656 ACRE TRACT

DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED OCTOBER 19, 2006 AND RECORDED IN DOCUMENT NO. 2006204344 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 60.921 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 12, 2006 AND RECORDED IN DOCUMENT NO. 2006239174 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 51.942 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 1, 2006 AND RECORDED IN DOCUMENT NO. 2006233636 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 55.222 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060712 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 25.119 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060707 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 7.602 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060704 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 23.694 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060710 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 42.558 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MAY 16, 2008 AND RECORDED IN DOCUMENT NO. 2008083861 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF LOT A, HARRY REININGER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 65, PAGE 47 OF THE PLAT RECORDS OF TRAVIS COUNTY TEXAS, CONVEYED TO JOHN HALDENSTEIN & RUTH HALDENSTEIN IN WARRANTY DEED WITH VENDOR'S LIEN DATED SEPTEMBER 29, 2000 AND RECORDED IN DOCUMENT NO. 2000161977 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS, AND A PORTION OF SASSMAN ROAD (RIGHT-OF-WAY WIDTH VARIES); SAID 339.352 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with Chaparral cap found in the west right-of-way line of F.M. 1625 (80' right-of-way width), for the southeast corner of said 167.748 acre tract, same being in the north right-of-way line of Sassman Road; THENCE South 27°11'52" West, crossing Sassman Road with the west right-of-way line of F.M. 1625, a distance of 70.00 feet to a 1/2" rebar found in the south right-of-way line of Sassman Road, for the northeast corner of said 98.656 acre tract;

THENCE continuing with the west right-of-way line of F.M. 1625, same being the east line of said 98.656 acre tract, the following two (2) courses and distances:

1. South $27^{\circ}11'52''$ West, a distance of 2856.46 feet to a concrete highway monument found 40 feet right of engineers' centerline station 115+77;

2. South $27^{\circ}04'38''$ West, a distance of 352.96 feet to a calculated point;

THENCE crossing said 98.656 acre tract, said 60.921 acre tract, said 51.942 acre tract, said 55.222 acre tract, said 25.119 acre tract, said 7.602 acre tract, said 23.694 acre tract, Sassman Road, said Lot A, said 42.558 acre tract, and said 167.748 acre tract, the following fifteen (15) courses and distances:

1. North $62^{\circ}55'22''$ West, a distance of 149.13 feet to a calculated point;

2. With a curve to the right, having a radius of 1800.01 feet, a delta angle of $68^{\circ}24'29''$, an arc length of 2149.12 feet, and a chord which bears North $28^{\circ}43'07''$ West, a distance of 2023.72 feet to a calculated point;

3. North $05^{\circ}29'07''$ East, a distance of 423.15 feet to a calculated point;

4. With a curve to the left, having a radius of 1000.01 feet, a delta angle of $40^{\circ}36'48''$, an arc length of 708.84 feet, and a chord which bears North $14^{\circ}49'17''$ West, a distance of 694.09 feet to a calculated point;

5. North $35^{\circ}07'41''$ West, a distance of 344.76 feet to a calculated point;

6. North $54^{\circ}52'19''$ East, a distance of 25.40 feet to a calculated point;

7. With a curve to the left, having a radius of 500.00 feet, a delta angle of $96^{\circ}25'47''$, an arc length of 841.51 feet, and a chord which bears North $06^{\circ}39'26''$ East, a distance of 745.65 feet to a calculated point;

8. North $41^{\circ}33'28''$ West, a distance of 274.95 feet to a calculated point;

9. With a curve to the right, having a radius of 580.00 feet, a delta angle of $69^{\circ}45'07''$, an arc length of 706.10 feet, and a chord which bears North $06^{\circ}40'54''$ West, a distance of 663.29 feet to a calculated point;

10. North $28^{\circ}11'39''$ East, a distance of 1597.96 feet to a calculated point;

11. South $61^{\circ}48'21''$ East, a distance of 1135.34 feet to a calculated point;

12. With a curve to the left, having a radius of 1399.96 feet, a delta angle of $31^{\circ}17'38''$, an arc length of 764.63 feet, and a chord which bears South $77^{\circ}27'10''$ East, a distance of 755.16 feet to a calculated point;

13. North $86^{\circ}54'01''$ East, a distance of 948.14 feet to a calculated point;

14. With a curve to the right, having a radius of 1399.96 feet, a delta angle of $30^{\circ}17'26''$, an arc length of 740.12 feet, and a chord which bears South $77^{\circ}57'16''$ East, a distance of 731.53 feet to a calculated point;

15. South $62^{\circ}48'33''$ East, a distance of 209.85 feet to a calculated point in the west right-of-way line of F.M. 1625, same being the east line of said 167.748 acre tract;

THENCE with the west right-of-way line of F.M. 1625, same being the east line of said 167.748 acre tract, the following two (2) courses and distances:

1. South $27^{\circ}05'45''$ West, a distance of 973.90 feet to a concrete highway monument found 40 feet right of engineers' centerline station 68+93.3;

2. South 27°19'52" West, a distance of 601.74 feet to a 1/2" rebar with Chaparral cap found for the northeast corner of a 2.99 acre tract described in a deed to Thomas Edward McHenry and wife, Angela Jane McHenry, recorded in Document No. 2005117402 of the Official Public Records of Travis County, Texas;

THENCE continuing with the east line of said 167.748 acre tract, the following three (3) courses and distances:

1. North 62°14'19" West, with the north line of said 2.99 acre tract, a distance of 361.02 feet to a 1/2" rebar found for the northwest corner of said 2.99 acre tract;

2. South 27°25'52" West, with the west line of said 2.99 acre tract, a distance of 360.78 feet to a 1/2" rebar found for the southwest corner of said 2.99 acre tract;

3. South 62°14'19" East, with the south line of said 2.99 acre tract, a distance of 361.65 feet to a 1/2" rebar with Chaparral cap found in the west right-of-way line of F.M. 1625, for the southeast corner of said 2.99 acre tract;

THENCE with the west right-of-way line of F.M. 1625, same being the east line of said 167.748 acre tract, the following two (2) courses and distances:

1. South 27°19'52" West, a distance of 361.72 feet to a 1/2" rebar with Chaparral cap found 40 feet right of engineers' centerline station 82+17.1;

2. South 27°11'52" West, a distance of 434.71 feet to the POINT OF BEGINNING, containing 339.352 acres of land, more or less.

SAVE AND EXCEPT 2.495 ACRES:

BEING ALL OF LOT 1, J. P. COTMAN ADDITION, A SUBDIVISION OF RECORD IN VOLUME 79, PAGE 60 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, CONVEYED TO JUAN YESCAS AND MARIA R. YESCAS IN A WARRANTY DEED, DATED DECEMBER 30, 2004 AND RECORDED IN DOCUMENT NO. 2004242191 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 2.495 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1" iron pipe found in the west right-of-way line of Sassman Road, for the southeast corner of said Lot 1, same being the east corner of said 7.602 acre tract;

THENCE North 63°13'21" West, with the south line of said Lot 1, same being the north line of said 7.602 acre tract, a distance of 543.90 feet to a 1/2" rebar found for the southwest corner of said Lot 1;

THENCE North 26°45'39" East, with the west line of said Lot 1, same being the east line of said 7.602 acre tract, a distance of 199.86 feet to a 1/2" rebar found for the northwest corner of said Lot 1, same being an angle point in the north line of said 7.602 acre tract, also being in the south line of said 23.694 acre tract;

THENCE South 63°13'21" East, with the north line of said Lot 1, same being the south line of said 23.694 acre tract, a distance of 543.89 feet to a 1/2" rebar with Chaparral cap found in the west right-of-way line of Sassman Road, for the northeast corner of said Lot 1, same being the southeast corner of said 23.694 acre tract;

THENCE South 26°45'21" West, with the west right-of-way line of Sassman Road, same being the east line of said Lot 1, a distance of 199.86 feet to the POINT OF BEGINNING, containing 2.495 acres of land, more or less.

SAVE AND EXCEPT 2.496 ACRES:

BEING ALL OF A 2.50 ACRE TRACT DESCRIBED IN WARRANTY DEED TO MICHAEL L. APPLGATE AND HARMONY D. APPLGATE, DATED NOVEMBER 5, 2003 AND RECORDED IN DOCUMENT NO. 2003261512 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS; SAID 2.496 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found in the north right-of-way line of Sassman Road, for the southeast corner of said 2.50 acre tract, same being an angle point in the south line of said 42.558 acre tract;

THENCE North 63°50'26" West, with the north right-of-way line of Sassman Road, same being the south line of said 2.50 acre tract, a distance of 363.50 feet to a calculated point for the southwest corner of said 2.50 acre tract, same being an angle point in the south line of said 42.558 acre tract;

THENCE with the common line of said 2.50 acre tract and said 42.558 acre tract, the following three (3) courses and distances:

1. North 26°08'47" East, a distance of 299.42 feet to a 1/2" rebar found for the northwest corner of said 2.50 acre tract;

2. South 63°51'04" East, a distance of 362.66 feet to a 1/2" rebar found for the northeast corner of said 2.50 acre tract;

3. South 25°59'08" West, a distance of 299.49 feet to the POINT OF BEGINNING, containing 2.496 acres of land, more or less.

SAVE AND EXCEPT 4.178 ACRES:

BEING ALL OF A 3.213 ACRE TRACT DESCRIBED IN A DEED WITH VENDOR'S LIEN TO MARIO RODRIGUEZ & EMMA RODRIGUEZ, DATED FEBRUARY 4, 1983 AND RECORDED IN VOLUME 7998, PAGE 656 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS AND ALL OF A 1.00 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO MARIO RODRIGUEZ AND EMMA RODRIGUEZ, DATED MARCH 3, 2005 AND RECORDED IN DOCUMENT NO. 2005046336 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 4.178 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found for the southeast corner of said 1.00 acre tract, same being an angle point in the west line of said 167.748 acre tract;

THENCE North $64^{\circ}32'09''$ West, with the south line of said 1.00 acre tract, same being the west line of said 167.748 acre tract, a distance of 21.19 feet to a 1/2" rebar with Chaparral cap found for an angle point in the north right-of-way line of Sassman Road, the south line of said 1.00 acre tract, and the west line of said 167.748 acre tract;

THENCE with the north right-of-way line of Sassman Road, same being the south line of said 1.00 acre tract and the south line of said 3.213 acre tract, the following two (2) courses and distances:

1. North $55^{\circ}52'30''$ West, a distance of 116.23 feet to a calculated point;
2. North $63^{\circ}50'26''$ West, a distance of 281.73 feet to a 1/2" rebar found for the southwest corner of said 3.213 acre tract, same being an angle point in the south line of said 42.558 acre tract;

THENCE with the north line of said 3.213 acre tract, same being the south line of said 42.558 acre tract, the following two (2) courses and distances:

1. North $40^{\circ}38'03''$ East, a distance of 528.79 feet to a 1/2" rebar found for the north corner of said 3.213 acre tract;
2. South $61^{\circ}13'19''$ East, a distance of 295.41 feet to a calculated point for the east corner of said 3.213 acre tract, same being the southeast corner of said 42.558 acre tract, also being in the west line of said 167.748 acre tract;

THENCE South $27^{\circ}11'24''$ West, with the west line of said 167.748 acre tract, same being the east line of said 3.213 acre tract and the east line of said 1.00 acre tract, a distance of 514.44 feet to the POINT OF BEGINNING, containing 4.178 acres of land, more or less.

SAVE AND EXCEPT 2.701 ACRES:

BEING ALL OF A 2.701 ACRE TRACT DESCRIBED IN A WARRANTY DEED TO ABACU P. PEREZ, DATED MARCH 19, 2009 AND RECORDED IN DOCUMENT NO. 2009046965 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 2.701 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with Chaparral cap found in the south right-of-way line of Sassman Road, for the northeast corner of said 2.701 acre tract, same being the northwest corner of said 98.656 acre tract;

THENCE South $27^{\circ}05'06''$ West, with the east line of said 2.701 acre tract, same being the west line of said 98.656 acre tract, a distance of 672.44 feet to a 1/2" rebar with Chaparral cap found for the southeast corner of said 2.701 acre tract, same being an angle point in the east line of said 51.942 acre tract;

THENCE with the south and west lines of said 2.701 acre tract, same being the east line of said 51.942 acre tract, the following two (2) courses and distances:

1. North $62^{\circ}16'38''$ West, a distance of 175.00 feet to a 1/2" rebar with Chaparral cap found for the southwest corner of said 2.701 acre tract;
2. North $27^{\circ}05'06''$ East, a distance of 672.44 feet to a 1/2" rebar with Chaparral cap found in the south right-of-way line of Sassman Road, for the northwest corner of said 2.701 acre tract, same being the northeast corner of said 51.942 acre tract;

THENCE South 62°16'38" East, with the south right-of-way line of Sassman Road, same being the north line of said 2.701 acre tract, a distance of 175.00 feet to the POINT OF BEGINNING, containing 2.701 acres of land, more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. 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.

HB 232 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Cain called up with senate amendments for consideration at this time,

HB 232, A bill to be entitled An Act relating to the amendment of restrictions affecting real property in certain subdivisions.

Representative Cain moved to concur in the senate amendments to **HB 232**.

The motion to concur in the senate amendments to **HB 232** prevailed by (Record 1572): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips;

Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Ritter(C).

Absent, Excused — Burnam; Garza; Miles; Price.

Senate Committee Substitute

CSHB 232, A bill to be entitled An Act relating to the amendment of restrictions affecting real property in certain subdivisions.

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

SECTION 1. Section 211.001(4), Property Code, is amended to read as follows:

(4) "Residential real estate subdivision" or "subdivision" means all land encompassed within one or more maps or plats of land that is divided into two or more parts if:

(A) the maps or plats cover land all or part of which [that] is not located within a municipality and:

(i) for a county with a population of less than 65,000, is not located [or] within the extraterritorial jurisdiction of a municipality; or

(ii) for a county with a population of at least 65,000 and less than 135,000, is located wholly within the extraterritorial jurisdiction of a municipality;

(B) the land encompassed within the maps or plats is or was burdened by restrictions limiting all or at least a majority of the land area covered by the map or plat, excluding streets and public areas, to residential use only; and

(C) all instruments creating the restrictions are recorded in the deed or real property records of a county.

SECTION 2. Section 211.002, Property Code, is amended by amending Subsection (a) and adding Subsections (b-1) and (d) to read as follows:

(a) This chapter applies only to a residential real estate subdivision or any unit or parcel of a subdivision:

(1) all or part of which is located [in whole or in part] within an unincorporated area of a county if the county has a population of less than 65,000; or

(2) all of which is located within the extraterritorial jurisdiction of a municipality located in a county that has a population of at least 65,000 and less than 135,000.

(b-1) In addition to restrictions and units or parcels of a subdivision that are subject to this chapter under Subsection (b), this chapter applies to restrictions that affect real property within a residential real estate subdivision or any units or parcels of the subdivision and that, by the express terms of the instrument creating the restrictions, provide that amendments to the restrictions are not operative or effective until a specified date or the expiration of a specified period. An amendment under this chapter of a restriction described by this subsection is

effective as provided by this chapter, regardless of whether the date specified in the restrictions has occurred or the period prescribed by the restrictions has expired. This subsection expires September 1, 2015.

(d) An amendment of a restriction under this chapter is effective on the filing of an instrument reflecting the amendment in the real property records of each county in which all or part of the subdivision is located after the approval of the owners in accordance with the amendment procedure adopted under Section 211.004.

SECTION 3. 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.

**HB 362 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Solomons called up with senate amendments for consideration at this time,

HB 362, A bill to be entitled An Act relating to the regulation by a property owners' association of the installation of solar energy devices and certain roofing materials on property.

Representative Solomons moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 362**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 362**: Solomons, chair; Bohac, Deshotel, Giddings, and Orr.

**HR 2614 - ADOPTED
(by McClendon)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 2614**.

The motion prevailed.

The following resolution was laid before the house:

HR 2614, Commending Joshua Levine for his service as an intern in the office of State Representative Ruth Jones McClendon.

HR 2614 was adopted.

**HR 2613 - ADOPTED
(by McClendon)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 2613**.

The motion prevailed.

The following resolution was laid before the house:

HR 2613, Commending Kori Hattermer for her service as an intern in the office of State Representative Ruth Jones McClendon.

HR 2613 was adopted.

LEAVE OF ABSENCE GRANTED

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

Christian on motion of S. Miller.

RESOLUTIONS ADOPTED

Representative V. Taylor moved to suspend all necessary rules to take up and consider at this time **HR 2156 - HR 2160** and **HR 2291**.

The motion prevailed.

The following resolutions were laid before the house:

HR 2156 (by V. Taylor), Commending Drinda Randall for her service as district director for State Representative Van Taylor.

HR 2157 (by V. Taylor), Commending James Zhu for his service as an intern in the office of State Representative Van Taylor.

HR 2158 (by V. Taylor, et al.), Commending Rachel Pace for her service as an intern in the office of State Representative Van Taylor.

HR 2159 (by V. Taylor, et al.), Commending Jordan Williford for her service as a legislative aide in the office of State Representative Van Taylor.

HR 2160 (by V. Taylor, et al.), Commending Madeleine Bell for her service as a scheduler and legislative aide in the office of State Representative Van Taylor.

HR 2291 (by V. Taylor), Commending Thomas Fulton for his service as an intern in the office of State Representative Van Taylor.

The resolutions were adopted.

HB 2853 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative J. Davis called up with senate amendments for consideration at this time,

HB 2853, A bill to be entitled An Act relating to tax increment financing.

Representative J. Davis moved to concur in the senate amendments to **HB 2853**.

The motion to concur in the senate amendments to **HB 2853** prevailed by (Record 1573): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Woolley.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1573. I intended to vote no.

Aycock

I was shown voting yes on Record No. 1573. I intended to vote no.

Hochberg

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2853** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 311.002(1), Tax Code (page 1, lines 58 and 59), strike Paragraph (K).

(2) In SECTION 1 of the bill, in amended Section 311.002(1), Tax Code (page 1, line 60), strike "(L)" and substitute "(K)".

(3) In SECTION 1 of the bill, in amended Section 311.002(1), Tax Code (page 1, line 64), strike "(M)" and substitute "(L)".

(4) In SECTION 3 of the bill, in amended Section 311.005(a), Tax Code (page 2, lines 40 and 41), strike "open, undeveloped, or underdeveloped" and substitute "open or undeveloped".

(5) In SECTION 10 of the bill, in amended Section 311.010(h), Tax Code (page 5, lines 23-25), strike "~~[from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment fund for the zone]~~" and substitute

"from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment fund for the zone".

(6) In SECTION 11 of the bill, in amended Section 311.011, Tax Code (page 5, lines 45-55), strike Subsection (b) and substitute the following:

(b) The project plan must include:

(1) a description and map showing existing uses and conditions of real property in the zone and [~~a map showing~~] proposed [~~improvements to and proposed~~] uses of that property;

(2) proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable;

(3) a list of estimated nonproject costs; and

(4) a statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan.

(7) In SECTION 11 of the bill, in amended Section 311.011(c)(3), Tax Code (page 5, line 63), strike "[~~an economic feasibility study~~];" and substitute "and an economic feasibility study";.

(8) In SECTION 11 of the bill, in added Section 311.011(h), Tax Code (page 6, line 37), between "items" and the period, insert ", but the amounts contained in the project plan or reinvestment zone financing plan may not vary materially from the estimates".

(9) Strike SECTION 14 of the bill, amending Section 311.014(b), Tax Code (page 7, lines 29-36).

(10) In SECTION 15 of the bill, in amended Section 311.015(a), Tax Code (page 7, lines 42 and 43), strike "311.010(b), to make payments pursuant to programs under Section 311.010(h)" and substitute "311.010(b)".

(11) In SECTION 19 of the bill, in proposed Section 311.021(a)(1), Tax Code (page 8, line 33), strike "second" and substitute "third".

(12) Renumber the SECTIONS of the bill accordingly.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2853** (senate committee printing) by striking SECTION 17 of the bill (page 8, lines 3-10) and substituting the following:

SECTION 17. Section 311.016(b), Tax Code, as amended by Chapters 977 (**HB 1820**) and 1094 (**HB 2120**), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(b) The municipality or county shall send a copy of a report made under this section to[~~z~~

[~~(1) the attorney general; and~~

[~~(2)~~] the comptroller.

HB 1000 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Branch called up with senate amendments for consideration at this time,

HB 1000, A bill to be entitled An Act relating to the distribution of money appropriated from the national research university fund and to one or more audits of certain general academic teaching institutions in connection with that distribution; making an appropriation.

Representative Branch moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1000**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1000**: Branch, chair; Madden, Geren, Johnson, and Button.

**HB 2194 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative L. Taylor called up with senate amendments for consideration at this time,

HB 2194, A bill to be entitled An Act relating to the conduct and administration of elections and of state conventions of political parties.

Representative L. Taylor moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2194**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2194**: L. Taylor, chair; S. Davis, Farias, P. King, and Peña.

**HB 2909 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Branch called up with senate amendments for consideration at this time,

HB 2909, A bill to be entitled An Act relating to increasing awareness in this state of the importance of higher education.

(Keffer in the chair)

Representative Branch moved to concur in the senate amendments to **HB 2909**.

The motion to concur in the senate amendments to **HB 2909** prevailed by (Record 1574): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, S.; Davis, Y.; Deshotel; 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.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer(C); King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Davis, J.

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Huberty; Lyne; Smith, T.; Vo.

STATEMENT OF VOTE

When Record No. 1574 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

Senate Committee Substitute

CSHB 2909, A bill to be entitled An Act relating to increasing awareness in this state of the importance of higher education.

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

SECTION 1. The heading to Section 29.911, Education Code, is amended to read as follows:

Sec. 29.911. GENERATION TEXAS [~~“EDUCATION: GO GET IT”~~] WEEK.

SECTION 2. Sections 29.911(a) and (b), Education Code, are amended to read as follows:

(a) To educate middle school, junior high school, and high school students about the importance of higher education, each school district and each open-enrollment charter school offering any of those grade levels shall designate one week during the school year as Generation Texas [~~“Education: Go Get It”~~] Week.

(b) During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information regarding the pursuit of higher education. The information provided must include information regarding:

(1) higher education options available to students;

(2) standard admission requirements for institutions of higher education, including:

(A) overall high school grade point average;
 (B) required curriculum; ~~and~~
 (C) college readiness standards and expectations as determined under Section 28.008; and

(D) scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;

(3) automatic admission of certain students to general academic teaching institutions as provided by Section 51.803; and

(4) financial aid availability and requirements, including the financial aid information provided by counselors under Section 33.007(b).

SECTION 3. Section 61.076(c), Education Code, is amended to read as follows:

(c) The co-chairs may appoint six ~~three~~ additional members who are education professionals, agency representatives, business representatives, or other members of the community. Members appointed to the council under this subsection serve two-year terms expiring February 1 of each odd-numbered year.

SECTION 4. Section 61.9701(b), Education Code, is amended to read as follows:

(b) The campaign ~~must~~ ~~may~~ include the provision of information on:

(1) the benefits of obtaining a postsecondary education;

(2) the types of institutions of higher education and degree programs available;

(3) the academic preparation needed to successfully pursue a postsecondary education as determined under Section 28.008 and any other requirements for enrollment at an institution of higher education; and

(4) how to obtain financial aid and what forms of financial aid are available.

SECTION 5. Section 61.9703, Education Code, is amended to read as follows:

Sec. 61.9703. COORDINATION WITH OTHER ENTITIES ~~[AGENCIES]~~. The board shall ~~may~~ coordinate with the Texas Education Agency, the P-16 Council established under Section 61.076, and other appropriate entities, including regional P-16 councils and businesses, to ~~[agencies as necessary to develop and]~~ implement the public awareness campaign.

SECTION 6. 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.

HCR 173 - ADOPTED
(by Thompson)

The following privileged resolution was laid before the house:

HCR 173

WHEREAS, **HB 1451** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains technical errors that should be corrected; now, therefore, be it

RESOLVED by the 82nd Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 1451** as follows:

(1) In added Section 802.002(17), Occupations Code, strike "802.062" and substitute "802.061".

(2) In added Section 802.064, Occupations Code, strike "802.063 or 802.103 or an investigation under Section 802.064" and substitute "802.062 or 802.103 or an investigation under Section 802.063".

(3) In SECTION 3 of the bill, strike "802.066" and substitute "802.065".

HCR 173 was adopted by (Record 1575): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycoc; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Hancock.

HB 2004 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative L. Taylor called up with senate amendments for consideration at this time,

HB 2004, A bill to be entitled An Act relating to the sale of certain state property in Brazoria County by the Texas Board of Criminal Justice.

Representative L. Taylor moved to concur in the senate amendments to **HB 2004**.

The motion to concur in the senate amendments to **HB 2004** prevailed by (Record 1576): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Senate Committee Substitute

CSHB 2004, A bill to be entitled An Act relating to the sale of certain state property in Brazoria County by the Texas Board of Criminal Justice.

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

SECTION 1. (a) Not later than December 31, 2011, the Texas Board of Criminal Justice shall sell the real property described by Subsection (c) of this section if the board receives a bid of at least \$5.5 million for the property.

(b) The Texas Board of Criminal Justice shall sell the property as provided by Section 496.0021, Government Code. The General Land Office shall negotiate and close a transaction involving the real property described by this section on behalf of the board using the procedures under Section 31.158, Natural Resources Code. The sale shall exclude the mineral interests in and under the property, and the deed shall contain a provision expressly reserving the state's interest in and right to remove all oil, gas, and other minerals in and under the real property described by Subsection (c) of this section.

(c) The Texas Board of Criminal Justice shall sell the real property described as follows:

Approximately 2,200 acres, more or less, being part of that 2682 acre tract or parcel of land conveyed to the Prison Commission of the State of Texas as recorded in Book 145, Page 307 of the Deed Records Brazoria County, Texas, said 2,200 acres, more or less, being out of the Stephen Richardson League, Abstract 122 and the William Harris League, Abstract 71 in Brazoria County,

Texas near Angleton, Texas, bounded by the Brazos River to the West, the southern boundary being the northern boundary of a tract of parcel of land conveyed to The Dow Chemical Company as recorded as Volume 453, Page 607 of the Deed Records of Brazoria County, Texas and bounded on the north and east by the remainder of the called 2682 acre tract or parcel of land.

SECTION 2. 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.

**HB 2549 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Crownover called up with senate amendments for consideration at this time,

HB 2549, A bill to be entitled An Act relating to the authority of a state employee to authorize a deduction from the employee's salary or wage payment for a charitable contribution to certain entities.

Representative Crownover moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2549**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2549**: Crownover, chair; L. Taylor, J. Davis, Lewis, and McClendon.

**HB 2596 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Aliseda called up with senate amendments for consideration at this time,

HB 2596, A bill to be entitled An Act relating to the authority of local governments to set speed limits on certain roadways.

Representative Aliseda moved to concur in the senate amendments to **HB 2596**.

The motion to concur in the senate amendments to **HB 2596** prevailed by (Record 1577): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Eiland; Hartnett.

Senate Committee Substitute

CSHB 2596, A bill to be entitled An Act relating to the authority of certain municipalities to lower speed limits on certain highways.

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

SECTION 1. Section 545.356, Transportation Code, is amended by amending Subsections (b-1), (c), and (d) and adding Subsection (b-3) to read as follows:

(b-1) Except as provided by Subsection (b-3), the [The] governing body of a municipality, for a highway or a part of a highway in the municipality that is not an officially designated or marked highway or road of the state highway system, may declare a lower speed limit of not less than 25 miles per hour, if the governing body determines that the prima facie speed limit on the highway is unreasonable or unsafe.

(b-3) The governing body of a municipality with a population of 2,000 or less, for a highway or a part of a highway in the municipality that is a one-lane highway used for two-way access and that is not an officially designated or marked highway or road of the state highway system, may declare a lower speed limit of not less than 10 miles per hour, if the governing body determines that the prima facie speed limit on the highway is unreasonable or unsafe.

(c) A prima facie speed limit that is altered by the governing body of a municipality under Subsection (b), ~~or~~ (b-1), or (b-3) is effective when the governing body erects signs giving notice of the new limit and at all times or at other times as determined.

(d) The governing body of a municipality that declares a lower speed limit on a highway or part of a highway under Subsection (b-1) or (b-3), not later than February 1 of each year, shall publish on its Internet website and submit to the department a report that compares for each of the two previous calendar years:

(1) the number of traffic citations issued by peace officers of the municipality and the alleged speed of the vehicles, for speed limit violations on the highway or part of the highway;

(2) the number of warning citations issued by peace officers of the municipality on the highway or part of the highway; and

(3) the number of vehicular accidents that resulted in injury or death and were attributable to speed limit violations on the highway or part of the highway.

SECTION 2. 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.

**HB 2847 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Madden called up with senate amendments for consideration at this time,

HB 2847, A bill to be entitled An Act relating to the use of video teleconferencing systems in certain criminal proceedings.

Representative Madden moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2847**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2847**: Madden, chair; Button, Carter, V. Taylor, and Lozano.

**HB 2857 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 2857, A bill to be entitled An Act relating to regulation of outdoor lighting in certain areas; providing a criminal penalty and for injunctive relief.

Representative Gallego moved to concur in the senate amendments to **HB 2857**.

The motion to concur in the senate amendments to **HB 2857** prevailed by (Record 1578): 141 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; King, P.; King, S.; King, T.;

Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; 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 — Phillips.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Eiland.

Senate Committee Substitute

CSHB 2857, A bill to be entitled An Act relating to regulation of outdoor lighting in certain areas; providing a criminal penalty and for injunctive relief.

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

SECTION 1. Chapter 229, Local Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. REGULATION OF OUTDOOR LIGHTING

Sec. 229.051. DEFINITIONS. In this subchapter, "major astronomical observatory" and "outdoor lighting" have the meanings assigned by Section 240.031.

Sec. 229.052. APPLICABILITY. (a) This subchapter applies to a municipality located in a county any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory.

(b) This subchapter does not apply to:

(1) outdoor lighting in existence or under construction on January 1, 2012; or

(2) the installation, maintenance, repair, or replacement of outdoor lighting owned or operated by an electric utility as defined by Section 31.002, Utilities Code.

Sec. 229.053. REGULATION OF OUTDOOR LIGHTING. (a) The governing body of a municipality by ordinance shall regulate the installation and use of outdoor lighting.

(b) An ordinance adopted under this section must be designed to protect against the use of outdoor lighting in a way that interferes with scientific astronomical research of an observatory.

(c) In the ordinance, the governing body may:

(1) require that a permit be obtained from the municipality before the installation and use of certain types of outdoor lighting in a regulated area;

(2) establish a fee in an amount to cover the costs of administrating the issuance of the permit;

(3) prohibit the use of a type of outdoor lighting that is incompatible with the effective use of an observatory;

(4) establish requirements for the shielding of outdoor lighting; and

(5) regulate the times during which certain types of outdoor lighting may be used.

(d) The governing body may apply more stringent standards for areas in which the use of outdoor lighting has a greater impact on observatory activities.

(e) The governing body may adopt an ordinance under this section only after conducting a public hearing on the proposed ordinance. The governing body shall give at least two weeks' public notice of the hearing.

Sec. 229.054. REGULATION OF SUBDIVISIONS. (a) The governing body of a municipality by ordinance shall establish standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

(b) The governing body may not approve a subdivision plat unless the plat provides that outdoor lighting will comply with standards adopted under this section.

Sec. 229.055. ENFORCEMENT; PENALTY. (a) A municipality may sue in any court to enjoin a violation of this subchapter.

(b) A person who violates an ordinance adopted under this subchapter commits an offense. An offense under this section is a Class C misdemeanor.

SECTION 2. Section 240.032(a), Local Government Code, is amended to read as follows:

(a) The [~~On the request of the director of McDonald Observatory, the~~] commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, shall [~~may~~] adopt orders regulating the installation and use of outdoor lighting in any unincorporated territory of the county.

SECTION 3. Section 240.033, Local Government Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The commissioners court of a county, any part of which is located within 57 miles of a major astronomical observatory at the McDonald Observatory, shall adopt orders establishing standards relating to proposed subdivisions to minimize the interference with observatory activities caused by outdoor lighting.

(c) The commissioners court of a county, any part of which is located [~~or~~] within five miles of a major astronomical observatory at the George Observatory or the Stephen F. Austin State University Observatory, may adopt orders establishing standards relating to proposed subdivisions [~~in order~~] to minimize the interference with observatory activities caused by outdoor lighting.

(d) A [~~The~~] commissioners court that adopts orders under this section may not approve a plat of a proposed subdivision that does not meet the standards established in the orders.

SECTION 4. Chapter 229, Local Government Code, is amended by designating Sections 229.001, 229.002, and 229.003 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. REGULATION OF FIREARMS AND EXPLOSIVES

SECTION 5. Section 240.031(3), Local Government Code, is repealed.

SECTION 6. This Act takes effect January 1, 2012.

HB 3771 - HOUSE CONCURS IN SENATE AMENDMENTS**TEXT OF SENATE AMENDMENTS**

Representative Crownover called up with senate amendments for consideration at this time,

HB 3771, A bill to be entitled An Act relating to the authority of the Texas Department of Transportation to approve safety standards for high-speed rail; authorizing a fee.

Representative Crownover moved to concur in the senate amendments to **HB 3771**.

The motion to concur in the senate amendments to **HB 3771** prevailed by (Record 1579): 91 Yeas, 47 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Branch; Chisum; Coleman; Craddick; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Flynn; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kuempel; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Otto; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Schwertner; Scott; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Bonnen; Brown; Button; Cain; Callegari; Carter; Cook; Creighton; Darby; Elkins; Fletcher; Frullo; Gooden; Hancock; Hilderbran; Huberty; Hughes; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Miller, D.; Miller, S.; Orr; Parker; Patrick; Paxton; Perry; Riddle; Sheets; Sheffield; Shelton; Taylor, V.; Weber; White; Woolley; Workman; Zedler.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Burkett; Castro; Davis, S.; Lyne; Ritter.

STATEMENTS OF VOTE

When Record No. 1579 was taken, I was in the house but away from my desk. I would have voted yes.

S. Davis

When Record No. 1579 was taken, I was in the house but away from my desk. I would have voted no.

Lyne

I was shown voting yes on Record No. 1579. I intended to vote no.

Solomons

Senate Committee Substitute

CSHB 3771, A bill to be entitled An Act relating to the authority of the Texas Department of Transportation to adopt safety standards for high-speed rail.

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

SECTION 1. Subchapter C, Chapter 111, Transportation Code, is amended by adding Section 111.103 to read as follows:

Sec. 111.103. HIGH-SPEED RAIL SAFETY STANDARDS. (a) For the purposes of this section, "high-speed rail" means passenger rail service capable of operating at speeds greater than 185 miles per hour.

(b) On application by a railroad company, the department by rule may adopt safety standards for high-speed rail systems, including rolling stock, for that railroad company.

(c) In adopting safety standards under Subsection (b), the department:

(1) shall consider the safety records of high-speed rail systems, including rolling stock, operated in countries with a history of safe high-speed rail service; and

(2) may require the railroad company to construct grade separations or physical barriers to isolate the railroad company's high-speed rail systems from streets, roadways, or existing freight or passenger railroads.

(d) A railroad company is not required to submit an application to the department under Subsection (b) if the railroad company is operating under safety standards approved by the Federal Railroad Administration or another federal agency.

(e) The department by rule shall impose a reasonable fee on a railroad company that submits an application under Subsection (b) to recover costs incurred by the department in administering this section.

SECTION 2. 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.

HB 6 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Eissler called up with senate amendments for consideration at this time,

HB 6, A bill to be entitled An Act relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools.

Representative Eissler moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 6**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 6**: Eissler, chair; Huberty, Strama, Hochberg, and Branch.

HR 2386 - ADOPTED
(by V. Gonzales)

Representative V. Gonzales moved to suspend all necessary rules to take up and consider at this time **HR 2386**.

The motion prevailed.

The following resolution was laid before the house:

HR 2386, Congratulating State Representative Jessica Farrar on her graduation from The University of Texas School of Law.

HR 2386 was read and was adopted.

On motion of the chair, the names of all the members of the house were added to **HR 2386** as signers thereof.

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).

COMMITTEE GRANTED PERMISSION TO MEET

Representative McClendon requested permission for the Committee on Rules and Resolutions to meet while the house is in session, at 5 p.m. today, in 3W.9, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, 5 p.m. today, 3W.9, for a formal meeting, to set a calendar.

HR 2555 - ADOPTED
(by Thompson)

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 2555**.

The motion prevailed.

The following resolution was laid before the house:

HR 2555, Commending Steven E. Simmons for his service to the Texas Department of Transportation.

HR 2555 was adopted.

On motion of Representative Phillips, the names of all the members of the house were added to **HR 2555** as signers thereof.

**HB 3691 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 3691, A bill to be entitled An Act relating to the provision by certain judges or community supervision and corrections departments of certain programs and services, including certain pretrial programs and services, and to the imposition of certain sanctions against defendants supervised by those departments.

Representative Gallego moved to discharge the conferees and concur in the senate amendments to **HB 3691**.

The motion to discharge the conferees and concur in the senate amendments to **HB 3691** prevailed by (Record 1580): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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 — Carter.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Alonzo; Dutton.

STATEMENT OF VOTE

I was shown voting no on Record No. 1580. I intended to vote yes.

Carter

Senate Committee Substitute

CSHB 3691, A bill to be entitled An Act relating to community supervision and corrections departments and community justice plans.

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

SECTION 1. Section 76.002, Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) The board shall ~~may~~ adopt rules allowing departments to contract with one another for services or facilities or to contract as provided by Subsection (f).

(f) In lieu of establishing a department as required by Subsection (a), programs and services may be provided under this chapter in a judicial district through a contract with a department established for another judicial district.

SECTION 2. Section 76.003(b), Government Code, is amended to read as follows:

(b) A council should consist of the following persons or their designees:

(1) a sheriff of a county served by the department, chosen by the sheriffs of the counties to be served by the department;

(2) a county commissioner or a county judge from a county served by the department, chosen by the county commissioners and county judges of the counties served by the department;

(3) a city council member of the most populous municipality in a county served by the department, chosen by the members of the city councils of cities served by the department;

(4) not more than two state legislators elected from a county served by the department, or in a county with a population of one million or more to be served by the department, not more than one state senator and one state representative elected from the county, chosen by the state legislators elected from the county or counties served by the department;

(5) the presiding judge from a judicial district served by the department, chosen by the district judges from the judicial districts served by the department;

(6) a judge of a statutory county court exercising criminal jurisdiction in a county served by the department, chosen by the judges of statutory county courts with criminal jurisdiction in the counties served by the department;

(7) a county attorney with criminal jurisdiction from a county served by the department, chosen by the county attorneys with criminal jurisdiction from the counties served by the department;

(8) a district attorney or criminal district attorney from a judicial district served by the department, chosen by the district attorneys or criminal district attorneys from the judicial districts served by the department; ~~and~~

(9) an elected member of the board of trustees of an independent school district in a county served by the department, chosen by the members of the boards of trustees of independent school districts located in counties served by the department; and

(10) the department director.

SECTION 3. Chapter 492, Government Code, is amended by adding Section 492.017 to read as follows:

Sec. 492.017. LEGISLATIVE APPROPRIATIONS REQUEST. (a) The board shall require the department to submit each legislative appropriations request, accompanied by the most recent report prepared by the community justice assistance division of the department under Section 509.004(c), to the board for approval before the department submits the appropriations request to the Legislative Budget Board.

(b) In deciding whether to approve a legislative appropriations request submitted under Subsection (a), the board shall consider the most recent report prepared by the community justice assistance division of the department under Section 509.004(c).

SECTION 4. Chapter 493, Government Code, is amended by adding Section 493.0081 to read as follows:

Sec. 493.0081. LEGISLATIVE APPROPRIATIONS REQUEST. The department shall include in each legislative appropriations request submitted to the Legislative Budget Board the information contained in the most recent report prepared by the community justice assistance division under Section 509.004(c).

SECTION 5. Section 509.004, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) The division shall prepare a report that contains a detailed summary of the programs and services provided by departments, as described in each community justice plan submitted to the division under Section 509.007. The report must include:

(1) all financial information relating to the programs and services described in each community justice plan; and

(2) information concerning the amount of state aid and funding that is not state aid used to support each program or service provided by a department.

(d) As soon as is practicable after the completion of the report, the division shall submit the report prepared under Subsection (c) to the Texas Board of Criminal Justice and the executive director of the Texas Department of Criminal Justice.

(e) Not later than the date on which the Texas Department of Criminal Justice is required to submit the department's legislative appropriations request to the Legislative Budget Board, the division shall submit the report prepared under Subsection (c) to the Legislative Budget Board.

SECTION 6. Section 509.007, Government Code, is amended to read as follows:

Sec. 509.007. COMMUNITY JUSTICE PLAN. (a) The division shall require as a condition to payment of state aid to a department or county under Section 509.011 and eligibility for payment of costs under Section 499.124 that a community justice plan be submitted for the department. The community justice council shall submit the plan required by this subsection. A community justice council may not submit a plan under this section unless the plan is first approved by the judges described by Section 76.002 who established the department served

by the council. The council shall submit a revised plan to the division each even-numbered ~~[odd-numbered]~~ year not later than March 1 ~~[by a date designated by the division]~~. A plan may be amended at any time with the approval of the division.

(b) A community justice plan required under this section must include:

(1) a statement of goals and priorities and of commitment by the community justice council, the judges described by Section 76.002 who established the department, and the department director to achieve a targeted level of alternative sanctions;

(2) a description of methods for measuring the success of programs provided by the department or provided by an entity served by the department; ~~[and]~~

(3) a proposal for the use of state jail felony facilities and, at the discretion of the community justice council, a regional proposal for the construction, operation, maintenance, or management of a state jail felony facility by a county, a community supervision and corrections department, or a private vendor under a contract with a county or a community supervision and corrections department;

(4) a description of the programs and services the department provides or intends to provide, including a separate description of any programs or services the department intends to provide to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of restitution collected from persons supervised by the department; and

(5) an outline of the department's projected programmatic and budgetary needs, based on the programs and services the department both provides and intends to provide.

SECTION 7. Chapter 509, Government Code, is amended by adding Section 509.0071 to read as follows:

Sec. 509.0071. COMMITMENT REDUCTION PLAN. (a) In addition to submitting a community justice plan to the division under Section 509.007, a department or a regional partnership of departments may submit a commitment reduction plan to the division not later than the 60th day after the date on which the time for gubernatorial action on the state budget has expired under Section 14, Article IV, Texas Constitution.

(b) A commitment reduction plan submitted under this section may contain a request for additional state funding in the manner described by Subsection (e). A commitment reduction plan must contain:

(1) a target number by which the county or counties served by the department or regional partnership of departments will, relative to the number of individuals committed in the preceding state fiscal year from the county or counties to the Texas Department of Criminal Justice for offenses not listed in or described by Section 3g, Article 42.12, Code of Criminal Procedure, reduce that number in the fiscal year for which the commitment reduction plan is submitted by reducing the number of:

(A) direct sentencing commitments;

(B) community supervision revocations; or

(C) direct sentencing commitments and community supervision revocations;

(2) a calculation, based on the most recent Criminal Justice Uniform Cost Report published by the Legislative Budget Board, of the savings to the state that will result from the county or counties reaching the target number described by Subdivision (1);

(3) an explanation of the programs and services the department or regional partnership of departments intends to provide using any funding received under Subsection (e)(1), including any programs or services designed to enhance public safety, reduce recidivism, strengthen the investigation and prosecution of criminal offenses, improve programs and services available to victims of crime, and increase the amount of restitution collected from persons supervised by the department or regional partnership of departments;

(4) a pledge by the department or regional partnership of departments to provide accurate data to the division at the time and in the manner required by the division;

(5) a pledge to repay to the state, not later than the 30th day after the last day of the state fiscal year in which the lump-sum award is made, a percentage of the lump sum received under Subsection (e)(1) that is equal to the percentage by which the county or counties fail to reach the target number described by Subdivision (1), if the county or counties do not reach that target number; and

(6) if the commitment reduction plan is submitted by a regional partnership of departments, an agreement and plan for the receipt, division, and administration of any funding received under Subsection (e).

(c) For purposes of Subsection (b)(5), if the target number contained in the commitment reduction plan is described by Subsection (b)(1)(B), the county or counties fail to reach the target number if the sum of any increase in the number of direct sentencing commitments and any reduction in community supervision revocations is less than the target number contained in the commitment reduction plan.

(d) A pledge described by Subsection (b)(4) or (5) must be signed by:

(1) the director of the department submitting the commitment reduction plan; or

(2) if the commitment reduction plan is submitted by a regional partnership of departments, a director of one of the departments in the regional partnership submitting the commitment reduction plan.

(e) After reviewing a commitment reduction plan, if the division is satisfied that the plan is feasible and would achieve desirable outcomes, the division may award to the department or regional partnership of departments:

(1) a one-time lump sum in an amount equal to 35 percent of the savings to the state described by Subsection (b)(2); and

(2) on a biennial basis, and from the 65 percent of the savings to the state that remains after payment of the lump sum described by Subdivision (1), the following incentive payments for the department's or regional partnership's performance in the two years immediately preceding the payment:

(A) 15 percent, for reducing the percentage of persons supervised by the department or regional partnership of departments who commit a new felony while under supervision;

(B) five percent, for increasing the percentage of persons supervised by the department or regional partnership of departments who are not delinquent in making any restitution payments; and

(C) five percent, for increasing the percentage of persons supervised by the department or regional partnership of departments who are gainfully employed, as determined by the division.

(f) A department or regional partnership of departments may use funds received under Subsection (e) to provide any program or service that a department is authorized to provide under other law, including implementing, administering, and supporting evidence-based community supervision strategies, electronic monitoring, substance abuse and mental health counseling and treatment, specialized community supervision caseloads, intermediate sanctions, victims' services, restitution collection, short-term incarceration in county jails, specialized courts, pretrial services and intervention programs, and work release and day reporting centers.

(g) Any funds received by a department or regional partnership of departments under Subsection (e):

(1) are in addition to any per capita or formula funding received under Section 509.011; and

(2) may not be deducted from any per capita or formula funding received or to be received by:

(A) another department, if the commitment reduction plan is submitted by a department; or

(B) any department, if the commitment reduction plan is submitted by a regional partnership of departments.

(h) The division shall deduct from future state aid paid to a department, or from any incentive payments under Subsection (e)(2) for which a department is otherwise eligible, an amount equal to the amount of any pledge described by Subsection (b)(5) that remains unpaid on the 31st day after the last day of the state fiscal year in which a lump-sum award is made under Subsection (e)(1). If the lump-sum award was made to a regional partnership of departments, the division shall deduct, in accordance with the agreement and plan described by Subsection (b)(6), the amount of the unpaid pledge from the future state aid to each department that is part of the partnership or from any incentive payments under Subsection (e)(2) for which the regional partnership of departments is otherwise eligible.

SECTION 8. 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.

**HB 2265 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Ritter called up with senate amendments for consideration at this time,

HB 2265, A bill to be entitled An Act relating to a county audit of a hotel regarding the hotel occupancy tax.

Representative Ritter moved to concur in the senate amendments to **HB 2265**.

The motion to concur in the senate amendments to **HB 2265** prevailed by (Record 1581): 98 Yeas, 45 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Callegari; Castro; Chisum; Coleman; Cook; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Flynn; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; King, S.; King, T.; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Shelton; Smith, W.; Smithee; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Craddick; Creighton; Driver; Fletcher; Frullo; Gooden; Hancock; Harper-Brown; Hughes; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Madden; Miller, S.; Morrison; Parker; Patrick; Paxton; Peña; Perry; Phillips; Riddle; Sheets; Sheffield; Simpson; Smith, T.; Solomons; Taylor, V.; Weber; White; Zedler.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1581. I intended to vote no.

Huberty

I was shown voting no on Record No. 1581. I intended to vote yes.

Solomons

Senate Committee Substitute

CSHB 2265, A bill to be entitled An Act relating to a county audit of a hotel regarding the hotel occupancy tax.

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

SECTION 1. Subchapter A, Chapter 352, Tax Code, is amended by adding Section 352.006 to read as follows:

Sec. 352.006. AUDIT; ACCESS TO BOOKS AND RECORDS. (a) The county that imposes the tax under this chapter may audit the hotel to determine the amount of taxes due under this chapter.

(b) After the county gives reasonable notice to the hotel that the county intends to inspect the books or records of the hotel, the county may access the hotel's books or records during business hours as necessary to conduct the audit.

SECTION 2. 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.

**HB 351 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Veasey called up with senate amendments for consideration at this time,

HB 351, A bill to be entitled An Act relating to the expunction of records and files relating to a person's arrest.

Representative Veasey moved to concur in the senate amendments to **HB 351**.

The motion to concur in the senate amendments to **HB 351** prevailed by (Record 1582): 138 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Castro; Chisum; 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; 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; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Carter; King, S.; Patrick; Zerwas.

STATEMENT OF VOTE

When Record No. 1582 was taken, my vote failed to register. I would have voted yes.

Carter

Senate Committee Substitute

CSHB 351, A bill to be entitled An Act relating to the expunction of records and files relating to a person's arrest.

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

SECTION 1. Article 55.01, Code of Criminal Procedure, is amended by amending Subsections (a), (a-1), (b), and (c) and adding Subsection (a-2) to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) ~~[of this section]~~; or

(B) convicted and subsequently:

(i) pardoned for a reason other than that described by Subparagraph (ii); or

(ii) pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense, if the applicable pardon or court order clearly indicates on its face that the pardon or order was granted or rendered on the basis of the person's actual innocence; or

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision under Article 42.12 for the offense, unless the offense is a Class C misdemeanor, provided that [each of the following conditions exist]:

(A) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, an indictment or information charging the person with the commission of a felony or misdemeanor offense arising out of the transaction for which the person was arrested:

(i) has not been presented against the person at any time following the arrest, and:

(a) at least 180 days have elapsed from the date of arrest if the arrest was for an offense punishable as a Class C misdemeanor;

(b) at least one year has elapsed from the date of arrest if the arrest was for an offense punishable as a Class B or A misdemeanor;

(c) at least three years have elapsed from the date of arrest if the arrest was for an offense punishable as a felony; or

(d) the attorney representing the state certifies that the applicable arrest records and files are not needed for use in any criminal investigation or prosecution, including an investigation or prosecution of another person; or

(ii) [for an offense arising out of the transaction for which the person was arrested or,] if [an indictment or information charging the person with commission of a felony was] presented at any time following the arrest, was[, the indictment or information has been] dismissed or quashed, and[;

[(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

[(ii) the court finds that the indictment or information was dismissed or quashed because the person completed a pretrial intervention program authorized under Section 76.011, Government Code, [or] because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense, or because the indictment or information [i] was void; or

(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired [the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

[(C) the person has not been convicted of a felony in the five years preceding the date of the arrest].

(a-1) Notwithstanding any other provision of this article, a person may not expunge records and files relating to an arrest that occurs pursuant to a warrant issued under Section 21, Article 42.12 [Subsection (a)(2)(C), a person's conviction of a felony in the five years preceding the date of the arrest does not affect the person's entitlement to expunction for purposes of an ex parte petition filed on behalf of the person by the director of the Department of Public Safety under Section 2(e), Article 55.02].

(a-2) Notwithstanding any other provision of this article, a person who intentionally or knowingly absconds from the jurisdiction after being released under Chapter 17 following an arrest is not eligible under Subsection (a)(2)(A)(i)(a), (b), or (c) or Subsection (a)(2)(B) for an expunction of the records and files relating to that arrest.

(b) Except as provided by Subsection (c) [of this section], a district court may expunge all records and files relating to the arrest of a person who has been arrested for commission of a felony or misdemeanor under the procedure established under Article 55.02 [of this code] if:

(1) the person is:

(A) [(1)] tried for the offense for which the person was arrested;

(B) [(2)] convicted of the offense; and

(C) [(3)] acquitted by the court of criminal appeals or, if the period for granting a petition for discretionary review has expired, by a court of appeals; or

(2) an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the appropriate district court before the person is tried for the offense, regardless of whether an indictment or information has been presented against the person in relation to the offense.

(c) A court may not order the expunction of records and files relating to an arrest for an offense for which a person is subsequently acquitted, whether by the trial court, a court of appeals, or the court of criminal appeals, if the offense for which the person was acquitted arose out of a criminal episode, as defined by Section 3.01, Penal Code, and the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode.

SECTION 2. Article 55.02, Code of Criminal Procedure, is amended by amending Section 1 and adding Section 1a to read as follows:

Sec. 1. At the request of the defendant and after notice to the state, the trial court presiding over the case in which the defendant was acquitted, if the trial court is a district court, or a district court in the county in which the trial court is located shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(A) [article 55.01(a)(1)(a)] not later than the 30th day after the date of the acquittal. Upon acquittal, the trial court shall advise the defendant of the right to expunction. The defendant shall provide to the district court all of the information required in a petition for expunction under Section 2(b). The attorney for the defendant in the case in which the defendant was acquitted, if the defendant was represented by counsel, or the attorney for the state, if the defendant was not represented by counsel, shall prepare the order for the court's signature.

Sec. 1a. (a) The trial court presiding over a case in which a defendant is convicted and subsequently granted relief or pardoned on the basis of actual innocence of the offense of which the defendant was convicted, if the trial court is a district court, or a district court in the county in which the trial court is located shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(B)(ii) not later than the 30th day after the date the court receives notice of the pardon or other grant of relief. The person shall provide to the district court all of the information required in a petition for expunction under Section 2(b).

(b) The attorney for the state shall:

(1) prepare an expunction order under this section for the court's signature; and

(2) notify the Texas Department of Criminal Justice if the person is in the custody of the department.

(c) The court shall include in an expunction order under this section a listing of each official, agency, or other entity of this state or political subdivision of this state and each private entity that there is reason to believe has any record or file that is subject to the order. The court shall also provide in an expunction order under this section that:

(1) the Texas Department of Criminal Justice shall send to the court the documents delivered to the department under Section 8(a), Article 42.09; and

(2) the Department of Public Safety and the Texas Department of Criminal Justice shall delete or redact, as appropriate, from their public records all index references to the records and files that are subject to the expunction order.

(d) The court shall retain all documents sent to the court under Subsection (c)(1) until the statute of limitations has run for any civil case or proceeding relating to the wrongful imprisonment of the person subject to the expunction order.

SECTION 3. Section 2(a), Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) A person who is entitled to expunction of records and files under Article 55.01(a)(1)(B)(i) or 55.01(a)(2) ~~[55.01(a)]~~ or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

- (1) the petitioner was arrested; or
- (2) the offense was alleged to have occurred.

SECTION 4. Section 3(c), Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official or agency or other governmental entity of this state or of any political subdivision of this state named in ~~[designated by the person who is the subject of]~~ the order. The certified copy of the order must be sent by secure electronic mail, electronic transmission, or facsimile transmission or otherwise by certified mail, return receipt requested. In sending the order to a governmental entity named in the order ~~[designated by the person]~~, the clerk may elect to substitute hand delivery for certified mail under this subsection, but the clerk must receive a receipt for that hand-delivered order.

SECTION 5. Section 4, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. (a) If the state establishes that the person who is the subject of an expunction order is still subject to conviction for an offense arising out of the transaction for which the person was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against the person for the offense, the court may provide in its expunction order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

(a-1) The court shall provide in its expunction order that the applicable law enforcement agency and prosecuting attorney may retain the arrest records and files of any person who becomes entitled to an expunction of those records and files based on the expiration of a period described by Article 55.01(a)(2)(A)(i)(a), (b), or (c), but without the certification of the prosecuting attorney as described by Article 55.01(a)(2)(A)(i)(d).

(a-2) In the case of a person who is the subject of an expunction order on the basis of an acquittal, the court may provide in the expunction order that the law enforcement agency and the prosecuting attorney retain records and files if:

(1) the records and files are necessary to conduct a subsequent investigation and prosecution of a person other than the person who is the subject of the expunction order; or

(2) the state establishes that the records and files are necessary for use in:

(A) another criminal case, including a prosecution, motion to adjudicate or revoke community supervision, parole revocation hearing, mandatory supervision revocation hearing, punishment hearing, or bond hearing; or

(B) a civil case, including a civil suit or suit for possession of or access to a child.

(b) Unless the person who is the subject of the expunction order is again arrested for or charged with an offense arising out of the transaction for which the person was arrested or unless the court provides for the retention of records and files under Subsection (a-1) or (a-2) [~~(a) of this section~~], the provisions of Articles 55.03 and 55.04 [~~of this code~~] apply to files and records retained under this section.

SECTION 6. Section 5(a), Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsections (f) and (g), on receipt of the order, each official or agency or other governmental entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or in cases other than those described by Section 1a, if removal is impracticable, obliterate all portions of the record or file that identify the person who is the subject of the order and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

SECTION 7. This Act applies to an expunction of arrest records and files for any criminal offense:

(1) that occurred before, on, or after the effective date of this Act; or

(2) for which a pardon or other relief on the basis of actual innocence was granted before, on, or after the effective date of this Act.

SECTION 8. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend CSHB 351 (senate committee report) in SECTION 1 of the bill as follows:

(1) In amended Article 55.01(a)(2)(A), Code of Criminal Procedure (page 1, lines 40 and 41), strike "felony or misdemeanor offense arising out of the" and substitute "misdemeanor offense based on the person's arrest or charging the person with the commission of any felony offense arising out of the same".

(2) Strike added Articles 55.01(a)(2)(A)(i)(a)-(c), Code of Criminal Procedure (page 1, lines 45-53), and substitute the following:

(a) at least 180 days have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class C misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(b) at least one year has elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class B or A misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(c) at least three years have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a felony or if there was a felony charge arising out of the same transaction for which the person was arrested; or

HB 1199 - CO-AUTHOR AUTHORIZED

On motion of Representative Gallego, Representative Martinez Fischer was authorized as a co-author to **HB 1199**.

HB 1199 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 1199, A bill to be entitled An Act relating to the penalty for certain intoxication assaults.

Representative Gallego moved to concur in the senate amendments to **HB 1199**.

The motion to concur in the senate amendments to **HB 1199** prevailed by (Record 1583): 141 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.;

Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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 — Callegari; Miller, S.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1583. I intended to vote yes.

Callegari

I was shown voting no on Record No. 1583. I intended to vote yes.

S. Miller

Senate Committee Substitute

CSHB 1199, A bill to be entitled An Act relating to the penalty for certain intoxication offenses.

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

SECTION 1. Section 49.04, Penal Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Except as provided by Subsections [Subsection] (c) and (d) and Section 49.09, an offense under this section is a Class B misdemeanor, with a minimum term of confinement of 72 hours.

(d) If it is shown on the trial of an offense under this section that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.15 or more at the time the analysis was performed, the offense is a Class A misdemeanor.

SECTION 2. Section 49.09, Penal Code, is amended by adding Subsection (b-4) to read as follows:

(b-4) An offense under Section 49.07 is a felony of the second degree if it is shown on the trial of the offense that the person caused serious bodily injury to another in the nature of a traumatic brain injury that results in a persistent vegetative state.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1199** (senate committee printing) by adding the following SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION 1. This Act shall be known as the Abdallah Khader Act.

**HB 2931 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Woolley called up with senate amendments for consideration at this time,

HB 2931, A bill to be entitled An Act relating to certain debt cancellation agreements made in connection with retail installment contracts.

Representative Woolley moved to concur in the senate amendments to **HB 2931**.

The motion to concur in the senate amendments to **HB 2931** prevailed by (Record 1584): 137 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Dutton; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Aycock; Callegari; Deshotel; Madden; Miller, S.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2931** (house engrossed version) as follows:

(1) Strike added Section 348.601(c), Finance Code (page 2, lines 2-4), and reletter subsequent subsections accordingly.

(2) In added Section 348.603(14), Finance Code (page 6, line 12), following the semicolon, strike "and".

(3) In added Section 348.603(15), Finance Code (page 6, line 15), strike "." and substitute "; and".

(4) Following added Section 348.603(15), Finance Code (page 6, between lines 15 and 16), insert the following:

(16) that the holder will cancel certain amounts under the debt cancellation agreement for total loss or theft of a motor vehicle, in the following or substantially similar language: "YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS CONTRACT IN THE CASE OF A TOTAL LOSS OR THEFT OF THE VEHICLE AS STATED IN THE DEBT CANCELLATION AGREEMENT."

(5) Strike added Section 348.604(e), Finance Code (page 7, lines 8-12), and substitute the following:

(e) If after approval of a form the Office of Consumer Credit Commissioner discovers that approval could have been denied under Subsection (d), the commissioner may order a retail seller, any administrator of the debt cancellation agreement, or a holder to submit a corrected form for approval. Beginning as soon as reasonably practicable after approval of the corrected form, the retail seller, administrator, or holder shall use the corrected form for all sales.

(f) A debt cancellation agreement form that has been approved by the commissioner is public information subject to disclosure under Chapter 552, Government Code. Section 552.110, Government Code, does not apply to a form approved under this subchapter.

(6) Following added Section 348.605(g), Finance Code (page 8, between lines 15 and 16), add the following:

(h) A retail seller that negotiates a debt cancellation agreement and subsequently assigns the contract shall:

(1) maintain documents relating to the agreement that come into the retail seller's possession; and

(2) on request of the Office of Consumer Credit Commissioner, cooperate in requesting and obtaining access to documents relating to the agreement not in the retail seller's possession.

HB 3743 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Workman called up with senate amendments for consideration at this time,

HB 3743, A bill to be entitled An Act relating to the rights, powers, functions, and duties of the West Travis County Municipal Utility District No. 5.

Representative Workman moved to concur in the senate amendments to **HB 3743**.

The motion to concur in the senate amendments to **HB 3743** prevailed by (Record 1585): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Riddle.

Senate Committee Substitute

CSHB 3743, A bill to be entitled An Act relating to the rights, powers, functions, and duties of the West Travis County Municipal Utility District No. 5.

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

SECTION 1. Section 6, Chapter 1214, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Subsections (c) and (d) to read as follows:

(c) In addition to the rights, powers, privileges, authority, functions, and duties under Subsection (a) of this section, the district has all of the rights, powers, privileges, authority, functions, and duties relating to:

(1) road districts and road utility districts created under Section 52, Article III, Texas Constitution; and

(2) supply and distribution facilities or systems to provide potable and nonpotable water to the residents and businesses of Travis and Hays Counties.

(d) Notwithstanding Subsection (c) of this section, the district may not construct, acquire, maintain, or operate a toll road.

SECTION 2. Chapter 1214, Acts of the 71st Legislature, Regular Session, 1989, is amended by adding Section 6A to read as follows:

Sec. 6A. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 6 of this Act; or

(2) a recreational facility as defined by Section 49.462, Water Code.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons,

agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. 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.

HB 3845 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Sheffield called up with senate amendments for consideration at this time,

HB 3845, A bill to be entitled An Act relating to the powers of the CLL Municipal Utility District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.

Representative Sheffield moved to concur in the senate amendments to **HB 3845**.

The motion to concur in the senate amendments to **HB 3845** prevailed by (Record 1586): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Eiland; Villarreal.

Senate Committee Substitute

CSHB 3845, A bill to be entitled An Act relating to the powers of the CLL Municipal Utility District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.

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

SECTION 1. Subchapter A, Chapter 8109, Special District Local Laws Code, is amended by adding Sections 8109.0025 and 8109.0026 to read as follows:

Sec. 8109.0025. PURPOSE; DECLARATION OF INTENT. (a) The district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

Sec. 8109.0026. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing trails, landscaping, and other services that are necessary for the restoration, preservation, and enhancement of the scenic beauty and environment of the area.

SECTION 2. Chapter 8109, Special District Local Laws Code, is amended by adding Subchapters D, E, F, G, H, and I to read as follows:

SUBCHAPTER D. POWERS AND DUTIES

Sec. 8109.151. MUNICIPAL MANAGEMENT DISTRICT POWERS. The district has the powers provided by Chapter 375, Local Government Code.

Sec. 8109.152. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. The district may exercise the powers of a corporation created under Section 380.001(c) or Chapter 501, Local Government Code.

Sec. 8109.153. AIRPORT. The district may construct, acquire, improve, maintain, and operate an airport and improvements in aid of the airport.

Sec. 8109.154. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the Texas Commission on Environmental Quality as required by Section 54.234, Water Code.

Sec. 8109.155. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8109.154 unless:

(1) each county that will operate and maintain the road has approved the plans and specifications of the road project, if a county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8109.156. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

Sec. 8109.157. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8109.158. LIMITATION ON USE OF EMINENT DOMAIN. (a) The district may only exercise the power of eminent domain described by Chapters 49 and 54, Water Code.

(b) The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 8109.154; or

(2) a recreational facility as defined by Section 49.462, Water Code.

(c) The district may not exercise the power of eminent domain for an improvement project.

SUBCHAPTER E. IMPROVEMENT PROJECTS

Sec. 8109.201. IMPROVEMENT PROJECTS; SERVICES. The district may provide, or it may enter into contracts with a governmental or private entity to provide, the improvement projects and services described by this subchapter or activities in support of or incidental to those projects and services.

Sec. 8109.202. BOARD DETERMINATION REQUIRED. The district may not undertake a project under this subchapter unless the board determines the project to be necessary to accomplish a public purpose of the district.

Sec. 8109.203. WATER. An improvement project may include a:

- (1) wastewater treatment and disposal facility;
- (2) water quality protection facility; and
- (3) facility to enhance groundwater recharge.

Sec. 8109.204. IRRIGATION AND DRAINAGE. An improvement project may include facilities for irrigation and drainage.

Sec. 8109.205. SOLID WASTE SERVICES. An improvement project may include solid waste management services, including garbage collection, recycling, and composting.

Sec. 8109.206. CONVENTION CENTER. An improvement project may include the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for:

- (1) a conference, convention, or exhibition;
- (2) a manufacturer, consumer, or trade show;
- (3) a civic, community, or institutional event; or
- (4) an exhibit, display, attraction, special event, or seasonal or cultural celebration or holiday.

Sec. 8109.207. MISCELLANEOUS DESIGN, CONSTRUCTION, AND MAINTENANCE. In addition to the projects and services described by Section 375.112, Local Government Code, an improvement project may include the planning, design, construction, improvement, and maintenance of:

- (1) highway right-of-way or transit corridor beautification and improvement;
- (2) a hiking and cycling path or trail;
- (3) a garden, recreational facility, sports facility, open space, scenic area, or related exhibit or preserve; or
- (4) a storm water detention improvement.

Sec. 8109.208. SIMILAR IMPROVEMENT PROJECTS. An improvement project may include a public improvement, facility, or service similar to a project described by this subchapter.

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 8109.251. ASSESSMENTS. The district may levy and collect special assessments in the same manner and for the same purposes as a municipal management district as provided in Subchapter F, Chapter 375, Local Government Code.

SUBCHAPTER G. BONDS AND OTHER OBLIGATIONS

Sec. 8109.301. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, hotel occupancy taxes, sales and use taxes, other district money, or any combination of those sources to pay for any authorized district purpose.

Sec. 8109.302. ELECTIONS REGARDING TAXES AND BONDS. (a) The district must hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(b) Section 375.243, Local Government Code, does not apply to the district.

(c) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 8109.303. TAXES FOR BONDS. (a) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of an ad valorem tax, without limit as to rate or amount, as required by Section 54.601, Water Code.

(b) The board shall annually impose the tax while all or part of the bonds are outstanding. Sections 54.601 and 54.602, Water Code, govern the amount and rate of the tax.

Sec. 8109.304. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SUBCHAPTER H. SALES AND USE TAX

Sec. 8109.351. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, enforcement, and collection of the sales and use tax authorized by this subchapter except to the extent Chapter 321, Tax Code, is inconsistent with this chapter.

(b) A reference in Chapter 321, Tax Code, to a municipality or the governing body of a municipality is a reference to the district or the board, respectively.

Sec. 8109.352. ELECTION; ADOPTION OF TAX. (a) The district may adopt a sales and use tax if authorized by a majority of the voters of the district voting at an election held for that purpose.

(b) The board by order may call an election to authorize the adoption of the sales and use tax. The election may be held on any uniform election date and in conjunction with any other district election.

(c) The ballot shall be printed to provide for voting for or against the proposition: "Authorization of a sales and use tax in the CLL Municipal Utility District No. 1 at a rate not to exceed _____ percent" (insert rate of one or more increments of one-eighth of one percent).

Sec. 8109.353. SALES AND USE TAX RATE. (a) Not later than the 10th day after the date the results are declared of an election held under Section 8109.352, at which the voters approved imposition of the tax authorized by this subchapter, the board shall determine the initial rate of the tax, which must be in one or more increments of one-eighth of one percent.

(b) After the election held under Section 8109.352, the board may decrease the rate of the tax by one or more increments of one-eighth of one percent. The board may not decrease the rate of the tax if the decrease would impair the repayment of any outstanding debt or obligation payable from the tax.

(c) The initial rate of the tax or any rate resulting from subsequent decreases may not exceed the lesser of:

(1) the maximum rate authorized by the district voters at the election held under Section 8109.352; or

(2) a rate that, when added to the rates of all sales and use taxes imposed by other political subdivisions with territory in the district, would result in the maximum combined rate prescribed by Section 321.101(f), Tax Code, at any location in the district.

(d) The board shall notify the comptroller of any changes made to the tax rate in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b), Tax Code.

Sec. 8109.354. USE OF REVENUE. Revenue from the sales and use tax imposed under this subchapter is for the use and benefit of the district and may be used for any district purpose.

SUBCHAPTER I. HOTEL OCCUPANCY TAX

Sec. 8109.401. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) In this subchapter:

(1) a reference in Subchapter A, Chapter 351, Tax Code, to a municipality is a reference to the district; and

(2) a reference in Subchapter A, Chapter 351, Tax Code, to the governing body of a municipality is a reference to the board.

(b) Except as inconsistent with this subchapter, Subchapter A, Chapter 351, Tax Code, governs a hotel occupancy tax authorized by this subchapter, including the collection of the tax, subject to the limitations prescribed by Sections 351.002(b) and (c), Tax Code.

Sec. 8109.402. TAX AUTHORIZED; USE OF REVENUE. The district may impose a hotel occupancy tax for any purpose authorized by Section 351.101, Tax Code.

Sec. 8109.403. TAX RATE. (a) The amount of the hotel occupancy tax may not exceed the maximum rate provided by Section 351.003(a), Tax Code.

(b) The district may not adopt a hotel occupancy tax at a rate that would cause the combined rate of all hotel occupancy taxes imposed by the district and other political subdivisions of this state at a location in the district to exceed 15 percent. If a political subdivision's adoption of a hotel occupancy tax rate causes the combined hotel occupancy tax rate imposed at a location in the district to

exceed 15 percent, the district's hotel occupancy tax rate in the entire district is automatically reduced to bring the combined rate imposed at that location down to not more than 15 percent.

(c) The district shall notify each hotel in the district of any change in the hotel occupancy tax rate under this section.

(d) Any change in the hotel occupancy tax rate takes effect on the first day of the next calendar month following the change.

SECTION 3. (a) The legislature validates and confirms all governmental acts and proceedings of the CLL Municipal Utility District No. 1 relating to the exclusion of land, the annexation of land, and the establishment of the district's boundaries that were taken before the effective date of this Act.

(b) This section does not apply to:

- (1) an act or proceeding that was void at the time it occurred;
- (2) an act that was a misdemeanor or felony at the time it occurred;
- (3) an annexation or attempted annexation of land in the boundaries or extraterritorial jurisdiction of a municipality that occurred without the consent of the municipality; and

(4) any matter that on the effective date of this Act:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(B) has been held invalid by a final court judgment.

SECTION 4. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 5. 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.

HB 1638 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Aliseda called up with senate amendments for consideration at this time,

HB 1638, A bill to be entitled An Act relating to the disqualification of a district or county attorney who is the subject of a criminal investigation.

Representative Aliseda moved to concur in the senate amendments to **HB 1638**.

The motion to concur in the senate amendments to **HB 1638** prevailed by (Record 1587): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Hamilton; Nash; Veasey; Walle.

Senate Committee Substitute

CSHB 1638, A bill to be entitled An Act relating to the disqualification of a district or county attorney who is the subject of a criminal investigation.

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

SECTION 1. Article 2.08, Code of Criminal Procedure, is amended to read as follows:

Art. 2.08. DISQUALIFIED. (a) District and county attorneys shall not be of counsel adversely to the State in any case, in any court, nor shall they, after they cease to be such officers, be of counsel adversely to the State in any case in which they have been of counsel for the State.

(b) A judge of a court in which a district or county attorney represents the State shall declare the district or county attorney disqualified for purposes of Article 2.07 on a showing that the attorney is the subject of a criminal investigation by a law enforcement agency if that investigation is based on credible evidence of criminal misconduct for an offense that is within the attorney's authority to prosecute. A disqualification under this subsection applies only to the attorney's access to the criminal investigation pending against the attorney and to any prosecution of a criminal charge resulting from that investigation.

SECTION 2. The change in law made by this Act applies only to the prosecution of an offense committed on or after the effective date of this Act. The prosecution of an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2011.

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 3804 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 3804, A bill to be entitled An Act relating to the creation of the Lajitas Utility District No. 1 of Brewster County; providing authority to impose taxes and issue bonds; granting a limited power of eminent domain.

Representative Gallego moved to concur in the senate amendments to **HB 3804**.

The motion to concur in the senate amendments to **HB 3804** prevailed by (Record 1588): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Weber; White; Woolley; Workman; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Hilderbran; Walle; Zedler.

STATEMENT OF VOTE

When Record No. 1588 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

Senate Committee Substitute

CSHB 3804, A bill to be entitled An Act relating to the creation of the Lajitas Utility District No. 1 of Brewster County; providing authority to impose taxes and issue bonds; granting a limited power of eminent domain.

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

SECTION 1. Subtitle X, Title 6, Special District Local Laws Code, is amended by adding Chapter 11002 to read as follows:

CHAPTER 11002. LAJITAS UTILITY DISTRICT NO. 1 OF BREWSTER COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 11002.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Director" means a board member.
- (3) "District" means the Lajitas Utility District No. 1 of Brewster

County.

Sec. 11002.002. NATURE OF DISTRICT. The district is a utility district with combined powers created under Section 59, Article XVI, Texas Constitution.

Sec. 11002.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 11002.004. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution;

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads; and

(3) Section 52-a, Article III, Texas Constitution, that relate to the development and diversification of the economy of this state and other purposes of that section.

(d) The creation of the district is in the public interest and essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district is not an agent or instrumentality of a private interest even though the district will benefit private interests as well as the public.

Sec. 11002.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 11002.006-11002.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 11002.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 11002.052, directors serve staggered four-year terms.

Sec. 11002.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Brent Ratliff;

(2) George Kutch;

(3) John Nolan;

(4) Renee Lorenz; and

(5) H. C. Ross.

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 11002.003;

or
(2) the fourth anniversary of the effective date of the Act creating this chapter.

(d) If permanent directors have not been elected under Section 11002.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (e) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 11002.003;

or
(2) the fourth anniversary of the date of the appointment or reappointment.

(e) If Subsection (d) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 11002.053-11002.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 11002.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 11002.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 11002.103. IMPROVEMENT PROJECTS AND SERVICES. Except as provided by Section 11002.113, the district may provide improvement projects and services in the same manner as a municipal management district under Section 375.112, Local Government Code.

Sec. 11002.104. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the Texas Commission on Environmental Quality as required by Section 54.234, Water Code.

(c) The district, at the district's expense, shall repair and maintain any internal streets and roads in the district. Brewster County has no obligation to repair or maintain the internal streets and roads in the district, even on dissolution of the district.

Sec. 11002.105. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 11002.104 unless:

(1) each county that will operate and maintain the road has approved the plans and specifications of the road project, if a county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 11002.106. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 11002.107. LIMITATION ON USE OF EMINENT DOMAIN. (a) The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 11002.104; or

(2) a recreational facility as defined by Section 49.462, Water Code.

(b) If the district's exercise of its eminent domain power requires relocating, raising, lowering, rerouting, or altering the construction of any electric transmission or electric distribution line, conduit, pole, or facility, the district must bear the actual cost of relocating, raising, lowering, rerouting, or altering the construction of any electric transmission or electric distribution line to provide a comparable replacement without enhancing the facility, after deducting from the cost the net salvage value derived from the old facility.

Sec. 11002.108. ELECTRIC POWER FACILITIES. The district may construct or acquire electric power generating, transmission, and distribution facilities and improvements in aid of these facilities.

Sec. 11002.109. AIRPORT. The district may construct, acquire, improve, maintain, and operate an airport and improvements in aid of the airport.

Sec. 11002.110. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. The district may exercise the powers of a corporation created under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code).

Sec. 11002.111. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act creating this chapter.

(d) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section 11002.003 to confirm the district's creation.

(f) An order dividing the district shall:

(1) name each new district;

(2) include the metes and bounds of each new district;

(3) appoint temporary directors for each new district; and

(4) provide for the division of assets and liabilities between or among the new districts.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the Texas Commission on Environmental Quality and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 11002.003.

(i) Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

Sec. 11002.112. GROUNDWATER REGULATION. Section 36.121, Water Code, does not apply to a groundwater well owned or used by the district within the boundaries of the Brewster County Groundwater Conservation District. The rules of the Brewster County Groundwater Conservation District govern a groundwater well owned or used by the district within the Brewster County Groundwater Conservation District.

Sec. 11002.113. RETAIL ELECTRIC UTILITY SERVICES PROHIBITED. The district may not provide retail electric utility services, including transmission and distribution services, to residential, retail, commercial, industrial, or other customers inside or outside the district.

[Sections 11002.114-11002.150 reserved for expansion]

SUBCHAPTER D. TRANSFER OF PUBLIC IMPROVEMENTS

Sec. 11002.151. DEFINITION. In this subchapter, "receiving entity" means the entity that holds a certificate of convenience and necessity issued by the Public Utility Commission of Texas for the territory included in the district.

Sec. 11002.152. TRANSFER OF CERTAIN IMPROVEMENTS REQUIRED. Subject to Section 11002.155, the district shall transfer improvements described by Section 11002.108 in accordance with this section on the later of:

(1) the date that the district acquires or completes the improvement; or

(2) the date the receiving entity approves the transfer.

Sec. 11002.153. CONSTRUCTION STANDARDS. A public improvement transferred under this subchapter must be constructed in compliance with:

(1) the requirements and specifications established by the receiving entity on or before the date that construction of the improvement begins; and

(2) any tariffs for the electric utility or cooperative that is the receiving entity.

Sec. 11002.154. PARTIAL TRANSFER IN STAGES. The district may transfer part of an improvement under this subchapter if the district completes construction of the improvement in stages.

Sec. 11002.155. TRANSFER WITHOUT DEBT REQUIRED. The district shall convey all improvements that it is required to transfer under this subchapter without debt or other encumbrance.

Sec. 11002.156. OWNERSHIP AND RESPONSIBILITY AFTER TRANSFER. (a) After a transfer under this subchapter, the receiving entity owns the improvement and has sole jurisdiction and control over the improvement. On acceptance of the transfer, the receiving entity is responsible for all maintenance of the improvement, and the district is not responsible for the improvement or its maintenance.

(b) This section does not affect any authority of the receiving entity to alter, relocate, close, or discontinue maintenance of an improvement.

Sec. 11002.157. EFFECT OF CONVEYANCE ON DISTRICT DEBT. Conveyance of a public improvement to a receiving entity under this subchapter does not affect:

(1) the sole responsibility of the district to pay in full the principal of and interest and any premium on any outstanding district bonds or other debt; or

(2) the district's responsibility to perform the obligations provided by an order or resolution authorizing bonds or other debt.

[Sections 11002.158-11002.200 reserved for expansion]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 11002.201. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 11002.203.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 11002.202. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 11002.201, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 11002.203. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

Sec. 11002.204. SALES AND USE TAX. (a) The district may impose a sales and use tax if authorized by a majority of the voters of the district voting at an election called for that purpose. Revenue from the tax may be used for any purpose for which ad valorem tax revenue of the district may be used.

(b) The district may not adopt a sales and use tax if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district.

(c) If the voters of the district approve the adoption of a sales and use tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves an increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district, the election to adopt a sales and use tax under this chapter has no effect.

(d) Chapter 321, Tax Code, applies to the imposition, computation, administration, enforcement, and collection of the sales and use tax imposed by this section except to the extent it is inconsistent with this chapter.

(e) The district may not impose a sales and use tax at a rate that would cause the rate of the total sales and use taxes collected by all municipalities and other political subdivisions at a location in the district to exceed the maximum rate allowed by law. If a political subdivision's increase to a sales and use tax rate causes the total sales and use tax rate imposed at a location in the district to exceed the maximum rate allowed by law, the district's sales and use tax rate is automatically reduced to bring the total rate imposed at that location down to a rate allowed by law.

Sec. 11002.205. ASSESSMENTS; MUNICIPAL MANAGEMENT DISTRICT POWERS. Except as provided by Section 11002.206, the district may levy and collect special assessments in the same manner and for the same purposes as a municipal management district as provided in Subchapter F, Chapter 375, Local Government Code.

Sec. 11002.206. ELECTRIC UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of an electric cooperative as defined by Section 161.002, Utilities Code.

[Sections 11002.207-11002.250 reserved for expansion]

SUBCHAPTER F. BONDS AND OTHER OBLIGATIONS

Sec. 11002.251. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, sales and use taxes, other district money, or any combination of those sources to pay for any authorized district purpose.

Sec. 11002.252. TAXES FOR BONDS. (a) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of an ad valorem tax, without limit as to rate or amount, as required by Section 54.601, Water Code.

(b) The board shall annually impose the tax while all or part of the bonds are outstanding. Sections 54.601 and 54.602, Water Code, govern the amount and rate of the tax.

Sec. 11002.253. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. The Lajitas Utility District No. 1 of Brewster County initially includes all the territory contained in the following area:

FIELD NOTE DESCRIPTION

BEING A 2,763 ACRE TRACT OF LAND LOCATED IN PART OF THE M.K. & T.E. RY. CO. SURVEY, BLOCK G-5, PART OF THE G.C. & S. F. RY. CO. SURVEY, BLOCK G-12, AND PART OF THE T.C. RY. CO. SURVEY, BLOCK 341, IN BREWSTER COUNTY, TEXAS AS CONVEYED BY SPECIAL WARRANTY DEED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458 AND VOLUME 224, PAGE 502, DEED RECORDS, BREWSTER COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON BAR IN A ROCK MOUND FOUND TO MARK THE COMMON CORNER OF SECTIONS 99 AND 98, BLOCK 341, PART OF A 3,248.2 ACRE TRACT OF LAND CONVEYED BY GENERAL WARRANTY DEED TO TEXAS PARKS AND WILDLIFE DEPARTMENT AS RECORDED IN VOLUME 6, PAGE 432, DEED RECORDS, BREWSTER COUNTY, TEXAS, SECTION 94, BLOCK 341, T.C. RY. CO. SURVEY, BREWSTER COUNTY, TEXAS, AND SECTION 95, BLOCK 341, T.C. RY. CO. SURVEY, A 640 ACRE TRACT OF LAND CONVEYED BY SPECIAL WARRANTY DEED TO LAJITAS CAPITAL PARTNERS, LLC, RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE N01°07'48"E ALONG THE EAST LINE OF SAID SECTION 98, BLOCK 341 AND THE WEST LINE OF SAID SECTION 95, BLOCK 341, A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID SECTION 98, BLOCK 341, BEING THE NORTHWEST CORNER OF SAID SECTION 95, BLOCK 341, BEING THE SOUTHWEST CORNER OF SECTION 96, BLOCK 341, A 640 ACRE TRACT

OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC BY SPECIAL WARRANTY DEED RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE SOUTHEAST CORNER OF SECTION 97, BLOCK 341, PART OF A 3,248.2 ACRE TRACT OF LAND CONVEYED BY GENERAL WARRANTY DEED TO TEXAS PARKS AND WILDLIFE DEPARTMENT RECORDED IN VOLUME 6, PAGE 432, DEED RECORDS, BREWSTER COUNTY, TEXAS; THENCE N01°07'48"E ALONG THE EAST LINE OF SAID SECTION 97, BLOCK 341 AND THE WEST LINE OF SAID SECTION 96, BLOCK 341 A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID SECTION 97, BLOCK 341, BEING THE NORTHWEST CORNER OF SAID SECTION 96, BLOCK 341, BEING THE SOUTHEAST CORNER OF SECTION 55, BLOCK G-12, G.C. & S.F. RY. CO. SURVEY, BREWSTER COUNTY, TEXAS, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC BY SPECIAL WARRANTY DEED RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE SOUTHWEST CORNER OF SECTION 56, BLOCK G-12, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC BY SPECIAL WARRANTY DEED RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS; THENCE N88°52'12"W ALONG THE SOUTH LINE OF SAID SECTION 55, BLOCK G-12 AND THE NORTH LINE OF SAID SECTION 97, BLOCK 341 A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER BEING THE SOUTHWEST CORNER OF SAID SECTION 55, BLOCK G-12, BEING THE NORTHWEST CORNER OF SAID SECTION 97, BLOCK 341, BEING THE NORTHEAST CORNER OF SECTION 102, BLOCK 341, PART OF A 3,248.2 ACRE TRACT OF LAND CONVEYED BY GENERAL WARRANTY DEED TO TEXAS PARKS AND WILDLIFE DEPARTMENT RECORDED IN VOLUME 6, PAGE 432, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE SOUTHEAST CORNER OF SECTION 54, BLOCK G-12, G.C. & S.F. RY. CO. SURVEY, PART OF A 3,248.2 ACRE TRACT OF LAND CONVEYED BY GENERAL WARRANTY DEED TO TEXAS PARKS AND WILDLIFE DEPARTMENT RECORDED IN VOLUME 6, PAGE 432, DEED RECORDS, BREWSTER COUNTY, TEXAS; THENCE N01°07'48"E ALONG THE EAST LINE OF SAID SECTION 54, BLOCK G-12 AND THE WEST LINE OF SAID SECTION 55, BLOCK G-12, A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER BEING THE NORTHWEST CORNER OF SAID SECTION 55, BLOCK G-12, BEING THE NORTHEAST CORNER OF SAID SECTION 54, BLOCK G-12, BEING THE SOUTHEAST CORNER OF SECTION 49, BLOCK G-12, PART OF A 3,248.2 ACRE TRACT OF LAND CONVEYED BY GENERAL WARRANTY DEED TO TEXAS PARKS AND WILDLIFE DEPARTMENT RECORDED IN VOLUME 6, PAGE 432, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE SOUTHWEST CORNER OF SECTION 48, BLOCK G-12, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL

PARTNERS, LLC BY SPECIAL WARRANTY DEED RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE N01°07'48"E ALONG THE EAST LINE OF SAID SECTION 49, BLOCK G-12 AND THE WEST LINE OF SAID SECTION 48, BLOCK G-12, A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER BEING THE NORTHWEST CORNER OF SAID SECTION 48, BLOCK G-12, BEING THE NORTHEAST CORNER OF SAID SECTION 49, BLOCK G-12, BEING THE SOUTHWEST CORNER OF SECTION 47, BLOCK G-12, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC BY SPECIAL WARRANTY DEED RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE SOUTHEAST CORNER OF A TRACT OF LAND IN SECTION 50, BLOCK G-12 CONVEYED TO JANE STAVINOHA AND SUZANNE STAVINOHA RECORDED IN VOLUME 243, PAGES 188,192,194,196, AND 198, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE N01°07'48"E ALONG THE EAST LINE OF SAID STAVINOHA TRACT, SECTION 50 BLOCK G-12 AND THE WEST LINE OF SAID SECTION 47, BLOCK G-12, A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID STAVINOHA TRACT, SECTION 50, BLOCK G-12, BEING THE NORTHWEST CORNER OF SAID SECTION 47, BLOCK G-12, BEING THE SOUTHEAST CORNER OF SECTION 104, BLOCK G-5, M.K. & T.E. RY. CO. SURVEY, BREWSTER COUNTY, TEXAS, A 640 ACRE TRACT OF LAND CONVEYED TO THOMAS R. VESTER RECORDED IN VOLUME 192, PAGE 263, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE SOUTHWEST CORNER OF SECTION 103, BLOCK G-5, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE N01°07'48"E ALONG THE EAST LINE OF SAID VESTER TRACT, SECTION 104, BLOCK G-5 AND THE WEST LINE OF SAID SECTION 103, BLOCK G-5, A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID VESTER TRACT, SECTION 104, BLOCK G-5, BEING THE NORTHWEST CORNER OF SAID SECTION 103, BLOCK G-5, BEING THE SOUTHEAST CORNER OF SECTION 105, BLOCK G-5, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE SOUTHWEST CORNER OF A TRACT OF LAND IN SECTION 102, BLOCK G-5 CONVEYED TO MARK FUSCA RECORDED IN VOLUME 198, PAGE 470, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE S88°52'12"E ALONG THE NORTH LINE OF SAID SECTION 103, BLOCK G-5 AND THE SOUTH LINE OF SAID FUSCA TRACT, SECTION 102, BLOCK G-5 A DISTANCE OF 659.72 FEET TO A POINT FOR CORNER;

THENCE S01°07'48"W PASSING AT 5,277.78 FEET, THE SOUTH LINE OF SAID SECTION 103, BLOCK G-5 BEING THE NORTH LINE OF SAID SECTION 47, BLOCK G-12, PASSING AT 10,555.56 FEET THE SOUTH LINE OF SAID SECTION 47, BLOCK G-12 BEING THE NORTH LINE OF SAID SECTION 48, BLOCK G-12, PASSING AT 15,833.33 FEET THE SOUTH LINE OF SAID SECTION 48, BLOCK G-12 BEING THE NORTH LINE OF SAID SECTION 55, BLOCK G-12, AND CONTINUING A TOTAL DISTANCE OF 20,451.45 FEET TO A POINT FOR CORNER;

THENCE S88°52'12"E PASSING AT 4,618.06 FEET THE EAST LINE OF SAID SECTION 55, BLOCK G-12 BEING THE WEST LINE OF SAID SECTION 56, BLOCK G-12, AND CONTINUING A TOTAL DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER;

THENCE S01°07'48"W PASSING AT 659.72 FEET, THE SOUTH LINE OF SAID SECTION 56, BLOCK G-12 BEING THE NORTH LINE OF SAID SECTION 96, BLOCK 341, PASSING AT 5,937.45 FEET THE SOUTH LINE OF SAID SECTION 96, BLOCK 341 BEING THE NORTH LINE OF SAID SECTION 95, BLOCK 341 AND CONTINUING A TOTAL DISTANCE OF 9,895.84 FEET TO A POINT FOR CORNER;

THENCE S88°52'12"E PASSING AT 4,618.06 FEET, THE EAST LINE OF SAID SECTION 95, BLOCK 341 BEING THE WEST LINE OF SECTION 86, BLOCK 341, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND CONTINUING A TOTAL DISTANCE OF 8,576.40 FEET TO A POINT FOR CORNER;

THENCE N01°07'48"E PASSING AT 3,958.33 FEET, THE NORTH LINE OF SAID SECTION 86, BLOCK 341 BEING THE SOUTH LINE OF SECTION 85, BLOCK 341, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND CONTINUING A TOTAL DISTANCE OF 9,236.12 FEET TO A POINT FOR CORNER IN THE NORTH LINE OF SAID SECTION 85, BLOCK 341 BEING THE SOUTH LINE OF SECTION 57, BLOCK G-12, G.C. & S.F. RY. CO. SURVEY, BREWSTER COUNTY, TEXAS;

THENCE S88°52'12"E ALONG THE NORTH LINE SAID SECTION 85, BLOCK 341 BEING THE SOUTH LINE OF SAID SECTION 57, BLOCK G-12, A DISTANCE OF 1,319.44 FEET TO A POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID SECTION 85, BLOCK 341, THE SOUTHEAST CORNER OF SAID SECTION 57, BLOCK G-12, THE SOUTHWEST CORNER OF SECTION 58, BLOCK G-12, G.C. & S.F. RY. CO. SURVEY BREWSTER COUNTY, TEXAS, AND THE NORTHWEST CORNER OF SECTION 84, BLOCK 341, T.C. RY. CO. SURVEY, BREWSTER COUNTY, TEXAS;

THENCE S01°07'48"W ALONG THE EAST LINE OF SAID SECTION 85, BLOCK 341 BEING THE WEST LINE OF SAID SECTION 84, BLOCK 341, A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER AT THE SOUTHEAST CORNER OF SAID SECTION 85, BLOCK 341 BEING THE

SOUTHWEST CORNER OF SAID SECTION 84, BLOCK 341, BEING THE NORTHEAST CORNER OF SAID SECTION 86, BLOCK 341, AND BEING THE NORTHWEST CORNER OF SECTION 83, BLOCK 341, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC AS RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE S88°52'12"E ALONG THE NORTH LINE OF SAID SECTION 83, BLOCK 341 BEING THE SOUTH LINE OF SAID SECTION 84, BLOCK 341, A DISTANCE OF 1,319.44 FEET TO A POINT FOR CORNER IN THE NORTH LINE OF SAID SECTION 83, BLOCK 341;

THENCE S01°07'48"W A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER IN THE SOUTH LINE OF SAID SECTION 83, BLOCK 341 BEING IN THE NORTH LINE OF A 612 ACRE MORE OR LESS TRACT OF LAND IN SECTION 82, BLOCK 341, T.C. RY. CO. SURVEY CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC AS RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE S88°52'12"E, PASSING AT 3,958.34 FEET, THE SOUTHEAST CORNER OF SAID SECTION 83, BLOCK 341, BEING THE NORTHEAST CORNER OF SAID SECTION 82, BLOCK 341, BEING THE SOUTHWEST CORNER OF SECTION 74, BLOCK 341, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE NORTHWEST CORNER OF SECTION 75, BLOCK 341, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, PASSING AT 9,236.11, THE SOUTHEAST CORNER OF SAID SECTION 74, BLOCK 341, BEING THE NORTHEAST CORNER OF SAID SECTION 75, BLOCK 341, BEING THE SOUTHWEST CORNER OF SECTION 64, BLOCK 341, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE NORTHWEST CORNER OF SECTION 63, BLOCK 341, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND CONTINUING A TOTAL DISTANCE OF 13,194.46 FEET TO A POINT FOR CORNER;

THENCE N01°07'48"E, A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER IN THE NORTH LINE OF SAID SECTION 64, BLOCK 341;

THENCE S88°52'12"E, ALONG THE NORTH LINE OF SAID SECTION 64, BLOCK 341 BEING THE SOUTH LINE OF SECTION 72, BLOCK 341, T.C. RY. CO. SURVEY, BREWSTER COUNTY, TEXAS, A DISTANCE OF 1,319.44 FEET TO A POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID SECTION 64, BLOCK 341, THE SOUTHEAST CORNER OF SAID SECTION 72, BLOCK 341, THE SOUTHWEST CORNER OF SECTION 71, BLOCK 341, A 640 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE

502, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND BEING THE NORTHWEST CORNER OF A TRACT OF LAND IN SECTION 65, BLOCK 341 CONVEYED TO RAYMOND WAYNE PAULY RECORDED IN VOLUME 96, PAGE 308, DEED RECORDS, BREWSTER COUNTY, TEXAS; THENCE S01°07'48"W, ALONG THE EAST LINE OF SAID SECTION 64, BLOCK 341, PASSING AT A DISTANCE OF 5,277.78 FEET THE SOUTH LINE OF SAID SECTION 64, BLOCK 341, BEING THE NORTH LINE OF SAID SECTION 63, BLOCK 341, AND CONTINUING A TOTAL DISTANCE OF 6,277.78 FEET TO A POINT FOR CORNER;

THENCE N88°52'12"W PASSING AT 5,277.78 FEET, THE WEST LINE OF SAID SECTION 63, BLOCK 341, BEING THE EAST LINE OF SAID SECTION 75, BLOCK 341, PASSING AT 10,555.56 FEET THE WEST LINE OF SAID SECTION 75, BLOCK 341, BEING THE EAST LINE OF SAID SECTION 82, BLOCK 341, AND CONTINUING A TOTAL DISTANCE OF 14,513.90 FEET TO A POINT FOR CORNER;

THENCE S01°07'48"W PASSING AT 4,277.78 FEET, THE SOUTH LINE OF SAID SECTION 82, BLOCK 341, BEING THE NORTH LINE OF SECTION 81, BLOCK 341, A 640 ACRE TRACT OF LAND LOCATED IN THE T.C. RY. CO. SURVEY, BREWSTER COUNTY CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND CONTINUING A TOTAL DISTANCE OF 9,555.53 FEET TO A POINT FOR CORNER IN THE SOUTH LINE OF SAID SECTION 81, BLOCK 341;

THENCE N88°52'12"W ALONG THE SOUTH LINE OF SAID SECTION 81, BLOCK 341, A DISTANCE OF 1,319.44 FEET TO A POINT FOR CORNER BEING THE SOUTHWEST CORNER OF SAID SECTION 81, BLOCK 341, AND BEING THE SOUTHEAST CORNER OF PART OF A 440 ACRE TRACT OF LAND IN SECTION 88, BLOCK 341 IN THE T.C. RY.CO. SURVEY, BREWSTER COUNTY CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 502, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE N01°07'48"E ALONG THE EAST LINE OF SAID SECTION 88, BLOCK 341 BEING THE WEST LINE OF SAID SECTION 81, BLOCK 341 PASSING AT 5,277.78 FEET THE NORTH LINE OF SAID SECTIONS 81 AND 88 BLOCK 341, BEING THE SOUTH LINE OF SAID SECTION 82, BLOCK 341, AND SECTION 87, BLOCK 341, A 640 ACRE TRACT OF LAND LOCATED IN THE T.C. RY. CO. SURVEY, BREWSTER COUNTY CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND CONTINUING A TOTAL DISTANCE OF 10,555.56 FEET TO A POINT FOR CORNER BEING THE NORTHWEST CORNER OF SAID SECTION 82, BLOCK 341, BEING THE NORTHEAST CORNER OF SAID SECTION 87, BLOCK 341, BEING THE SOUTHWEST CORNER OF SAID SECTION 83, BLOCK, AND BEING THE SOUTHEAST CORNER OF SAID SECTION 86, BLOCK 341;

THENCE N88°52'12"W ALONG THE NORTH LINE OF SAID SECTION 87, BLOCK 341 BEING THE SOUTH LINE OF SAID SECTION 86, BLOCK 341, A DISTANCE OF 4,618.06 FEET TO A POINT FOR CORNER;

THENCE S01°07'48"W PASSING AT 5,277.78 FEET, THE SOUTH LINE OF SAID SECTION 87, BLOCK 341 BEING THE NORTH LINE OF SAID SECTION 88, BLOCK 341 CONTINUING A TOTAL DISTANCE OF 5,607.64 FEET TO A POINT FOR CORNER IN SAID 440 ACRE TRACT OF LAND IN SAID SECTION 88, BLOCK 341;

THENCE N88°52'12"W, A DISTANCE OF 659.72 FEET TO A POINT FOR CORNER IN THE WEST LINE OF SAID SECTION 88, BLOCK 341, BEING IN THE EAST LINE OF SECTION 93, BLOCK 341, T.C. RY. CO. SURVEY BREWSTER COUNTY, TEXAS, A 618.88 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE S01°07'48"W, ALONG THE EAST LINE OF SAID SECTION 93, BLOCK 341, BEING THE WEST LINE OF SAID SECTION 88, BLOCK 341, A DISTANCE OF 1,051.38 FEET TO A POINT FOR CORNER;

THENCE N89°27'31"W PASSING AT 5,272.25 FEET, THE WEST LINE OF SAID SECTION 93, BLOCK 341 BEING THE EAST LINE OF SECTION 92, BLOCK 341 T.C. RY. CO. SURVEY, BREWSTER COUNTY, A 419.6 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS AND CONTINUING A TOTAL DISTANCE OF 9,614.91 FEET TO A UNITED STATES DEPARTMENT OF THE INTERIOR MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 39, BLOCK 341, T.C. RY. CO. SURVEY, BREWSTER COUNTY, TEXAS;

THENCE N89°27'27"W ALONG THE NORTH LINE OF SAID SECTION 39, A DISTANCE OF 2,634.23 FEET TO A POINT FOR CORNER BEING THE NORTHWEST CORNER OF SECTION 39, BLOCK 341 AND BEING IN THE EAST LINE OF SECTION 37, BLOCK 341, PART OF A 201.84 ACRE TRACT OF LAND IN SECTIONS 36, 37, AND 100 CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 502, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE N71°35'00"W, DEPARTING THE EAST LINE OF SAID SECTION 37, BLOCK 341 AND CONTINUING ACROSS SAID SECTION 37, BLOCK 341, A DISTANCE OF 2,618.38 FEET TO A POINT FOR CORNER;

THENCE N27°10'25"W PASSING AT APPROXIMATELY 263 FEET, THE EAST LINE OF SAID SECTION 36, BLOCK 341 AND CONTINUING A TOTAL DISTANCE OF 2,314.62 FEET TO A POINT FOR CORNER BEING THE SOUTHWEST CORNER OF A 52.918 ACRE TRACT OF LAND IN SECTION 36, BLOCK 341 CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE N26°12'29"W ALONG THE SOUTHWESTERLY LINE OF SAID 52.918 ACRE TRACT, A DISTANCE OF 876.56 FEET TO A POINT FOR CORNER;

THENCE N01°07'48"E, PASSING AT APPROXIMATELY 1,273 FEET, THE NORTH LINE OF SAID 52.918 ACRE LAND AND THE SOUTH LINE OF A CALLED 359.313 ACRE TRACT OF LAND IN SECTIONS 36, 37, AND 100, BLOCK 341 AS DESCRIBED IN DEED CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 502, DEED RECORDS, BREWSTER COUNTY, TEXAS, AND CONTINUING A TOTAL DISTANCE OF 5,035.59 FEET TO A POINT FOR CORNER;

THENCE S88°52'12"E, A DISTANCE OF 1,375.22 FEET TO A POINT FOR CORNER IN THE EAST LINE OF SAID SECTION 36, BLOCK 341 BEING IN THE WEST LINE OF SAID SECTION 100, BLOCK 341;

THENCE S01°07'48"W, A DISTANCE OF 3,759.90 FEET TO A POINT FOR CORNER IN THE WEST LINE OF SAID SECTION 37, BLOCK 341;

THENCE N88°52'12"W, A DISTANCE OF 779.27 FEET TO A POINT FOR CORNER, SAID CORNER BEING THE NORTHEAST CORNER OF SAID 52.918 ACRE TRACT OF LAND;

THENCE S01°07'48"W ALONG THE EAST LINE OF SAID 52.918 ACRE TRACT OF LAND , A DISTANCE OF 1,172.25 FEET TO A POINT FOR CORNER;

THENCE S19°23'42"W CONTINUING ALONG THE EAST LINE OF SAID 52.918 ACRE TRACT, A DISTANCE OF 222.85 FEET TO A POINT FOR CORNER;

THENCE S11°23'22"W CONTINUING ALONG THE EASTERLY LINE OF SAID 52.918 ACRE TRACT, A DISTANCE OF 523.85 FEET TO A POINT FOR CORNER IN THE EAST LINE OF SAID 52.918 ACRE TRACT;

THENCE S27°10'25"E, DEPARTING THE EASTERLY LINE OF SAID 52.918 ACRE TRACT OF LAND , ACROSS SAID SECTION 36, BLOCK 341, A DISTANCE OF 2,394.95 FEET TO A POINT FOR CORNER;

THENCE S71°35'00"E ACROSS SAID SECTION 37, BLOCK 341, A DISTANCE OF 2,561.61 FEET TO A POINT FOR CORNER;

THENCE S89°27'27"E, A DISTANCE OF 2,619.75 FEET TO A POINT FOR CORNER;

THENCE N01°07'48"E A DISTANCE OF 2,303.36 FEET TO A POINT IN THE NORTH LINE OF SAID SECTION 92, BLOCK 341 BEING THE SOUTH LINE OF SECTION MC-1, PART OF A 84.62 ACRE TRACT OF LAND CONVEYED TO LAJITAS CAPITAL PARTNERS, LLC RECORDED IN VOLUME 224, PAGE 458, DEED RECORDS, BREWSTER COUNTY, TEXAS;

THENCE S88°52'12"E ALONG THE NORTH LINE OF SAID SECTION 92, BLOCK 341, BEING THE SOUTH LINE OF SECTION MC-1, BLOCK 341, A DISTANCE OF 4,336.93 FEET TO A POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID SECTION 92, BLOCK 341 AND THE SOUTHEAST CORNER OF SAID SECTION MC-1, BLOCK 341;

THENCE $S01^{\circ}07'48''W$ ALONG THE EAST LINE OF SAID SECTION 92, BLOCK 341, A DISTANCE OF 924.38 FEET TO A POINT FOR CORNER BEING THE SOUTHWEST CORNER OF SAID SECTION 94, BLOCK 341 AND THE NORTHWEST CORNER OF SAID SECTION 93, BLOCK 341; THENCE $S88^{\circ}52'12''E$, ALONG THE NORTH LINE OF SAID SECTION 93, BLOCK 341 BEING THE SOUTH LINE OF SAID SECTION 94, BLOCK 341, A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID SECTION 93, BLOCK 341, BEING THE SOUTHEAST CORNER OF SAID SECTION 94, BLOCK 341, BEING THE NORTHWEST CORNER OF SAID SECTION 88, BLOCK 341, AND BEING THE SOUTHWEST CORNER OF SAID SECTION 87, BLOCK 341; THENCE $N01^{\circ}07'48''E$ ALONG THE EAST LINE OF SAID SECTION 94, BLOCK 341 BEING THE WEST LINE OF SAID SECTION 87, BLOCK 341, A DISTANCE OF 5,277.78 FEET TO A POINT FOR CORNER BEING THE NORTHEAST CORNER OF SAID SECTION 94, BLOCK 341, BEING THE NORTHWEST CORNER OF SAID SECTION 87, BLOCK 341, BEING THE SOUTHEAST CORNER OF SAID SECTION 95, BLOCK 341, AND BEING THE SOUTHWEST CORNER OF SAID SECTION 86, BLOCK 341; THENCE $N88^{\circ}52'12''W$ ALONG THE NORTH LINE OF SAID SECTION 94, BLOCK 341 BEING THE SOUTH LINE OF SAID SECTION 95, BLOCK 341, A DISTANCE OF 5,277.78 FEET TO THE POINT OF BEGINNING AND CONTAINING 2,763 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS IS THE NORTH AMERICAN DATUM (NAD) OF 1983 (1993), GRID BEARINGS, TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204, CORS96, EPOCH 2002.00.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. (a) Section 11002.107, Special District Local Laws Code, as added by this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 11002, Special District Local Laws Code, as added by this Act, is amended by adding Section 11002.107 to read as follows:

Sec. 11002.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION 5. Except as otherwise provided by this Act:

(1) 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; and

(2) if this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

HB 2102 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hernandez Luna called up with senate amendments for consideration at this time,

HB 2102, A bill to be entitled An Act relating to the requirement that certain health benefit plans provide coverage for supplemental breast cancer screening.

Representative Hernandez Luna moved to concur in the senate amendments to **HB 2102**.

The motion to concur in the senate amendments to **HB 2102** prevailed by (Record 1589): 136 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter; Legler; Phillips; Taylor, V.; Weber.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Veasey; Walle.

Senate Committee Substitute

CSHB 2102, A bill to be entitled An Act relating to the requirement that certain mammography reports contain information regarding supplemental breast cancer screening.

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

SECTION 1. This Act shall be known as Henda's Law.

SECTION 2. Subchapter B, Chapter 86, Health and Safety Code, is amended by adding Section 86.013 to read as follows:

Sec. 86.013. INFORMATION ON SUPPLEMENTAL BREAST CANCER SCREENING. (a) On completion of a mammogram, a mammography facility certified by the United States Food and Drug Administration or by a certification agency approved by the United States Food and Drug Administration shall provide to the patient the following notice:

"If your mammogram demonstrates that you have dense breast tissue, which could hide abnormalities, and you have other risk factors for breast cancer that have been identified, you might benefit from supplemental screening tests that may be suggested by your ordering physician.

"Dense breast tissue, in and of itself, is a relatively common condition. Therefore, this information is not provided to cause undue concern, but rather to raise your awareness and to promote discussion with your physician regarding the presence of other risk factors, in addition to dense breast tissue.

"A report of your mammography results will be sent to you and your physician. You should contact your physician if you have any questions or concerns regarding this report."

(b) Notwithstanding any other law, this section does not create a cause of action or create a standard of care, obligation, or duty that provides a basis for a cause of action.

(c) The information required by this section or evidence that a person violated this section is not admissible in a civil, judicial, or administrative proceeding.

SECTION 3. A mammography facility is not required to comply with the requirements of Section 86.013, Health and Safety Code, as added by this Act, until January 1, 2012.

SECTION 4. This Act takes effect September 1, 2011.

HB 680 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Schwertner called up with senate amendments for consideration at this time,

HB 680, A bill to be entitled An Act relating to complaints filed with the Texas Medical Board.

Representative Schwertner moved to concur in the senate amendments to **HB 680**.

The motion to concur in the senate amendments to **HB 680** prevailed by (Record 1590): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Alonzo; Shelton; Walle.

Senate Committee Substitute

CSHB 680, A bill to be entitled An Act relating to complaints filed with the Texas Medical Board.

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

SECTION 1. Section 154.051, Occupations Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The board may not consider or act on a complaint involving care provided more than seven years before the date on which the complaint is received by the board unless the care was provided to a minor. If the care was provided to a minor, the board may not consider or act on a complaint involving the care after the later of:

(1) the date the minor is 21 years of age; or

(2) the seventh anniversary of the date of the care.

(e) On receipt of a complaint, the board may consider a previously investigated complaint to determine whether there is a pattern of practice violating this subtitle.

SECTION 2. Subchapter B, Chapter 154, Occupations Code, is amended by adding Section 154.0535 to read as follows:

Sec. 154.0535. REQUIREMENTS FOR CERTAIN COMPLAINTS. (a) In this section:

(1) "Anonymous complaint" means a complaint that lacks sufficient information to identify the source or the name of the person who filed the complaint.

(2) "Insurance agent" means a person licensed under Chapter 4054, Insurance Code.

(3) "Insurer" means an insurance company or other entity authorized to engage in the business of insurance under Subtitle C, Title 6, Insurance Code.

(4) "Third-party administrator" means a person required to have a certificate of authority under Chapter 4151, Insurance Code.

(b) The board may not accept anonymous complaints.

(c) Notwithstanding any confidentiality requirements under Chapter 552, Government Code, this subtitle, or rules adopted under this subtitle, a complaint filed with the board by an insurance agent, insurer, pharmaceutical company, or third-party administrator against a physician must include the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator filing the complaint. Not later than the 15th day after the date the complaint is filed with the board, the board shall notify the physician who is the subject of the complaint of the name and address of the insurance agent, insurer, pharmaceutical company, or third-party administrator who filed the complaint, unless the notice would jeopardize an investigation.

SECTION 3. Section 154.057(b), Occupations Code, is amended to read as follows:

(b) The board shall complete a preliminary investigation of the complaint not later than the 45th ~~30th~~ day after the date of receiving the complaint. The board shall first determine whether the physician constitutes a continuing threat to the public welfare. On completion of the preliminary investigation, the board shall determine whether to officially proceed on the complaint. If the board fails to complete the preliminary investigation in the time required by this subsection, the board's official investigation of the complaint is considered to commence on that date.

SECTION 4. Subchapter A, Chapter 164, Occupations Code, is amended by adding Section 164.0015 to read as follows:

Sec. 164.0015. REMEDIAL PLAN. (a) In addition to the authority under Sections 164.001 and 164.002, the board may issue and establish the terms of a remedial plan to resolve the investigation of a complaint relating to this subtitle.

(b) A remedial plan may not contain a provision that:

(1) revokes, suspends, limits, or restricts a person's license or other authorization to practice medicine; or

(2) assesses an administrative penalty against a person.

(c) A remedial plan may not be imposed to resolve a complaint:

(1) concerning:

(A) a patient death;

(B) the commission of a felony; or

(C) a matter in which the physician engaged in inappropriate sexual behavior or contact with a patient or became financially or personally involved with a patient in an inappropriate manner; or

(2) in which the appropriate resolution may involve a restriction on the manner in which a license holder practices medicine.

(d) The board may not issue a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with the board for the resolution of a different complaint relating to this subtitle.

(e) The board may assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering this plan.

(f) The board shall adopt rules necessary to implement this section.

SECTION 5. Sections 164.002(c) and (d), Occupations Code, are amended to read as follows:

(c) An agreed disposition is a disciplinary order for purposes of reporting under this subtitle and of administrative hearings and proceedings by state and federal regulatory agencies regarding the practice of medicine. An agreed disposition or a remedial plan under Section 164.0015 is public information.

(d) In civil litigation, an agreed disposition or a remedial plan under Section 164.0015 is a settlement agreement under Rule 408, Texas Rules of Evidence. This subsection does not apply to a license holder who has previously entered into an agreed disposition with the board of a different disciplinary matter or whose license the board is seeking to revoke.

SECTION 6. Section 164.003, Occupations Code, is amended by amending Subsections (b) and (f) and adding Subsection (i) to read as follows:

(b) Rules adopted under this section must require that:

(1) an informal meeting in compliance with Section 2001.054, Government Code, be scheduled not later than the 180th day after the date the board's official investigation of the complaint is commenced as provided by Section 154.057(b), unless good cause is shown by the board for scheduling the informal meeting after that date;

(2) the board give notice to the license holder of the time and place of the meeting not later than the 45th ~~[30th]~~ day before the date the meeting is held;

(3) the complainant and the license holder be provided an opportunity to be heard;

(4) at least one of the board members or district review committee members participating in the informal meeting as a panelist be a member who represents the public;

(5) the board's legal counsel or a representative of the attorney general be present to advise the board or the board's staff; and

(6) a member of the board's staff be at the meeting to present to the board's representative the facts the staff reasonably believes it could prove by competent evidence or qualified witnesses at a hearing.

(f) The notice required by Subsection (b)(2) must be accompanied by a written statement of the nature of the allegations and the information the board intends to use at the meeting. If the board does not provide the statement or information at that time, the license holder may use that failure as grounds for rescheduling the informal meeting. If the complaint includes an allegation that the license holder has violated the standard of care, the notice must include a copy of

the report by the expert physician reviewer. The license holder must provide to the board the license holder's rebuttal at least 15 ~~[five]~~ business days before the date of the meeting in order for the information to be considered at the meeting.

(i) On request by a physician under review, the board shall make a recording of the informal settlement conference proceeding. The recording is a part of the investigative file and may not be released to a third party unless authorized under this subtitle. The board may charge the physician a fee to cover the cost of recording the proceeding.

SECTION 7. Sections 164.007(a) and (a-1), Occupations Code, are amended to read as follows:

(a) The board by rule shall adopt procedures governing formal disposition of a contested case under Chapter 2001, Government Code. A formal hearing shall be conducted by an administrative law judge employed by the State Office of Administrative Hearings. After receiving the administrative law judge's findings of fact and conclusions of law, the board shall dispose of the contested case by issuing a final order based on the administrative law judge's findings of fact and conclusions of law ~~[determine the charges on the merits]~~.

(a-1) Notwithstanding Section 2001.058(e), Government Code, the [The] board may not change a finding of fact or conclusion of law or vacate or modify an order of the administrative law judge. The board may obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge as provided by Section 2001.058(f)(5), Government Code. For each case, the board has the sole authority and discretion to determine the appropriate action or sanction, and the administrative law judge may not make any recommendation regarding the appropriate action or sanction [only if the board makes a determination required by Section 2001.058(e), Government Code].

SECTION 8. (a) Sections 154.051, 154.057, and 164.003, Occupations Code, as amended by this Act, and Section 154.0535, Occupations Code, as added by this Act, apply only to the investigation of a complaint filed on or after the effective date of this Act. The investigation of a complaint filed before that date is governed by the law in effect on the date the complaint was filed, and that law is continued in effect for that purpose.

(b) The Texas Medical Board shall adopt rules under Section 164.0015, Occupations Code, as added by this Act, not later than January 1, 2012.

(c) Section 164.0015, Occupations Code, as added by this Act, applies only to a complaint under Subtitle B, Title 3, Occupations Code, filed on or after the effective date of this Act. A complaint under Subtitle B, Title 3, Occupations Code, filed before that date is governed by the law in effect on the date the complaint was filed, and that law is continued in effect for that purpose.

(d) Sections 164.007(a) and (a-1), Occupations Code, as amended by this Act, apply only to a contested case for which an administrative law judge employed by the State Office of Administrative Hearings issues written findings of fact and conclusions of law on or after the effective date of this Act. A contested case for which an administrative law judge employed by the State Office of Administrative Hearings issues written findings of fact and conclusions

of law before the effective date of this Act is governed by the law in effect on the date the findings of fact and conclusions of law were issued, and the former law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2011.

**HB 992 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Castro called up with senate amendments for consideration at this time,

HB 992, A bill to be entitled An Act relating to excess undergraduate credit hours at public institutions of higher education.

Representative Castro moved to concur in the senate amendments to **HB 992**.

The motion to concur in the senate amendments to **HB 992** prevailed by (Record 1591): 107 Yeas, 32 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Aycock; Berman; Bohac; Branch; Brown; Callegari; Castro; Chisum; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Legler; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Beck; Bonnen; Burkett; Button; Cain; Carter; Cook; Creighton; Davis, S.; Driver; Hancock; Harper-Brown; Hughes; Landtroop; Laubenberg; Lavender; Madden; Miller, D.; Miller, S.; Paxton; Perry; Riddle; Sheets; Simpson; Smith, T.; Taylor, L.; Taylor, V.; Weber; White; Zedler.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Coleman; Veasey; Walle.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1591. I intended to vote no.

Bohac

I was shown voting yes on Record No. 1591. I intended to vote no.

Craddick

I was shown voting yes on Record No. 1591. I intended to vote no.

Gooden

I was shown voting yes on Record No. 1591. I intended to vote no.

Harless

I was shown voting yes on Record No. 1591. I intended to vote no.

Huberty

I was shown voting yes on Record No. 1591. I intended to vote no.

Kolkhorst

I was shown voting yes on Record No. 1591. I intended to vote no.

Schwertner

I was shown voting yes on Record No. 1591. I intended to vote no.

Truitt

Senate Committee Substitute

CSHB 992, A bill to be entitled An Act relating to excess undergraduate credit hours at public institutions of higher education.

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

SECTION 1. Section 51.907, Education Code, is amended by adding Subsection (g) to read as follows:

(g) An institution of higher education shall provide written notice to each undergraduate student of the provisions of this section before the end of the first semester in which the student is enrolled in the institution. The notice required by this subsection may be delivered by electronic mail or other method of written communication, as determined by the institution.

SECTION 2. Section 61.0595(d), Education Code, is amended to read as follows:

(d) The following are not counted for purposes of determining whether the student has previously earned the number of semester credit hours specified by Subsection (a):

(1) semester credit hours earned by the student before receiving a baccalaureate degree that has previously been awarded to the student;

(2) semester credit hours earned by the student by examination or under any other procedure by which credit is earned without registering for a course for which tuition is charged;

(3) credit for a remedial education course, a technical course, a workforce education course funded according to contact hours, or another course that does not count toward a degree program at the institution;

(4) semester credit hours earned by the student at a private institution or an out-of-state institution; ~~and~~

(5) semester credit hours earned by the student before graduating from high school and used to satisfy high school graduation requirements; and

(6) semester credit hours earned by the student before receiving an associate degree that has been previously awarded to the student in excess of the number of semester credit hours required for the completion of that degree.

SECTION 3. The change in law made by this Act to Section 61.0595, Education Code, applies beginning with the funding recommendations made under Section 61.059, Education Code, for the 2013-2014 academic year.

SECTION 4. The change in law made by this Act to Section 51.907, Education Code, applies beginning with the fall 2011 semester.

SECTION 5. 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.

HB 2327 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2327**: McClendon, chair; Fletcher, Harper-Brown, Pickett, and Rodriguez.

HB 3025 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Branch called up with senate amendments for consideration at this time,

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.

Representative Branch moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3025**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3025**: Branch, chair; Bonnen, D. Howard, Johnson, and Ritter.

HB 3395 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Callegari called up with senate amendments for consideration at this time,

HB 3395, A bill to be entitled An Act relating to state purchasing preferences for recycled products.

Representative Callegari moved to concur in the senate amendments to **HB 3395**.

The motion to concur in the senate amendments to **HB 3395** prevailed by (Record 1592): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; 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; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Hochberg.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Dutton; Walle.

Senate Committee Substitute

CSHB 3395, A bill to be entitled An Act relating to state purchasing preferences for recycled products and to the efficient operation of certain telecommunications entities.

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

SECTION 1. Section 2155.445(a), Government Code, is amended to read as follows:

(a) The commission and state agencies shall give preference to recycled, remanufactured, or environmentally sensitive products, as those terms are defined by rule of the commission, in purchases made under this subtitle if:

(1) the product meets state specifications regarding quantity and quality; and

(2) the average price of the product is not more than 10 percent greater than the price of comparable nonrecycled products.

SECTION 2. Section 2155.446, Government Code, is amended to read as follows:

Sec. 2155.446. PURCHASE AND USE OF PAPER CONTAINING RECYCLED FIBERS. (a) Subject to Subsection (c), the [The] commission shall contract for paper containing the highest proportion of recycled fibers for all purposes for which paper with recycled fibers may be used and to the extent that the paper is available [at a reasonable price] through normal commercial sources to supply the state's needs.

(b) Subject to Subsection (c), a [A] state agency that purchases through the commission shall place orders for papers containing recycled fibers to the highest extent of its needs and to the extent that the paper is available through the commission's purchasing procedures.

(c) This section does not apply if the average price of paper with recycled fibers exceeds by more than 10 percent the price of comparable nonrecycled paper.

SECTION 3. Section 2170.005(a), Government Code, is amended to read as follows:

(a) To ensure efficient operation of the consolidated telecommunications system at minimum cost to the state, the department shall adopt and disseminate to all agencies appropriate guidelines and[;] operating procedures[;] and may publish telephone directories listed under Subchapter I, Chapter 55, Utilities Code, Sections 55.202 and 55.203 on a state Internet website.

SECTION 4. Subchapter I, Chapter 55, Utilities Code, is amended by adding Section 55.204 to read as follows:

Sec. 55.204. ELECTRONIC TELEPHONE DIRECTORY. (a) Notwithstanding any other law, a telecommunication provider or telecommunications utility to further the recycling goals, may publish on the provider's or the utility's Internet website a telephone directory or directory listing instead of providing for general distribution to the public of printed directories or listings.

(b) A provider or utility that publishes a telephone directory or directory listing as described by Subsection (a) shall provide a print or digital copy of the directory or listing to a customer on request. If a provider or utility exercises this option, it shall notify its customers that provider or utility shall provide the first print or digital copy requested by a customer in each calendar year at no charge to the customer.

SECTION 5. 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.

HB 3453 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Anchia called up with senate amendments for consideration at this time,

HB 3453, A bill to be entitled An Act relating to the regulatory authority of the consumer credit commissioner.

Representative Anchia moved to concur in the senate amendments to **HB 3453**.

The motion to concur in the senate amendments to **HB 3453** prevailed by (Record 1593): 77 Yeas, 62 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Castro; Chisum; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hardcastle; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, D.; Hunter; Isaac; Jackson; Johnson; King, S.; King, T.; Kuempel; Larson; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Orr; Otto; Patrick; Peña; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Simpson; Smithee; Solomons; Strama; Thompson; Torres; Turner; Veasey; Villarreal; Vo.

Nays — Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Cook; Craddick; Creighton; Darby; Driver; Elkins; Flynn; Frullo; Geren; Hamilton; Hancock; Harless; Harper-Brown; Hilderbran; Howard, C.; Huberty; Hughes; King, P.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lewis; Madden; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Parker; Paxton; Perry; Phillips; Pitts; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Taylor, V.; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Coleman; Taylor, L.; Truitt; Walle.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1593. I intended to vote no.

Gooden

I was shown voting yes on Record No. 1593. I intended to vote no.

Peña

I was shown voting yes on Record No. 1593. I intended to vote no.

Solomons

When Record No. 1593 was taken, I was in the house but away from my desk. I would have voted no.

L. Taylor

When Record No. 1593 was taken, my vote failed to register. I would have voted yes.

Truitt

Senate Committee Substitute

CSHB 3453, A bill to be entitled An Act relating to the regulatory authority of the consumer credit commissioner and to fees and interest charged in connection with consumer credit transactions.

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

SECTION 1. Section 14.2015, Finance Code, is amended to read as follows:

Sec. 14.2015. CONFIDENTIALITY OF CERTAIN INFORMATION. (a) Except as provided by Subsection (b), information or material obtained or compiled by the commissioner in relation to an examination or investigation by the commissioner or the commissioner's representative of a license holder, ~~or~~ registrant, applicant, or other person under Subtitle B or C, Title 4, or Chapter 394 is confidential and may not be disclosed by the commissioner or an officer or employee of the Office of Consumer Credit Commissioner, including:

(1) information obtained from a license holder, ~~or~~ registrant, applicant, or other person examined or investigated under Subtitle B or C, Title 4, or Chapter 394;

(2) work performed by the commissioner or the commissioner's representative on information obtained from a license holder, ~~or~~ registrant, applicant, or other person for the purposes of an examination or investigation conducted under Subtitle B or C, Title 4, or Chapter 394;

(3) a report on an examination or investigation of a license holder, ~~or~~ registrant, applicant, or other person conducted under Subtitle B or C, Title 4, or Chapter 394; and

(4) any written communications between the license holder, ~~or~~ registrant, applicant, or other person, as applicable, and the commissioner or the commissioner's representative relating to or referencing an examination or investigation conducted under Subtitle B or C, Title 4, or Chapter 394.

(b) The commissioner or the commissioner's representative may disclose the confidential information or material described by Subsection (a):

(1) to a department, agency, or instrumentality of this state or the United States if the commissioner considers disclosure to be necessary or proper to the enforcement of the laws of this state or the United States and in the best interest of the public;

(2) if the license holder, ~~or~~ registrant, applicant, or other person consents to the release of the information or has published the information contained in the release; or

(3) if the commissioner determines that release of the information is required for an administrative hearing.

SECTION 2. Subchapter E, Chapter 14, Finance Code, is amended by adding Section 14.2016 to read as follows:

Sec. 14.2016. INFORMATION SHARING WITH DEPARTMENTS AND AGENCIES. To ensure consistent enforcement of law and minimization of regulatory burdens, the commissioner may share information, including criminal history or confidential information, relating to a license holder, registrant, applicant, or other person investigated or examined under the commissioner's authority with a department, agency, or instrumentality of this state, another state, or the United States if the commissioner considers the disclosure of the information to be necessary or proper to the enforcement of the laws of this state

or the United States and in the best interest of the public. Information otherwise confidential remains confidential after the information is shared under this section.

SECTION 3. Section 303.009(d), Finance Code, is amended to read as follows:

(d) For an open-end account credit agreement that provides for credit card transactions on which a merchant discount is not imposed or received by the creditor or a retail charge agreement under Chapter 345 without a merchant discount, the ceiling is 21 percent a year.

SECTION 4. Section 303.203(a), Finance Code, is amended to read as follows:

(a) A lender may, at the time or after a loan is made, offer to sell to the borrower and finance in a ~~the~~ loan contract subject to this subtitle a charge for an automobile club membership.

SECTION 5. Section 342.502(d), Finance Code, is amended to read as follows:

(d) On a loan subject to this chapter a lender may assess and collect a fee that does not exceed the amount prescribed by Section 3.506, Business & Commerce Code [Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, Vernon's Texas Civil Statutes)], for the return by a depository institution of a dishonored check, negotiable order of withdrawal, or share draft offered in full or partial payment of a loan.

SECTION 6. The heading to Subchapter D, Chapter 345, Finance Code, is amended to read as follows:

SUBCHAPTER D. ALTERNATE FINANCE CHARGE ~~[MARKET~~
COMPETITIVE RATE] CEILING

SECTION 7. Section 345.155, Finance Code, is amended to read as follows:

Sec. 345.155. TIME PRICE DIFFERENTIAL COMPUTATION AND AMOUNT. (a) A time price differential authorized under Subchapter C ~~[this subchapter]~~ shall be computed using the average daily balance method.

(b) If the amount of a time price differential otherwise authorized under Subchapter C ~~[this subchapter]~~ for a billing cycle in which a balance is due is less than 75 cents a month, the holder may charge an amount that does not exceed 75 cents a month.

SECTION 8. Section 345.157(a), Finance Code, is amended to read as follows:

(a) A retail charge agreement ~~[that implements the market competitive rate ceiling]~~ may provide for the payment of:

- (1) a delinquency charge on each installment that is in default for a period that is longer than 21 days;
- (2) an attorney's reasonable fee if the agreement is referred for collection to an attorney who is not a salaried employee of the holder; and
- (3) court costs and disbursements.

SECTION 9. Section 346.103(a), Finance Code, is amended to read as follows:

(a) The following fees may be charged to or collected from a customer in connection with an account under this chapter:

(1) an annual fee not to exceed:

(A) \$50 a year on an account with a credit limit of \$5,000 or less;

(B) \$75 a year on an account with a credit limit exceeding \$5,000 but not exceeding \$25,000; and

(C) \$125 a year on an account with a credit limit exceeding \$25,000;

(2) a late charge not to exceed the lesser of \$15 or five percent of the payment due after the payment continues unpaid for 10 days or more after the date the payment is due, including Sundays and holidays;

(3) a cash advance charge not to exceed the greater of \$2 or two percent of the cash advance;

(4) a returned check fee as provided for a loan agreement under Chapter 342 by Section 3.506, Business & Commerce Code [~~Section 1, Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, Vernon's Texas Civil Statutes)~~]; and

(5) a fee for exceeding a credit limit not to exceed the greater of \$15 or five percent of the amount by which the credit limit is exceeded.

SECTION 10. Section 348.006, Finance Code, is amended by adding Subsections (e-1), (e-2), and (e-3) to read as follows:

(e-1) Except as provided by Subsections (e-2) and (e-3), the following information and documents are confidential and not subject to disclosure:

(1) all information provided by a retail seller to the commissioner under Subsection (e), including the maximum documentary fee a retail seller intends to charge, the written notice of an increased documentary fee, and any financial information submitted with the notice; and

(2) all correspondence between a retail seller and the commissioner or the commissioner's representative relating to the notice of an increased documentary fee under Subsection (e) and a review for reasonableness of the amount of the documentary fee to be charged.

(e-2) The commissioner may disclose information or documents that are confidential under Subsection (e-1) if:

(1) the commissioner determines that release of the information or documents is required for an administrative hearing;

(2) the retail seller consents to the release of the information or documents; or

(3) the disclosure is required by a court order.

(e-3) The commissioner or the commissioner's representative may disclose whether a retail seller has filed written notice of an increased documentary fee and the proposed amount of the increased fee to:

(1) a holder that provides written proof, signed by the retail seller, that the retail seller has agreed to assign or transfer one or more retail installment contracts to the holder; or

(2) a prospective retail buyer that provides to the commissioner:

(A) a buyer's order executed by the prospective buyer and the retail seller;

(B) a draft of a retail installment contract provided by the retail seller to the prospective buyer; or

(C) a written statement by the retail seller acknowledging that the person is a prospective buyer of a motor vehicle from the retail seller.

SECTION 11. Section 351.006, Finance Code, is amended to read as follows:

Sec. 351.006. ENFORCEMENT. (a) In addition to any other applicable enforcement provisions, Subchapters E, F, and G, Chapter 14, apply to a violation of this chapter or Section 32.06 or 32.065, Tax Code, in connection with property tax loans.

(b) Notwithstanding Section 14.251, the commissioner may assess an administrative penalty under Subchapter F, Chapter 14, against a person who violates Section 32.06(b-1), Tax Code, regardless of whether the violation is knowing or wilful.

SECTION 12. Section 411.081(i), Government Code, as amended by Chapters 183 (**HB 1830**), 780 (**SB 1056**), 816 (**SB 1599**), and 1027 (**HB 4343**), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) the Texas Juvenile Probation Commission;

(19) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;

(20) the Texas State Board of Public Accountancy;

(21) the Texas Department of Licensing and Regulation;

(22) the Health and Human Services Commission;

(23) the Department of Aging and Disability Services;

(24) the Texas Education Agency; ~~and~~

(25) the Guardianship Certification Board; ~~and~~

(26) a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code;

(27) ~~(25)~~ the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:

(A) the Department of Information Resources; or

(B) a contractor or subcontractor of the Department of Information Resources;

~~(28)~~ ~~(25)~~ the Court Reporters Certification Board; and

~~(29)~~ ~~(25)~~ the Texas Department of Insurance.

SECTION 13. Section 53.0211(a), Occupations Code, is amended to read as follows:

(a) This section does not apply to an applicant for a license that would allow the applicant to provide:

(1) law enforcement services;

(2) public health, education, or safety services; or

(3) financial services in an industry regulated by the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner.

SECTION 14. Section 345.153, Finance Code, is repealed.

SECTION 15. The change in law made by this Act to Section 53.0211(a), Occupations Code, applies only to an application for a license filed on or after the effective date of this Act. An application for a license filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 16. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 17. This Act takes effect September 1, 2011.

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).

**HB 3468 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Patrick called up with senate amendments for consideration at this time,

HB 3468, A bill to be entitled An Act relating to the assessment of public school students for college readiness and developmental education courses to prepare students for college-level coursework.

Representative Patrick moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3468**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3468**: Patrick, chair; Aycock, Branch, D. Howard, and Shelton.

**HB 2662 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 2662, A bill to be entitled An Act relating to child abduction.

Representative Hochberg moved to concur in the senate amendments to **HB 2662**.

The motion to concur in the senate amendments to **HB 2662** prevailed by (Record 1594): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Ritter.

Senate Committee Substitute

CSHB 2662, A bill to be entitled An Act relating to the criteria for determining whether a child is a missing child.

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

SECTION 1. Article 63.001(3), Code of Criminal Procedure, is amended to read as follows:

(3) "Missing child" means a child whose whereabouts are unknown to the child's legal custodian, the circumstances of whose absence indicate that:

(A) the child did not voluntarily leave the care and control of the custodian, and the taking of the child was not authorized by law;

(B) the child voluntarily left the care and control of the ~~his legal~~ custodian without the custodian's consent and without intent to return; ~~or~~

(C) the child was taken or retained in violation of the terms of a court order for possession of or access to the child; or

(D) the child was taken or retained without the permission of the custodian and with the effect of depriving the custodian of possession of or access to the child unless the taking or retention of the child was prompted by the commission or attempted commission of family violence, as defined by Section 71.004, Family Code, against the child or the actor.

SECTION 2. The change in law made by this Act in amending Article 63.001(3), Code of Criminal Procedure, applies only to the report of a missing child made under Chapter 63, Code of Criminal Procedure, as amended by this Act, on or after the effective date of this Act. The report of a missing child made before the effective date of this Act is governed by the law in effect when the report was made, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.

HB 2655 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Sheets called up with senate amendments for consideration at this time,

HB 2655, A bill to be entitled An Act relating to notice of coverage reduction on renewal of a property/casualty insurance policy.

Representative Sheets moved to concur in the senate amendments to **HB 2655**.

The motion to concur in the senate amendments to **HB 2655** prevailed by (Record 1595): 141 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Walle.

Senate Committee Substitute

CSHB 2655, A bill to be entitled An Act relating to notice of coverage reduction on renewal of a property/casualty insurance policy.

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

SECTION 1. Section 2002.001, Insurance Code, is amended to read as follows:

Sec. 2002.001. ENDORSEMENTS REDUCING AMOUNT OF COVERAGE. An insurer may not use an endorsement to a policy form to which Article 5.35, Subchapter B, or Subchapter B, Chapter 2301, applies that reduces [~~the amount of~~] coverage that would otherwise be provided under the policy unless:

- (1) the insured requests the endorsement; or
- (2) the insurer provides the policyholder with a written explanation of the change made by the endorsement not later than the 30th day before the date on which the policy expires [~~effective date of the change~~].

SECTION 2. Section 551.105, Insurance Code, is amended to read as follows:

Sec. 551.105. NONRENEWAL OF POLICIES; NOTICE REQUIRED. Unless the insurer has mailed written notice of nonrenewal or renewal with written notice of change in coverage as provided by Section 2002.001 to the insured not later than the 30th day before the date on which the insurance policy expires, an insurer must renew an insurance policy, at the request of the insured, on the expiration of the policy.

SECTION 3. This Act takes effect September 1, 2011.

**HB 3117 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative D. Howard called up with senate amendments for consideration at this time,

HB 3117, A bill to be entitled An Act relating to the reporting of information to claims databases by insurers.

Representative D. Howard moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3117**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3117**: Vo, chair; Eiland, Sheets, Smithee, and L. Taylor.

**HB 218 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 218, A bill to be entitled An Act relating to possessing a glass container within the boundaries of certain riverbeds; providing criminal penalties.

Representative Gallego moved to concur in the senate amendments to **HB 218**.

The motion to concur in the senate amendments to **HB 218** prevailed by (Record 1596): 134 Yeas, 6 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Berman; Bonnen; Branch; Brown; Burkett; Button; Callegari; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; 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; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Beck; Cain; Carter; Lavender; Phillips; White.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Bohac; Naishtat; Walle.

Senate Committee Substitute

CSHB 218, A bill to be entitled An Act relating to possessing a glass container within the boundaries of certain riverbeds; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: SECTION 1. Subchapter C, Chapter 365, Health and Safety Code, is amended by adding Section 365.035 to read as follows:

Sec. 365.035. PROHIBITION ON POSSESSING GLASS CONTAINERS WITHIN BOUNDARY OF STATE-OWNED RIVERBED; PENALTIES. (a) In this section, "glass container" means a glass container designed to contain a beverage, including a bottle or jar.

(b) A person commits an offense if the person knowingly possesses a glass container within the boundaries of a state-owned riverbed in a county:

(1) that is located within 85 miles of an international border; and

(2) in which at least four rivers are located.

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

(d) It is a defense to prosecution under Subsection (b) that the person who possessed the glass container:

(1) did not transport the glass container into the boundaries of the riverbed;

(2) possessed the glass container only for the purpose of lawfully disposing of the glass container in a designated waste receptacle; or

(3) is the owner of property adjacent to the section of the riverbed in which the person possessed the glass container.

(e) It is an exception to the application of Subsection (b) that the person possessed the glass container only for the purpose of water sampling or conducting scientific research as authorized by:

(1) a governmental entity;

(2) a utility as defined by Section 11.004, Utilities Code;

(3) a retail public utility as defined by Section 13.002, Water Code;

(4) a power generation company as defined by Section 31.002, Utilities

Code;

(5) a surface coal mining and reclamation operation, as defined by Section 134.004, Natural Resources Code; or

(6) a school-sponsored or university-sponsored educational activity.

SECTION 2. This Act takes effect September 1, 2011.

HB 422 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Guillen called up with senate amendments for consideration at this time,

HB 422, A bill to be entitled An Act relating to certain oversize and overweight permits issued by the Texas Department of Transportation.

Representative Guillen moved to concur in the senate amendments to **HB 422**.

The motion to concur in the senate amendments to **HB 422** prevailed by (Record 1597): 128 Yeas, 10 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Castro; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Legler; Lewis; Lozano; Lucio; 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; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anderson, R.; Beck; Carter; Fletcher; Gooden; Laubenberg; Lavender; Nash; Riddle; Sheffield.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Coleman; Hughes; Quintanilla; Veasey; Walle.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1597. I intended to vote yes.

Beck

I was shown voting yes on Record No. 1597. I intended to vote no.

L. Gonzales

I was shown voting yes on Record No. 1597. I intended to vote no.

Huberty

I was shown voting yes on Record No. 1597. I intended to vote no.

S. King

I was shown voting yes on Record No. 1597. I intended to vote no.

Kolkhorst

I was shown voting yes on Record No. 1597. I intended to vote no.

Landtroop

I was shown voting yes on Record No. 1597. I intended to vote no.

Otto

I was shown voting yes on Record No. 1597. I intended to vote no.

Perry

Senate Committee Substitute

CSHB 422, A bill to be entitled An Act relating to certain oversize and overweight permits issued by the Texas Department of Transportation.

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

SECTION 1. Subchapter B, Chapter 623, Transportation Code, is amended by adding Section 623.0181 to read as follows:

Sec. 623.0181. PERMITS FOR AUXILIARY POWER UNITS. The department may issue a permit that authorizes the operation of a commercial motor vehicle, trailer, semitrailer, or combination of those vehicles, or a truck-tractor or combination of a truck-tractor and one or more other vehicles, that exceeds the maximum weight limit as set by the department due to the presence of an auxiliary power unit that allows the vehicle to operate on electricity or battery power if the department finds that such an exemption would reduce nitrogen oxide emissions.

SECTION 2. Subchapter D, Chapter 623, Transportation Code, is amended by adding Section 623.0711 to read as follows:

Sec. 623.0711. PERMITS AUTHORIZED BY COMMISSION. (a) The commission by rule may authorize the department to issue a permit to a motor carrier, as defined by Section 643.001, to transport multiple loads of the same commodity over a state highway if all of the loads are traveling between the same general locations.

(b) The commission may not authorize the issuance of a permit that would allow a vehicle to:

(1) violate federal regulations on size and weight requirements; or

(2) transport equipment that could reasonably be dismantled for transportation as separate loads.

(c) The commission rules must require that, before the department issues a permit under this section, the department:

(1) determine that the state will benefit from the consolidated permitting process; and

(2) complete a route and engineering study that considers:

(A) the estimated number of loads to be transported by the motor carrier under the permit;

(B) the size and weight of the commodity;

(C) available routes that can accommodate the size and weight of the vehicle and load to be transported;

(D) the potential roadway damage caused by repeated use of the road by the permitted vehicle;

(E) any disruption caused by the movement of the permitted vehicle; and

(F) the safety of the traveling public.

(d) The commission rules may authorize the department to impose on the motor carrier any condition regarding routing, time of travel, axle weight, and escort vehicles necessary to ensure safe operation and minimal damage to the roadway.

(e) A permit issued under this section may provide multiple routes to minimize damage to the roadways.

(f) The commission shall require the motor carrier to file a bond in an amount set by the commission, payable to the department and conditioned on the motor carrier paying to the department any damage that is sustained to a state highway because of the operation of a vehicle under a permit issued under this section.

(g) An application for a permit under this section must be accompanied by the permit fee established by the commission for the permit, not to exceed \$9,000. The department shall send each fee to the comptroller for deposit to the credit of the state highway fund.

(h) In addition to the fee established under Subsection (g), the commission rules must authorize the department to collect a consolidated permit payment for a permit under this section in an amount not to exceed 15 percent of the fee established under Subsection (g), to be deposited to the credit of the state highway fund.

(i) The executive director of the department or the executive director's designee may suspend a permit issued under this section or alter a designated route because of:

- (1) a change in pavement conditions;
- (2) a change in traffic conditions;
- (3) a geometric change in roadway configuration;
- (4) construction or maintenance activity; or
- (5) emergency or incident management.

(j) A violation of a permit issued under this section is subject to the administrative sanctions of Subchapter N.

(k) In this section, "commission" means the Texas Transportation Commission.

SECTION 3. Section 623.071, Transportation Code, is amended by adding Subsection (h) to read as follows:

(h) If on completion of a route and engineering study the department determines that the additional length can be transported safely, the department may issue to a person a single trip permit that allows the person to operate over a highway in this state superheavy or oversize equipment exceeding the length limitation established by Subsection (c) and that may be used in conjunction with an annual permit issued under that subsection.

SECTION 4. 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.

**HB 167 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Raymond called up with senate amendments for consideration at this time,

HB 167, A bill to be entitled An Act relating to the transportation of certain mental health patients.

Representative Raymond moved to concur in the senate amendments to **HB 167**.

The motion to concur in the senate amendments to **HB 167** prevailed by (Record 1598): 137 Yeas, 3 Nays, 2 Present, not voting.

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

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Callegari; Hopson; Ritter.

STATEMENT OF VOTE

I was shown voting no on Record No. 1598. I intended to vote yes.

Schwertner

Senate Committee Substitute

CSHB 167, A bill to be entitled An Act relating to the transportation of certain mental health patients.

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

SECTION 1. Section 574.045, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The court may authorize, in the following order of priority, the transportation of a committed patient or a patient detained under Section 573.022 or 574.023 to the designated mental health facility by:

(1) a special officer for mental health assignment certified under Section 1701.404, Occupations Code [~~a relative or other responsible person who has a proper interest in the patient's welfare and who receives no remuneration, except for actual and necessary expenses~~];

(2) the facility administrator of the designated mental health facility, unless [~~if~~] the administrator notifies the court that facility personnel are not available to transport the patient;

(3) a relative or other responsible person who has a proper interest in the patient's welfare and who receives no remuneration, except for actual and necessary expenses [~~a special officer for mental health assignment certified under Section 1701.404, Occupations Code~~];

(4) a representative of the local mental health authority, who shall be reimbursed by the county, unless the representative notifies the court that local mental health authority personnel are not qualified to ensure the safety of the patient during transport;

(5) a qualified transportation service provider selected from the list established and maintained as required by Section 574.0455 by the commissioners court of the county in which the court authorizing the transportation is located; or

(6) [~~(5)~~] the sheriff or constable[, if no person is available under Subdivision (1), (2), (3), or (4)].

(a-1) A person who under Subsection (a)(1), (2), or (6) is authorized by the court to transport a person to a mental health facility may contract with a qualified transportation service provider that is included on the list established and maintained as required by Section 574.0455 by the commissioners court of the county in which the court is located to provide the transportation authorized by the court.

SECTION 2. Subchapter D, Chapter 574, Health and Safety Code, is amended by adding Section 574.0455 to read as follows:

Sec. 574.0455. LIST OF QUALIFIED TRANSPORTATION SERVICE PROVIDERS. (a) The commissioners court of a county may:

(1) establish and maintain a list of qualified transportation service providers that a court may authorize or with whom a person may contract to transport a person to a mental health facility in accordance with Section 574.045;

(2) establish an application procedure for a person to be included on the list, including an appropriate application fee to be deposited in the county general fund;

(3) contract with qualified transportation service providers on terms acceptable to the county;

(4) allow officers and employees of the county to utilize persons on the list on a rotating basis if the officer or employee is authorized to provide transportation under Section 574.045 and chooses to utilize a qualified transportation service provider in accordance with the terms of the contract approved by the commissioners court; and

(5) ensure that the list is made available to any person authorized to provide transportation under Section 574.045.

(b) The Department of State Health Services shall prescribe uniform standards:

(1) that a person must meet to be listed as a qualified transportation service provider under Subsection (a); and

(2) prescribing requirements relating to how the transportation of a person to a mental health facility by a qualified transportation service provider is provided.

SECTION 3. This Act takes effect September 1, 2011.

HB 550 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Dutton called up with senate amendments for consideration at this time,

HB 550, A bill to be entitled An Act relating to an exemption to the requirement for a fishing license for residents of a certain age.

Representative Dutton moved to concur in the senate amendments to **HB 550**.

The motion to concur in the senate amendments to **HB 550** prevailed by (Record 1599): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Aliseda; Hernandez Luna; Ritter; Woolley.

STATEMENT OF VOTE

When Record No. 1599 was taken, I was in the house but away from my desk. I would have voted yes.

Woolley

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 550** (senate committee printing page 1, lines 15-16) by striking Subdivision (1) and substituting the following:

(1) who is a resident and whose birth date is before January 1, 1931 [~~September 1, 1930~~];

HB 811 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Darby called up with senate amendments for consideration at this time,

HB 811, A bill to be entitled An Act relating to the powers and duties of the Scurry County Hospital District.

Representative Darby moved to concur in the senate amendments to **HB 811**.

The motion to concur in the senate amendments to **HB 811** prevailed by (Record 1600): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycocck; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Parker.

Senate Committee Substitute

CSHB 811, A bill to be entitled An Act relating to the powers and duties of the Scurry County Hospital District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subtitle A, Title 3, Special District Local Laws Code, is amended by adding Chapter 1119 to read as follows:

CHAPTER 1119. SCURRY COUNTY HOSPITAL DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1119.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "District" means the Scurry County Hospital District.

[Sections 1119.002-1119.050 reserved for expansion]

SUBCHAPTER B. DISTRICT ADMINISTRATION

Sec. 1119.051. EMPLOYMENT OF HEALTH CARE PROVIDERS. (a)

The board may employ health care providers other than physicians as the board considers necessary for the efficient operation of the district.

(b) The board may delegate to the administrator of the district the authority to employ health care providers under Subsection (a).

[Sections 1119.052-1119.100 reserved for expansion]

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 1119.101. GENERAL AUTHORITY TO BORROW MONEY; SECURITY. (a) The board may borrow money at a rate not to exceed the maximum annual percentage rate allowed by law for district obligations at the time the loan is made.

(b) To secure a loan, the board may pledge:

(1) district revenue that is not pledged to pay the district's bonded indebtedness;

(2) a district tax to be imposed by the district during the 12-month period following the date of the pledge that is not pledged to pay the principal of or interest on district bonds; or

(3) district bonds that have been authorized but not sold.

(c) A loan for which taxes or bonds are pledged must mature not later than the first anniversary of the date the loan is made. A loan for which district revenue is pledged must mature not later than the fifth anniversary of the date the loan is made.

[Sections 1119.102-1119.150 reserved for expansion]

SUBCHAPTER D. BONDS

Sec. 1119.151. ADDITIONAL MEANS OF SECURING REPAYMENT OF BONDS. In addition to the authority to issue general obligation bonds and revenue bonds under Subchapter G, Chapter 286, Health and Safety Code, the board may provide for the security and repayment of district bonds from a pledge

of a combination of taxes as authorized by Section 286.142, Health and Safety Code, and revenue and other sources as authorized by Section 286.144, Health and Safety Code.

Sec. 1119.152. USE OF BOND PROCEEDS. The district may use the proceeds of bonds issued under Chapter 286, Health and Safety Code, to pay:

(1) any expense the board determines is reasonable and necessary to issue, sell, and deliver the bonds;

(2) interest payments on the bonds during a period of acquisition or construction of a project or facility to be provided through the bonds, not to exceed five years;

(3) costs related to the operation and maintenance of a project or facility to be provided through the bonds:

(A) during an estimated period of acquisition or construction, not to exceed five years; and

(B) for one year after the project or facility is acquired or constructed;

(4) costs related to the financing of the bond funds, including debt service reserve and contingency funds;

(5) costs related to the bond issuance;

(6) costs related to the acquisition of land or interests in land for a project or facility to be provided through the bonds; and

(7) costs of construction of a project or facility to be provided through the bonds, including the payment of related professional services and expenses.

SECTION 2. 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.

HB 1496 - HOUSE CONCURS IN SENATE AMENDMENTS

TEXT OF SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 1496, A bill to be entitled An Act relating to the contracting authority of the Val Verde County Hospital District.

Representative Gallego moved to concur in the senate amendments to **HB 1496**.

The motion to concur in the senate amendments to **HB 1496** prevailed by (Record 1601): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Callegari; Miller, S.; Quintanilla.

Senate Committee Substitute

CSHB 1496, A bill to be entitled An Act relating to the contracting authority of the Val Verde County Hospital District.

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

SECTION 1. Section 11(b), Chapter 658, Acts of the 64th Legislature, Regular Session, 1975, is amended to read as follows:

(b) Construction ~~[All]~~ contracts ~~[for construction]~~ involving the expenditure of more than \$50,000 shall ~~[\$15,000 may]~~ be procured ~~[made only after advertising]~~ in the manner provided by Subchapter B, Chapter 271, Local Government Code. All~~[, or all]~~ contracts for purchases involving the expenditure of more than \$50,000, other than contracts subject to Subchapter B, Chapter 271, Local Government Code, or Chapter 2253, Government Code, shall ~~[\$15,000 may]~~ be procured ~~[made only after advertising]~~ in the manner provided by Subchapter C, Chapter 262, Local Government Code. The provisions of Chapter 2253, Government Code, relating to performance and payment bonds, shall apply to construction contracts let by the district.

SECTION 2. This Act takes effect September 1, 2011.

HB 3827 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Zerwas called up with senate amendments for consideration at this time,

HB 3827, A bill to be entitled An Act relating to the creation of the Fulshear Town Center Management District; providing authority to impose an assessment, impose a tax, and issue bonds.

Representative Zerwas moved to concur in the senate amendments to **HB 3827**.

The motion to concur in the senate amendments to **HB 3827** prevailed by (Record 1602): 139 Yeas, 3 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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 — Anderson, C.; Berman; Flynn.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Senate Committee Substitute

CSHB 3827, A bill to be entitled An Act relating to the creation of the Fulshear Town Center Management District; providing authority to impose an assessment, impose a tax, and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3903 to read as follows:

CHAPTER 3903. FULSHEAR TOWN CENTER MANAGEMENT DISTRICT SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3903.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the City of Fulshear.
- (3) "County" means Fort Bend County.
- (4) "Director" means a board member.
- (5) "District" means the Fulshear Town Center Management District.

Sec. 3903.002. CREATION AND NATURE OF DISTRICT. The Fulshear Town Center Management District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3903.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city

and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) The district is created to supplement and not to supplant city services provided in the district.

Sec. 3903.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

- (1) developing and diversifying the economy of the state;
- (2) eliminating unemployment and underemployment;
- (3) developing or expanding transportation and commerce; and
- (4) providing quality residential housing.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a residential community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, vehicle parking, and street art objects are parts of and necessary components of a street and are considered to be an improvement project that includes a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3903.005. DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3903.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

(a) All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;

(3) an enterprise zone created under Chapter 2303, Government Code;
or

(4) an industrial district created under Chapter 42, Local Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code, including the right to pledge the money as security for any bonds issued by the district for an improvement project. A project may not receive public funds under Section 380.002(b), Local Government Code, unless the project complies with a development agreement entered into under Section 3903.207.

(c) A tax increment reinvestment zone created by the city in the district is not subject to the limitations provided by Section 311.006(b), Tax Code.

(d) A tax increment reinvestment zone or a tax abatement reinvestment zone may not include territory in the district unless the governing body of the city approves the inclusion.

Sec. 3903.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3903.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3903.009-3903.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3903.051. GOVERNING BODY; TERMS. The district is governed by a board of five voting directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each even-numbered year.

Sec. 3903.052. QUALIFICATIONS OF DIRECTORS APPOINTED BY CITY. (a) To be qualified to serve as a director appointed by the governing body of the city, a person must be:

(1) a resident of the district who is also a registered voter of the district;

(2) an owner of property in the district;

(3) an owner of stock or a partnership or membership interest, whether beneficial or otherwise, of a corporate partnership, limited liability company, or other entity owner of a direct or indirect interest in property in the district;

(4) an owner of a beneficial interest in a trust, or a trustee in a trust, that directly or indirectly owns property in the district; or

(5) an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4).

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3903.053. APPOINTMENT OF DIRECTORS. The governing body of the city shall appoint directors from persons recommended by the board.

Sec. 3903.054. VACANCY. If a vacancy occurs on the board, the remaining directors shall appoint a director for the remainder of the unexpired term.

Sec. 3903.055. DIRECTOR'S OATH OR AFFIRMATION. (a) A director shall file the director's oath or affirmation of office with the district, and the district shall retain the oath or affirmation in the district records.

(b) A director shall file a copy of the director's oath or affirmation with the secretary of the city.

Sec. 3903.056. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary. The offices of chair and secretary may not be held by the same person.

Sec. 3903.057. COMPENSATION; EXPENSES. A director is not entitled to compensation but is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of the board.

Sec. 3903.058. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures a director against personal liability and from all claims relating to:

(1) actions taken by the director in the director's capacity as a member of the board;

(2) actions and activities taken by the district; or

(3) the actions of others acting on behalf of the district.

Sec. 3903.059. NO EXECUTIVE COMMITTEE. The board may not create an executive committee to exercise the powers of the board.

Sec. 3903.060. BOARD MEETINGS. The board shall hold meetings at a place accessible to the public.

Sec. 3903.061. INITIAL DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>David Delk</u>
<u>2</u>	<u>Randy Emery</u>
<u>3</u>	<u>Doug Konopka</u>
<u>4</u>	<u>Brooke Lewis</u>
<u>5</u>	<u>Colice Watts</u>

(b) The terms of the initial directors expire June 1, 2012.

(c) Of the directors who replace an initial director, the terms of directors serving in positions 1, 2, and 3 expire June 1, 2014, and the terms of directors serving in positions 4 and 5 expire June 1, 2016.

(d) Section 3903.052 does not apply to this section.

(e) This section expires September 1, 2016.

[Sections 3903.062-3903.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3903.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3903.102. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3903.103. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3903.104. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3903.105. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including the county or the city, to provide law enforcement services in the district for a fee.

Sec. 3903.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3903.107. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality; and

(2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3903.108. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 3903.109. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 3903.110-3903.130 reserved for expansion]

SUBCHAPTER C-1. IMPROVEMENT PROJECTS

Sec. 3903.131. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3903.132. LOCATION OF IMPROVEMENT PROJECT. An improvement project described by Section 3903.131 may be located:

(1) in the district; or

(2) in an area outside but adjacent to the district if the project is for the purpose of extending a public infrastructure improvement beyond the district's boundaries to a logical terminus.

Sec. 3903.133. PREREQUISITES FOR IMPROVEMENT PROJECTS. The district may not construct an improvement project unless:

(1) the owner of the land on which the improvement project will be constructed records a plat in the map and plat records of the county in which the district is located; and

(2) the planning commission of the city approves the plat.

Sec. 3903.134. ADDITIONAL DISTRICT DUTIES REGARDING IMPROVEMENT PROJECTS. The district shall:

(1) submit written notice to the city administrator or the administrator's designee of the anticipated date construction of an improvement project will begin;

(2) construct the improvement project to comply with a development agreement entered into under Section 3903.207;

(3) comply with applicable city ordinances, resolutions, and regulations when constructing and maintaining an improvement project;

(4) allow a representative of the city to inspect an improvement project during construction to assess the project's compliance with applicable city ordinances, resolutions, and regulations;

(5) alter an improvement project to comply with applicable city ordinances, resolutions, and regulations if the representative of the city provides the district with written notice that the improvement project does not comply with applicable city ordinances, resolutions, and regulations; and

(6) obtain any necessary permits from city, county, state, or federal authorities to construct and maintain an improvement project.

Sec. 3903.135. LICENSE AND CERTIFICATION REQUIREMENTS.

The district may not contract with or employ a person to plan or construct an improvement project unless the person is licensed or certified in an area relating to planning or construction, as applicable.

[Sections 3903.136-3903.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3903.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3903.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain an improvement project or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3903.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) The petition must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 3903.154. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the method of notice.

Sec. 3903.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3903.156. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of a tax or assessment on property in the zones.

[Sections 3903.157-3903.200 reserved for expansion]

SUBCHAPTER E. TAXES AND BONDS

Sec. 3903.201. BONDS AND OTHER OBLIGATIONS. (a) The district may issue, by public or private sale, bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Subchapter A, Chapter 372, or Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the money the district receives from improvement revenue or from any other source.

Sec. 3903.202. BOND MATURITY. Bonds may mature not more than 30 years from their date of issue.

Sec. 3903.203. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due; and

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date.

Sec. 3903.204. ELECTION REQUIRED FOR TAXES OR BONDS. The district must hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

Sec. 3903.205. HOTEL OCCUPANCY TAX. (a) The district may impose a hotel occupancy tax in the manner that Chapter 351, Tax Code, provides for a municipality.

(b) The district may use revenue from the tax for any purpose described by Section 351.101, Tax Code.

(c) The amount of the hotel occupancy tax may not exceed a rate that, when added to the rates of all hotel occupancy taxes imposed by other political subdivisions with territory in the district, does not exceed the rate prescribed by Section 351.003(a), Tax Code.

Sec. 3903.206. CERTAIN SINGLE-FAMILY RESIDENTIAL PROPERTY EXEMPT. (a) The district may not impose an assessment or tax on a single-family residential property that:

(1) is in the territory described by Section 2 of the Act creating the district; and

(2) exists as of the effective date of the Act enacting this chapter.

(b) Section 375.161, Local Government Code, does not apply to the district.

Sec. 3903.207. DEVELOPMENT AGREEMENT. The district may enter into a development agreement that requires the district to reimburse a developer for the costs associated with constructing and maintaining an improvement project. The district may use revenue from taxes and assessments to reimburse a developer under this section.

[Sections 3903.208-3903.250 reserved for expansion]

SUBCHAPTER F. DISSOLUTION

Sec. 3903.251. DISSOLUTION BY CITY ORDINANCE. (a) The city by ordinance may dissolve the district.

(b) The city may not dissolve the district until the district's outstanding debt or contractual obligations that are payable from ad valorem taxes have been repaid or discharged, or the city has affirmatively assumed the obligation to pay the outstanding debt from city revenue.

(c) If the district enters a development agreement under Section 3903.207, the city may not dissolve the district until the agreement has been executed and the district's performance under the agreement has been fulfilled, including any right or obligation the district has to reimburse a developer or owner for the costs of improvement projects.

Sec. 3903.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than ad valorem taxes, the city shall succeed to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations.

Sec. 3903.253. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes, subject to the appropriation and availability of funds, the obligations of the district, including any bonds or other debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION 2. The Fulshear Town Center Management District initially includes all the territory contained in the following area:

Being an 84.3 acre tract situated in the City of Fulshear, with said tract being more particularly described as follows:

With the point of beginning being at SE corner of 0.3444 acre parcel (Fulshear, Block 6, Lot 1,4);

Then south along W ROW of FM 359 (Main St.) to SE corner of 0.1377 acre parcel (FULSHEAR, BLOCK 3, ACRES 0.1377, (Pt) 20' Alley in Block 3);

Then west along S boundary of said parcel to NE corner 0.42 acre parcel (FULSHEAR, BLOCK 3, LOT 4,5);

Then south along E boundary of 0.42 acre parcel (FULSHEAR, BLOCK 3, LOT 4,5) to N ROW of Front St;

Then east along N ROW of Front St and FM 1093 to SE corner of 64.5 acre parcel (0029 C FULSHEAR, TRACT 66, ACRES 64.506);

Then east across ROW of Katy-Fulshear Rd and along S boundary of 6.93 acre parcel (0050 E LATHAM, TRACT 24 (PT), PARCEL 3, ACRES 6.9307, (PT (2.7197 ACS) IN A-29)) to a point approximately 215 feet east of SW corner of said parcel;

Then south across FM 1093 and Metro Rail ROWs to NE corner of 52.23 acre parcel (0029 C FULSHEAR, TRACT 82-C, ACRES 52.23);

Then west along N Boundary of 52.23 acre parcel (0029 C FULSHEAR, TRACT 82-C, ACRES 52.23) to NE corner of 20.089 acre parcel (0029 C FULSHEAR, TRACT 6, ACRES 20.089);

Then south along E boundary of 20.089 acre parcel (0029 C FULSHEAR, TRACT 6, ACRES 20.089) to SE corner of said parcel;

Then west along S boundary of 20.089 acre parcel (0029 C FULSHEAR, TRACT 6, ACRES 20.089), and 18.82 acre parcel (0029 C Fulshear, TRACT 3 (Pt), ACRES 18.8242, (Part of a 26.5629 ac tract), and 3.754 acre parcel (0029 C Fulshear, TRACT 3 (Pt), ACRES 3.754, (Part of a 26.5629 ac tract)), and 3.753 acre parcel (0029 C FULSHEAR, TRACT 1, ACRES 3.753) to SW corner 3.753 acre parcel (0029 C FULSHEAR, TRACT 1, ACRES 3.753);

Then north along W boundary of 3.753 acre parcel (0029 C FULSHEAR, TRACT 1, ACRES 3.753), and across Metro Rail and FM 1093 ROWs to S boundary of 70 acre parcel (0029 C Fulshear, TRACT 91 (PT), ACRES 69, (PART OF A 70.00 AC TRACT));

Then east northeast along S boundary of 70 acre parcel (0029 C Fulshear, TRACT 91 (PT), ACRES 69, (PART OF A 70.00 AC TRACT)) to SE corner of said parcel;

Then north along E boundary of said parcel to N ROW of Front St;

Then east northeast along N ROW of Front St to W ROW of Harris St;

Then north along W ROW of Harris St to NE corner of 0.5165 acre parcel (FULSHEAR, BLOCK 5, LOT 1,4,5);

Then east across ROW of Harris St, and along north boundary of 0.5165 acre parcel (FULSHEAR, BLOCK 6, LOT 2,3,6) to NE corner of said parcel;

Then south along E boundary of 0.5165 acre parcel (FULSHEAR, BLOCK 6, LOT 2,3,6) to SE corner of said parcel;

Then east along S boundary of 0.3444 acre parcel (Fulshear, Block 6, Lot 1,4) to point of beginning;

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. 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.

HB 2089 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Smithee called up with senate amendments for consideration at this time,

HB 2089, A bill to be entitled An Act relating to the resolution of overpayment or underpayment of income benefits under the workers' compensation program.

Representative Smithee moved to concur in the senate amendments to **HB 2089**.

The motion to concur in the senate amendments to **HB 2089** prevailed by (Record 1603): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Jackson.

Senate Committee Substitute

CSHB 2089, A bill to be entitled An Act relating to the resolution of overpayment or underpayment of income benefits under the workers' compensation program

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

SECTION 1. Section 408.081(a), Labor Code, is amended to read as follows:

(a) An employee is entitled to timely and accurate income benefits as provided in this chapter.

SECTION 2. Subchapter E, Chapter 408, Labor Code, is amended by adding Section 408.0815 to read as follows:

Sec. 408.0815. RESOLUTION OF OVERPAYMENT OR UNDERPAYMENT OF INCOME BENEFITS. (a) The commissioner by rule shall establish a procedure by which an insurance carrier:

(1) may recoup an overpayment of income benefits from future income benefit payments that are not reimbursable under Section 410.209; and

(2) shall pay an underpayment of income benefits, including interest on accrued but unpaid benefits, in accordance with this subtitle.

(b) The procedure under Subsection (a) must include:

(1) a process by which an injured employee may notify the insurance carrier of an underpayment;

(2) the time frame and methodology by which an insurance carrier shall pay to an injured employee an underpayment;

(3) a process by which an insurance carrier shall notify an injured employee of an overpayment of income benefits;

(4) the time frame and methodology by which an insurance carrier may recoup an overpayment through the reduction of a future income benefit payment; and

(5) a method for coordinating overpayments that may be recouped from future income benefits and reimbursements described by Section 410.209.

(c) The procedure for recouping overpayments under Subsection (a)(1) must take into consideration the cause of the overpayment and minimize the financial hardship to the injured employee.

SECTION 3. The commissioner of workers' compensation shall adopt rules to implement Section 408.0815, Labor Code, as added by this Act, not later than January 1, 2012.

SECTION 4. This Act takes effect September 1, 2011.

HB 1111 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hartnett called up with senate amendments for consideration at this time,

HB 1111, A bill to be entitled An Act relating to a tenant's failure to pay rent during an appeal of an eviction for nonpayment of rent after filing a pauper's affidavit.

Representative Hartnett moved to concur in the senate amendments to **HB 1111**.

The motion to concur in the senate amendments to **HB 1111** prevailed by (Record 1604): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Eissler; Gonzales, L.

Senate Committee Substitute

CSHB 1111, A bill to be entitled An Act relating to a tenant's failure to pay rent during an appeal of an eviction for nonpayment of rent after filing a pauper's affidavit.

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

SECTION 1. Section 24.004, Property Code, is amended to read as follows:

Sec. 24.004. JURISDICTION. A justice court in the precinct in which the real property is located has jurisdiction in eviction suits. Eviction suits include forcible entry and detainer and forcible detainer suits. A justice court has jurisdiction to issue a writ of possession under Sections 24.0054(a), (a-2), and (a-3).

SECTION 2. Section 24.0053, Property Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) If a tenant files a pauper's affidavit in the period prescribed by Section 24.0052 to appeal an eviction for nonpayment of rent, the justice court shall provide to the tenant a written notice at the time the pauper's affidavit is filed that contains the following information in bold or conspicuous type:

(1) the amount of the initial deposit of rent stated in the judgment that the tenant must pay into the justice court registry;

(2) whether the initial deposit must be paid in cash, cashier's check, or money order, and to whom the cashier's check or money order, if applicable, must be made payable;

(3) the calendar date by which the initial deposit must be paid into the justice court registry;

(4) for a court that closes before 5 p.m. on the date specified by Subdivision (3), the time the court closes; and

(5) a statement that failure to pay the required amount into the justice court registry by the date prescribed by Subdivision (3) may result in the court issuing a writ of possession without hearing.

(a-2) The date by which an initial deposit must be paid into the justice court registry under Subsection (a-1)(3) must be within five days of the date the tenant files the pauper's affidavit as required by Rule 749b(1), Texas Rules of Civil Procedure.

SECTION 3. Section 24.0054, Property Code, is amended by amending Subsections (a) and (e) and adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a) During an appeal of an eviction case for nonpayment of rent, the justice court on request shall immediately issue a writ of possession, without hearing, if:

(1) a tenant fails to pay the initial rent deposit into the justice court registry within five days of the date the tenant filed a pauper's affidavit as required by Rule 749b(1), Texas Rules of Civil Procedure, and Section 24.0053;

(2) the justice court has provided the written notice required by Section 24.0053(a-1); and

(3) the justice court has not yet forwarded the transcript and original papers to the county court as provided by Subsection (a-2).

(a-1) The sheriff or constable shall execute a writ of possession under Subsection (a) in accordance with Sections 24.0061(d) through (h). The landlord shall bear the costs of issuing and executing the writ of possession.

(a-2) The justice court shall forward the transcript and original papers in an appeal of an eviction case to the county court but may not forward the transcript and original papers before the sixth day after the date the tenant files a pauper's affidavit, except that, if the court confirms that the tenant has timely paid the initial deposit of rent into the justice court registry in accordance with Section 24.0053, the court may forward the transcript and original papers immediately. If the tenant has not timely paid the initial deposit into the justice court registry, the justice court on request shall issue a writ of possession notwithstanding the fact that the tenant has perfected an appeal by filing a pauper's affidavit that has been approved by the court. The justice court shall forward the transcript and original papers in the case to the county court for trial de novo, notwithstanding the fact that a writ of possession under this section has already been issued.

(a-3) Notwithstanding Subsections (a) and (a-2), the justice court may not issue a writ of possession if the tenant has timely deposited the tenant's portion of the rent claimed by the tenant under Section 24.0053(d).

(a-4) During an appeal of an eviction case for nonpayment of rent, if a tenant fails to pay rent into the justice court or county court registry as the rent becomes due under the rental agreement in accordance with the Texas Rules of Civil Procedure and Section 24.0053, the landlord may file with the county court a sworn motion that the tenant failed to pay rent as required. The landlord shall notify the tenant of the motion and the hearing date.

(e) In a motion or hearing [~~in county court~~] under Subsection (a-4), or in a motion to dismiss an appeal of an eviction case in county court [~~(a)~~], the parties may represent themselves or be represented by their authorized agents, who need not be attorneys.

SECTION 4. The change in law made by this Act applies only to an eviction suit filed on or after the effective date of this Act. A suit filed 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.

SECTION 5. This Act takes effect January 1, 2012.

HB 2981 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hunter called up with senate amendments for consideration at this time,

HB 2981, A bill to be entitled An Act relating to the operation on a highway or street of a motor vehicle that is drawing a boat or personal watercraft in or on which a person is riding; providing a penalty.

Representative Hunter moved to concur in the senate amendments to **HB 2981**.

The motion to concur in the senate amendments to **HB 2981** prevailed by (Record 1605): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Allen; Solomons.

Senate Committee Substitute

CSHB 2981, A bill to be entitled An Act relating to the operation on a highway or street of a motor vehicle that is drawing a boat or personal watercraft in or on which a child is riding; providing a penalty.

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

SECTION 1. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.4145 to read as follows:

Sec. 545.4145. RIDING IN OR ON BOAT OR PERSONAL WATERCRAFT DRAWN BY VEHICLE; OFFENSE. (a) A person commits an offense if the person operates a motor vehicle on a highway or street when a child younger than 18 years of age is occupying a boat or personal watercraft being drawn by the motor vehicle.

(b) It is a defense to prosecution under this section that the person was:

(1) operating the motor vehicle in a parade or in an emergency; or

(2) operating the motor vehicle on a beach.

(c) In this section, "boat" and "personal watercraft" have the meanings assigned by Section 31.003, Parks and Wildlife Code.

SECTION 2. This Act takes effect September 1, 2011.

HB 3409 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 3409, A bill to be entitled An Act relating to reporting of changes in lobbying activities during a legislative session.

Representative Kolkhorst moved to concur in the senate amendments to **HB 3409**.

The motion to concur in the senate amendments to **HB 3409** prevailed by (Record 1606): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Alonzo; Cain; Davis, Y.

Senate Committee Substitute

CSHB 3409, A bill to be entitled An Act relating to reporting of lobbying activities and changes in lobbying activities.

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

SECTION 1. Section 305.005(k), Government Code, is amended to read as follows:

(k) If there is a change in the information required to be reported by a registrant under this section, other than Subsection (h) or (i), and that changed information is not timely reported on a report due under Section 305.007, the registrant shall file an amended registration [statement] reflecting the change with the commission not later than the date on which an amended registration is due under Section 305.0065 or the next report is due under Section 305.007, as applicable.

SECTION 2. Subchapter A, Chapter 305, Government Code, is amended by adding Section 305.0065 to read as follows:

Sec. 305.0065. AMENDED REGISTRATION DURING LEGISLATIVE SESSION. (a) This section applies only during the period beginning on the date a regular legislative session convenes and continuing through the date of final adjournment.

(b) A registrant shall file with the commission an amended registration if there is a change in:

(1) the person who reimburses, retains, or employs the registrant and on whose behalf the registrant has communicated directly with a member of the legislative or executive branch to influence legislation or administrative action; or

(2) the subject matter about which the registrant has communicated directly with a member of the legislative or executive branch.

(c) The amended registration must be written and verified and must contain the information required in Section 305.005.

(d) The registrant must file the amended registration not later than the fifth day after the date on which the registrant, any person the registrant retains or employs to appear on the registrant's behalf, or any other person appearing on the registrant's behalf makes the first direct communication with a member of the legislative or executive branch:

(1) on behalf of a person not included in the registrant's registration, the registrant's last activity report, or any other registration and who reimburses, retains, or employs the registrant to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action; or

(2) about any subject matter not included in the registrant's registration, the registrant's last activity report, or any other registration.

SECTION 3. Section 305.006, Government Code, is amended by adding Subsection (g) to read as follows:

(g) For expenditures required to be reported under this section, the authorized expenditures described by Sections 305.025(3) and (4) include expenditures for an individual described by Sections 305.0062(a)(1)-(6).

SECTION 4. Section 305.009, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The commission shall make available on its website an amended registration filed under Section 305.0065 not later than the next business day after the date the amended registration is filed.

SECTION 5. 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.

**HB 2463 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Reynolds called up with senate amendments for consideration at this time,

HB 2463, A bill to be entitled An Act relating to access to certain records regarding an employment discrimination claim.

Representative Reynolds moved to concur in the senate amendments to **HB 2463**.

The motion to concur in the senate amendments to **HB 2463** prevailed by (Record 1607): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Senate Committee Substitute

CSHB 2463, A bill to be entitled An Act relating to access to certain records regarding an employment discrimination claim.

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

SECTION 1. Section 21.304, Labor Code, is amended to read as follows:

Sec. 21.304. CONFIDENTIALITY OF RECORDS. An officer or employee of the commission may not disclose to the public information obtained by the commission under Section 21.204 except in compliance with Section 21.305 and as necessary to the conduct of a proceeding under this chapter.

SECTION 2. Section 21.305, Labor Code, is amended to read as follows:

Sec. 21.305. ACCESS TO COMMISSION RECORDS. (a) Except as provided by Subsection (c), the [The] commission shall adopt rules allowing a party to a complaint filed under Section 21.201 reasonable access to commission records relating to the complaint.

(b) Except as provided by Subsection (c), unless [Unless] the complaint is resolved through a voluntary settlement or conciliation, on the written request of a party the executive director shall allow the party access to the commission records:

- (1) after the final action of the commission; or
- (2) if a civil action relating to the complaint is filed in federal court alleging a violation of federal law.

(c) Notwithstanding Section 552.023, Government Code, the following information is not considered public information for the purposes of Chapter 552, Government Code, and may not be disclosed to a party to a complaint filed under Section 21.201:

(1) identifying information of persons other than the parties and witnesses to the complaint;

(2) identifying information about confidential witnesses, including any confidential statement given by the witness;

(3) sensitive medical information about the charging party or a witness to the complaint that is:

(A) provided by a person other than the person requesting the information; and

(B) not relevant to issues raised in the complaint, including information that identifies injuries, impairments, pregnancies, disabilities, or other medical conditions that are not obviously apparent or visible;

(4) identifying information about a person other than the charging party that is found in sensitive medical information regardless of whether the information is relevant to the complaint;

(5) nonsensitive medical information that is relevant to the complaint if the disclosure would result in an invasion of personal privacy, unless the information is generally known or has been previously reported to the public;

(6) identifying information about other respondents or employers not a party to the complaint;

(7) information relating to settlement offers or conciliation agreements received from one party that was not conveyed to the other and information contained in a separate alternative dispute resolution file prepared for mediation purposes; and

(8) identifying information about a person on whose behalf a complaint was filed if the person has requested that the person's identity as a complaining party remain confidential.

(d) In this section, "identifying information" has the meaning assigned by Section 32.51, Penal Code.

SECTION 3. This Act takes effect September 1, 2011.

**HB 2702 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Solomons called up with senate amendments for consideration at this time,

HB 2702, A bill to be entitled An Act relating to the application of statutes that classify political subdivisions according to population.

Representative Solomons moved to concur in the senate amendments to **HB 2702**.

The motion to concur in the senate amendments to **HB 2702** prevailed by (Record 1608): 140 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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 — Darby; Lewis.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Quintanilla.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2702** (house engrossment) as follows:

(1) In SECTION 181 of the bill, in amended Section 36.121, Water Code, insert "but greater than 100,000" between "less" and "and" on page 81, line 17.

(2) In SECTION 181 of the bill, in amended Section 36.121, Water Code, insert "but greater than 100,000" between "less" and the comma on page 81, line 20.

Senate Amend No. 2 (Senate Committee Amendment No. 1)

Amend **HB 2702** (house engrossed version) in SECTION 122 of the bill, in amended Section 352.002(a)(12), Tax Code (page 57, line 27), by striking "36,000 [~~35,000~~]" and substituting "35,000".

**HB 742 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hunter called up with senate amendments for consideration at this time,

HB 742, A bill to be entitled An Act relating to student information required to be provided at the time of enrollment in public schools.

Representative Hunter moved to concur in the senate amendments to **HB 742**.

The motion to concur in the senate amendments to **HB 742** prevailed by (Record 1609): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; 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; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Elkins; Harper-Brown; King, T.

Senate Committee Substitute

CSHB 742, A bill to be entitled An Act relating to student information required to be provided at the time of enrollment in public schools.

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

SECTION 1. Subchapter A, Chapter 25, Education Code, is amended by adding Section 25.0022 to read as follows:

Sec. 25.0022. FOOD ALLERGY INFORMATION REQUESTED UPON ENROLLMENT. (a) In this section, "severe food allergy" means a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

(b) On enrollment of a child in a public school, a school district shall request, by providing a form or otherwise, that a parent or other person with legal control of the child under a court order:

(1) disclose whether the child has a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the district to enable the district to take any necessary precautions regarding the child's safety; and

(2) specify the food to which the child is allergic and the nature of the allergic reaction.

(c) A school district shall maintain the confidentiality of information provided under this section, and may disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with district policy under Section 38.009 and permissible under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(d) Except as provided by Subsections (e) and (f), information regarding a child's food allergy, regardless of how it is received by the school or school district, shall be retained in the child's student records but may not be placed in the health record maintained for the child by the school district.

(e) If the school receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by the school district.

(f) A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by the school district, including a notation that the child's student records indicate that a parent has notified the school district of the child's possible food allergy.

SECTION 2. This Act applies beginning with the 2011-2012 school year.

SECTION 3. 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.

HB 1759 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Rodriguez called up with senate amendments for consideration at this time,

HB 1759, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 4; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

Representative Rodriguez moved to concur in the senate amendments to **HB 1759**.

The motion to concur in the senate amendments to **HB 1759** prevailed by (Record 1610): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Eiland; Quintanilla.

Senate Committee Substitute

CSHB 1759, A bill to be entitled An Act relating to the creation of the Pilot Knob Municipal Utility District No. 4; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8378 to read as follows:

CHAPTER 8378. PILOT KNOB MUNICIPAL UTILITY DISTRICT NO. 4 SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8378.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental

Quality.

(3) "Director" means a board member.

(4) "District" means the Pilot Knob Municipal Utility District No. 4.

(5) "Municipality" means a municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

Sec. 8378.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8378.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect permanent directors as provided by Section 8378.051 of this code and Section 49.102, Water Code.

Sec. 8378.004. CONSENT OF MUNICIPALITY REQUIRED. (a) The temporary directors may not hold an election under Section 8378.003 until each municipality has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

(b) If a municipality does not consent to the creation of the district or if the district does not enter into an agreement required by the terms of the municipal ordinance or resolution consenting to the creation of the district under this section before September 1, 2012:

(1) the district is dissolved September 1, 2012, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to the municipality or another local governmental entity to be used for a public purpose; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2012.

Sec. 8378.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, or improvement of macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

Sec. 8378.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8378.007-8378.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8378.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (b), the district is governed by a board of five elected directors.

(b) If required under the terms of the agreement, ordinance, or resolution by which a municipality consents to the creation of the district, the board consists of:

(1) four elected directors; and

(2) one director appointed by the governing body of the municipality.

(c) A director appointed under Subsection (b)(2) is not required to be a qualified voter of the district or to own land subject to taxation in the district.

(d) Except as provided by Section 8378.052, directors serve staggered four-year terms. A permanent director may not serve more than two four-year terms.

(e) The common law doctrine of incompatibility does not disqualify an official or employee of a municipality from being appointed a director by the governing body of a municipality under Subsection (b)(2), and a director appointed to the board may continue to serve in a public office of or be employed by the municipality.

Sec. 8378.052. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8378.003; or

(2) the fourth anniversary of the effective date of the Act enacting this

chapter.

(c) If permanent directors have not been elected under Section 8378.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8378.003; or

(2) the fourth anniversary of the date of the appointment or

reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8378.053-8378.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8378.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8378.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8378.103. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a

municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the commission as required by Section 54.234, Water Code.

Sec. 8378.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8378.103 unless:

(1) each municipality or county that will operate and maintain the road has approved the plans and specifications of the road project, if a municipality or county will operate and maintain the road; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8378.105. COMPLIANCE WITH AND ENFORCEABILITY OF MUNICIPAL CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION.

(a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) Any agreement between the district and a municipality related to the municipality's consent to the creation of the district is valid and enforceable.

(c) On the issuance of bonds by the district, the district is considered to have waived sovereign immunity to suit by a municipality for the purpose of adjudicating a claim for breach of an agreement described by this section.

Sec. 8378.106. CONTRACT TO FURTHER REGIONAL COOPERATION. The district and a municipality may contract on terms that the board and governing body of the municipality agree will further regional cooperation between the district and the municipality.

Sec. 8378.107. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8378.108-8378.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8378.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8378.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8378.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8378.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

(c) If required by an agreement between the district and a municipality under Section 8378.105, the total ad valorem tax rate of the district may not be less than the total ad valorem tax rate of the municipality.

Sec. 8378.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8378.154-8378.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8378.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8378.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8378.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

[Sections 8378.204-8378.250 reserved for expansion]

SUBCHAPTER F. STRATEGIC PARTNERSHIP AGREEMENT; MUNICIPAL ANNEXATION AND NOTICE

Sec. 8378.251. STRATEGIC PARTNERSHIP; CONTINUATION OF DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) The district may continue to exist as a limited district after full-purpose annexation by a municipality if the district and the annexing municipality state the terms of the limited district's existence in a strategic partnership agreement under Section 43.0751, Local Government Code.

(b) The strategic partnership agreement may provide for a term of any number of years. The limitation in Section 43.0751(g)(2), Local Government Code, on the length of the term does not apply to a limited district created under this section.

Sec. 8378.252. MUNICIPAL ANNEXATION; NOTICE. (a) Sections 43.0561 and 43.0562, Local Government Code, do not apply to the annexation of the district by a municipality that consents to the creation of the district under Section 8378.004.

(b) Not later than the 30th day after the date a municipality adopts a resolution or ordinance consenting to the creation of the district, the municipality shall file, in the real property records of the county in which the land to be included in the district is located, a notice to a purchaser of real property in the district that describes:

- (1) the municipality's authority and intention to annex the district; and
- (2) the anticipated date of the annexation.

(c) After the notice is filed, a person who proposes to sell or otherwise convey real property in the district must include the information contained in the municipality's notice in the Notice to Purchasers required by Section 49.452, Water Code.

SECTION 2. The Pilot Knob Municipal Utility District No. 4 initially includes all the territory contained in the following area: 345.581 acres of land, consisting of the 306.331 acre tract described below as "Tract 1" and the 39.250 acre tract described below as "Tract 2":

A DESCRIPTION OF 345.581 ACRES IN THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, BEING ALL OF A 73.453 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 28, 2006 AND RECORDED IN DOCUMENT NO. 2006229773 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 31.022 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 16, 2006 AND RECORDED IN DOCUMENT NO. 2006245700 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 29.293 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED NOVEMBER 21, 2006 AND RECORDED IN DOCUMENT NO. 2006225633 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 28.461 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED SEPTEMBER 15, 2006 AND RECORDED IN DOCUMENT NO. 2006182621 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 55.222 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060712 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 60.921 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 12, 2006 AND RECORDED IN DOCUMENT NO. 2006239174 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 51.942 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 1, 2006 AND RECORDED IN DOCUMENT NO. 2006233636 OF THE OFFICIAL PUBLIC RECORDS OF

TRAVIS COUNTY, TEXAS, A PORTION OF A 25.119 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060707 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 7.602 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060704 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 23.694 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY DEED TO JONA ACQUISITION INC., DATED APRIL 2, 2006 AND RECORDED IN DOCUMENT NO. 2007060710 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 1.000 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED JANUARY 8, 2007 AND RECORDED IN DOCUMENT NO. 2007005138 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF LOT A, HARRY REININGER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 65, PAGE 47 OF THE PLAT RECORDS OF TRAVIS COUNTY TEXAS, CONVEYED TO JOHN HALDENSTEIN & RUTH HALDENSTEIN IN WARRANTY DEED WITH VENDOR'S LIEN DATED SEPTEMBER 29, 2000 AND RECORDED IN DOCUMENT NO. 2000161977 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS, A PORTION OF A 42.558 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED MAY 16, 2008 AND RECORDED IN DOCUMENT NO. 2008083861 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 20.005 ACRE TRACT DESCRIBED IN A WARRANTY DEED WITH VENDOR'S LIEN TO JOHN T. HALDENSTEIN AND JOSHUA N. HALDENSTEIN, DATED DECEMBER 14, 2000 AND RECORDED IN DOCUMENT NO. 2000203669 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 98.656 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED OCTOBER 19, 2006 AND RECORDED IN DOCUMENT NO. 2006204344 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF A 9.662 ACRE TRACT DESCRIBED IN A GENERAL WARRANTY DEED TO JONA ACQUISITION INC., DATED DECEMBER 14, 2007 AND RECORDED IN DOCUMENT NO. 2007224638 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF A 232.233 ACRE TRACT DESCRIBED IN A SPECIAL WARRANTY WITH VENDOR'S LIEN TO JONA ACQUISITION INC., DATED JANUARY 8, 2009 AND RECORDED IN DOCUMENT NO. 2009003190 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND PORTIONS OF SASSMAN ROAD (70' RIGHT-OF-WAY); SAID 345.581 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:
TRACT 1, 306.331 ACRES:

BEGINNING at a calculated point in the east right-of-way line of Thaxton Road (50' right-of-way) for the northwest corner of said 73.453 acre tract, same being the west corner of a 2.76 acre tract described in a deed to Carl H. Dittmar, recorded in Volume 12562, Page 428 of the Real Property Records of Travis County, Texas, from which a 1/2" rebar found bears North 61°56'44" West, a distance of 0.44 feet;

THENCE with the north line of said 73.453 acre tract, same being the south line of said 2.76 acre tract, the following two (2) courses and distances:

1. South 61°56'44" East, a distance of 404.65 feet to a 1/2" rebar found;
2. North 27°52'53" East, a distance of 294.18 feet to a 1/2" rebar found for a north corner of said 73.453 acre tract, same being the east corner of said 2.76 acre tract, also being in the southwest line of a tract called 21 acres in a deed to Max F. Ehrlich, recorded in Volume 1945, Page 416 of the Deed Records of Travis County, Texas;

THENCE South 60°59'42" East, with the northeast line of said 73.453 acre tract, same being the southwest line of said 21 acre tract, a distance of 2857.05 feet to a 60D nail found for the northeast corner of said 73.453 acre tract, same being the south corner of said 21 acre tract, also being in the northwest line of said 29.293 acre tract;

THENCE North 27°46'44" East, with the northwest line of said 29.293 acre tract, same being the southeast line of said 21 acre tract, a distance of 1083.71 feet to a 1/2" rebar with Chaparral cap found in the south right-of-way line of Sassman Road;

THENCE North 28°38'04" East, crossing Sassman Road, a distance of 70.04 feet to a calculated point for the north right-of-way line of Sassman Road, same being the southwest line of a 2.00 acre tract described in a deed to Anselmo Medina and spouse, Oralía Medina, recorded in Document No. 2002227115 of the Official Public Records of Travis County, Texas;

THENCE South 61°39'26" East, with the north right-of-way line of Sassman Road, same being the southwest line of said 2.00 acre tract, the southwest line of a 1.00 acre tract described in a deed to Gerald D. Shoulders and Rosemary Shoulders, recorded in Volume 12233, Page 1678 of the Real Property Records of Travis County, Texas, the southwest line of a 1.00 acre tract described in a deed to Amir Batoeinngi, recorded in Document No. 2008060410 of the Official Public Records of Travis County, Texas, and the southwest line of a 1.00 acre tract described in a deed to Abacu Perez and Felicitas Perez, recorded in Document No. 2006189910 of the Official Public Records of Travis County, Texas, a distance of 547.23 feet to a calculated point;

THENCE South 63°50'26" East, continuing with the north right-of-way line of Sassman Road, same being the southwest line of said 1.00 acre Perez tract, a distance of 14.13 feet to a 1/2" rebar found for the south corner of said 1.00 acre Perez tract, same being the west corner of said Lot A;

THENCE North 26°09'41" East, with the northwest line of said Lot A, same being the southeast line of said 1.00 acre Perez tract, a distance of 362.16 feet to a calculated point for the east corner of said 1.00 acre Perez tract, same being the south corner of said 20.005 acre tract;

THENCE North $61^{\circ}26'42''$ West, with the southwest line of said 20.005 acre tract, same being the northeast line of said 1.00 acre Perez tract, a distance of 113.09 feet to a 1/2" rebar found for an angle point in the southwest line of said 20.005 acre tract, same being the north corner of said 1.00 acre Perez tract, also being in the southeast line of a 1.25 acre tract described in said deed to Amir Batoeinngi;

THENCE North $28^{\circ}21'23''$ East, continuing with the southwest line of said 20.005 acre tract, same being the southeast line of said 1.25 acre tract, a distance of 106.07 feet to a 1/2" rebar found for the east corner of said 1.25 acre tract;

THENCE North $61^{\circ}29'11''$ West, continuing with the southwest line of said 20.005 acre tract, same being the northeast line of said 1.25 acre tract, and a 1.25 acre tract described in said deed to Gerald Shoulders, a distance of 417.23 feet to a 1" iron pipe found for the west corner of said 20.005 acre tract, same being the north corner of said 1.25 acre Shoulders tract, also being in the southeast line of a 20.022 acre tract described in a deed to Janie Diaz, recorded in Document No. 2006101103, said 20.022 acre tract being further described in Document No. 2001200503, both of the Official Public Records of Travis County, Texas;

THENCE North $27^{\circ}07'27''$ East, with the northwest line of said 20.005 acre tract, same being the southeast line of said 20.022 acre tract, a distance of 162.08 feet to a calculated point;

THENCE crossing said 20.005 acre tract, said Lot A, said 42.558 acre tract, Sassman Road, said 23.694 acre tract, said 7.602 acre tract, said 25.119 acre tract, said 55.222 acre tract, said 51.942 acre tract, said 60.921 acre tract, and said 98.656 acre tract, the following eleven (11) courses and distances:

1. South $61^{\circ}48'21''$ East, a distance of 672.64 feet to a calculated point;
2. South $28^{\circ}11'39''$ West, a distance of 1597.96 feet to a calculated point;
3. With a curve to the left, having a radius of 580.00 feet, a delta angle of $69^{\circ}45'07''$, an arc length of 706.10 feet, and a chord which bears South $06^{\circ}40'54''$ East, a distance of 663.29 feet to a calculated point;
4. South $41^{\circ}33'28''$ East, a distance of 274.95 feet to a calculated point;
5. With a curve to the right, having a radius of 500.00 feet, a delta angle of $96^{\circ}25'47''$, an arc length of 841.51 feet, and a chord which bears South $06^{\circ}39'26''$ West, a distance of 745.65 feet to a calculated point;
6. South $54^{\circ}52'19''$ West, a distance of 25.40 feet to a calculated point;
7. South $35^{\circ}07'41''$ East, a distance of 344.76 feet to a calculated point;
8. With a curve to the right, having a radius of 1000.01 feet, a delta angle of $40^{\circ}36'48''$, an arc length of 708.84 feet, and a chord which bears South $14^{\circ}49'17''$ East, a distance of 694.09 feet to a calculated point;
9. South $05^{\circ}29'07''$ West, a distance of 423.15 feet to a calculated point;
10. With a curve to the left, having a radius of 1800.01 feet, a delta angle of $68^{\circ}24'29''$, an arc length of 2149.12 feet, and a chord which bears South $28^{\circ}43'07''$ East, a distance of 2023.72 feet to a calculated point;
11. South $62^{\circ}55'22''$ East, a distance of 149.13 feet to a calculated point in the west right-of-way line of F. M. 1625 (80' right-of-way), same being the southeast line of said 98.656 acre tract;

THENCE South 27°04'38" West, with the west right-of-way line of F. M. 1625, same being the southeast line of said 98.656 acre tract, a distance of 699.69 feet to a calculated point for the south corner of said 98.656 acre tract, same being the east corner of a 10.067 acre tract described in a deed to Carlos Yescas and Elvira Yescas, recorded in Document No. 2003084397 of the Official Public Records of Travis County, Texas;

THENCE North 62°25'04" West, with the southwest line of said 98.656 acre tract, same being the northeast line of said 10.067 acre tract, and the northeast line of Lot 6, Las Lomitas Subdivision, a subdivision of record in Document No. 200200226 of the Official Public Records of Travis County, Texas, at a distance of 0.11 feet passing a 1/2" rebar found, and continuing for a total distance of 1097.97 feet to a 1/2" rebar found in the northeast line of said Lot 6, for the southwest corner of said 98.656 acre tract, same being the southeast corner of said 60.921 acre tract;

THENCE North 62°26'10" West, with the southwest line of said 60.921 acre tract, same being the northeast line of said Lot 6 and Lot 15 Las Lomitas Subdivision, a distance of 1283.28 feet to a 1/2" rebar with Chaparral cap found for the southwest corner of said 60.921 acre tract, same being the south corner of a 58 acre tract described in a deed to Fred J. Wende, recorded in Volume 11849, Page 396 of the Real Property Records of Travis County, Texas;

THENCE North 27°00'49" East, with the northwest line of said 60.921 acre tract, same being the southeast line of said 58 acre tract, a distance of 1221.01 feet to an 80D nail found for the east corner of said 58 acre tract, same being the south corner of said 55.222 acre tract;

THENCE North 60°57'25" West, with the southwest line of said 55.222 acre tract, same being the northeast line of said 58 acre tract, a distance of 1295.20 feet to a 60D nail found for the southwest corner of said 55.222 acre tract, same being the southeast corner of said 28.461 acre tract;

THENCE North 61°18'16" West, with the southwest line of said 28.461 acre tract, same being the northeast line of said 58 acre tract, a distance of 329.98 feet to a 1" iron pipe found for the southwest corner of said 28.461 acre tract, same being the southeast corner of said 29.293 acre tract;

THENCE North 61°30'47" West, with the southwest line of said 29.293 acre tract, same being the northeast line of said 58 acre tract, a distance of 331.97 feet to a 1/2" rebar found for the southwest corner of said 29.293 acre tract, same being the north corner of said 58 acre tract, also being in the southeast line of a 77.22 acre tract described in a deed to William D. Wende, Fred J. Wende and Price T. Wende, recorded in Volume 12171, Page 455 of the Real Property Records of Travis County, Texas;

THENCE North 27°46'44" East, with the northwest line of said 29.293 acre tract, same being the southeast line of said 77.22 acre tract, the southeast line of a 32.892 acre tract described in a deed to Mark Alexander, recorded in Volume 11513, Page 1451 of the Real Property Records of Travis County, Texas, and the southeast line of a remaining portion of 29.94 acres described in a deed to Santana C. Urias, Jr., recorded in Volume 6132, Page 1217 of the Deed Records

of Travis County, Texas, a distance of 1047.38 feet to a 1/2" rebar with Chaparral cap found for the northeast corner of said remaining portion of 29.94 acres, same being the southeast corner of said 31.022 acre tract;

THENCE North 61°12'34" West, with the southwest line of said 31.022 acre tract, same being the northeast line of said remaining portion of 29.94 acres, and the northeast line of a 2.500 acre tract described in a deed to Cloe Bell Urias, recorded in Volume 9678, Page 891 of the Real Property Records of Travis County, Texas, at a distance of 3268.31 feet passing a 1/2" rebar found, and continuing for a total distance of 3268.82 feet to a calculated point in the east right-of-way line of Thaxton Road, for the west corner of said 31.022 acre tract, same being the north corner of said 2.500 acre tract;

THENCE North 28°02'32" East, with the east right-of-way line of Thaxton Road, with the northwest line of said 31.022 acre tract, a distance of 417.56 feet to a 1/2" rebar found for the north corner of said 31.022 acre tract, same being the west corner of a remaining portion of a 3.22 acre tract described in a deed to Carlin Ann Wilson, recorded in Volume 12562, Page 419 of the Real Property Records of Travis County, Texas, also being the west corner of an access easement described in Volume 12562, Page 407 of the Real Property Records of Travis County, Texas;

THENCE with the northeast line of said 31.022 acre tract, the following two (2) courses and distances:

1. South 61°16'30" East, with southwest line of said remaining portion of 3.22 acres, a distance of 406.03 feet to a 1/2" rebar with Chaparral cap found for the south corner of said remaining portion of 3.22 acres, same being the west corner of an 18.38 acre tract described in a deed to Consumer Solutions, LLC, recorded in Document No. 2010038770 of the Official Public Records of Travis County, Texas;

2. South 61°00'23" East, with the southwest line of said 18.38 acre tract, a distance of 1136.77 feet to a 1/2" rebar with cap found for the south corner of said 18.38 acre tract, same being the southwest corner of said 73.453 acre tract;

THENCE with the northwest line of said 73.453 acre tract, the following three (3) courses and distances:

1. North 27°53'08" East, with the southeast line of said 18.38 acre tract, a distance of 713.60 feet to a 1/2" rebar with cap found for the east corner of said 18.38 acre tract;

2. North 61°59'49" West, with the northeast line of said 18.38 acre tract, and the northeast line of a 3.20 acre tract described in a deed to James J. Williams, recorded in Volume 13116, Page 732 of the Real Property Records of Travis County, Texas, a distance of 1540.66 feet to a 1/2" rebar with Chaparral cap found in the east right-of-way line of Thaxton Road, for the north corner of said 3.20 acre tract;

3. North 28°02'32" East, with the east right-of-way line of Thaxton Road, a distance of 360.56 feet to the POINT OF BEGINNING, containing 306.331 acres of land, more or less.

TRACT 2, 39.250 ACRES:

BEGINNING at a 1/2" rebar with Chaparral cap found in the north right-of-way line of Sassman Road, for the southwest corner of said 232.233 acre tract, same being the southeast corner of a 174.4 acre tract described in a deed to Edward J. Gillen and wife, Mildred Gillen, recorded in Volume 1549, Page 268 of the Deed Records of Travis County, Texas;

THENCE North 27°21'05" East, with the west line of said 232.233 acre tract, same being the east line of said 174.4 acre tract, a distance of 1257.11 feet to a calculated point;

THENCE crossing said 232.233 acre tract, the following two (2) courses and distances:

1. South 36°26'06" East, a distance of 1284.36 feet to a calculated point;

2. With a curve to the left, having a radius of 1490.63 feet, a delta angle of 26°48'48", an arc length of 697.59 feet, and a chord which bears South 52°29'28" East, a distance of 691.24 feet to a calculated point in the east line of said 232.233 acre tract, same being the west line of said 20.022 acre tract;

THENCE South 26°53'42" West, with the west line of said 20.022 acre tract, same being the east line of said 232.233 acre tract and the east line of said 9.662 acre tract, a distance of 621.23 feet to a 1/2" rebar with 5418 cap found in the north right-of-way line of Sassman Road, for the southeast corner of said 9.662 acre tract, same being the southwest corner of said 20.022 acre tract;

THENCE South 29°00'48" West, crossing Sassman Road, a distance of 70.00 feet to a calculated point in the south right-of-way line of Sassman Road, same being the north line of said 21 acre tract;

THENCE North 60°59'12" West, with the south right-of-way line of Sassman Road, same being the north line of said 21 acre tract, a distance of 1838.40 feet to a calculated point;

THENCE North 29°00'48" East, crossing Sassman Road, a distance of 70.00 feet to the POINT OF BEGINNING, containing 39.250 acres of land, more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. 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.

**HB 2975 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hunter called up with senate amendments for consideration at this time,

HB 2975, A bill to be entitled An Act relating to continuing education for physicians and nurses regarding the treatment of tick-borne diseases.

Representative Hunter moved to concur in the senate amendments to **HB 2975**.

The motion to concur in the senate amendments to **HB 2975** prevailed by (Record 1611): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Callegari; Eiland; Vo.

Senate Committee Substitute

CSHB 2975, A bill to be entitled An Act relating to continuing education for physicians and nurses regarding the treatment of tick-borne diseases.

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

SECTION 1. The legislature finds that tick-borne diseases are an important public health issue in Texas. The legislature further finds that medical and nursing education on the appropriate care and treatment of tick-borne diseases is essential to the delivery of necessary health care to individuals in Texas suffering from tick-borne diseases. It is the intent of the legislature to address the need for medical and nursing education on tick-borne diseases through the continuing medical education requirements for physicians and nurses.

SECTION 2. Subchapter B, Chapter 156, Occupations Code, is amended by adding Section 156.059 to read as follows:

Sec. 156.059. CONTINUING EDUCATION IN TICK-BORNE DISEASES. (a) A physician licensed under this subtitle who submits an application for renewal of a license to practice medicine and whose practice includes the treatment of tick-borne diseases is encouraged to include continuing medical education in the treatment of tick-borne diseases among the hours of continuing medical education completed for purposes of rules adopted under Section 156.051(a)(2).

(b) The board shall adopt rules to establish the content of and approval requirements for continuing medical education relating to the treatment of tick-borne diseases. In adopting rules, the board shall seek input from affected parties and review relevant courses, including courses that have been approved in other states. Rules adopted under this section must provide for the identification and approval of accredited continuing medical education courses that represent an appropriate spectrum of relevant medical clinical treatment relating to tick-borne diseases.

(c) If relevant, the board shall consider a physician's participation in a continuing medical education course approved under Subsection (b) if:

(1) the physician is being investigated by the board regarding the physician's selection of clinical care for the treatment of tick-borne diseases; and

(2) the physician completed the course not more than two years before the start of the investigation.

(d) The board may adopt other rules to implement this section.

SECTION 3. Subchapter G, Chapter 301, Occupations Code, is amended by adding Section 301.304 to read as follows:

Sec. 301.304. CONTINUING EDUCATION IN TICK-BORNE DISEASES. (a) As part of the continuing education requirements under Section 301.303, a license holder whose practice includes the treatment of tick-borne diseases shall be encouraged to participate, during each two-year licensing period, in continuing education relating to the treatment of tick-borne diseases.

(b) The board shall adopt rules to identify the license holders who are encouraged to complete continuing education under Subsection (a) and establish the content of that continuing education. In adopting rules, the board shall seek input from affected parties and review relevant courses, including courses that have been approved in other states. Rules adopted under this section must provide that continuing education courses representing an appropriate spectrum of relevant medical clinical treatment relating to tick-borne diseases qualify as approved continuing education courses for license renewal.

(c) If relevant, the board shall consider a license holder's participation in a continuing education course approved under Subsection (b) if:

(1) the license holder is being investigated by the board regarding the license holder's selection of clinical care for the treatment of tick-borne diseases; and

(2) the license holder completed the course not more than two years before the start of the investigation.

(d) The board may adopt other rules to implement this section, including rules under Section 301.303(c) for the approval of education programs and providers.

SECTION 4. The Texas Medical Board and the Texas Board of Nursing shall consult and cooperate in adopting the rules required under Sections 156.059 and 301.304, Occupations Code, as added by this Act.

SECTION 5. Not later than January 31, 2012, the Texas Medical Board shall adopt rules required by Section 156.059, Occupations Code, as added by this Act.

SECTION 6. Not later than January 31, 2012, the Texas Board of Nursing shall adopt rules required by Section 301.304, Occupations Code, as added by this Act.

SECTION 7. Not later than February 6, 2012, the Texas Medical Board and the Texas Board of Nursing shall report to the governor, the lieutenant governor, and the speaker of the house of representatives concerning the adoption of rules as required by Sections 156.059 and 301.304, Occupations Code, as added by this Act.

SECTION 8. Subsection (c), Section 156.059, and Subsection (c), Section 301.304, Occupations Code, as added by this Act, apply only to the investigation of a complaint or a disciplinary action based on a complaint filed on or after the effective date of this Act. The investigation of a complaint or a disciplinary action based on a complaint filed before that date is governed by the law in effect on the date the complaint was filed, and that law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2011.

HB 3099 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 3099, A bill to be entitled An Act relating to the office of inspector general of the Department of Public Safety.

Representative Kolkhorst moved to concur in the senate amendments to **HB 3099**.

The motion to concur in the senate amendments to **HB 3099** prevailed by (Record 1612): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender;

Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Alvarado; Madden; Phillips.

Senate Committee Substitute

CSHB 3099, A bill to be entitled An Act relating to the office of inspector general of the Department of Public Safety.

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

SECTION 1. Chapter 411, Government Code, is amended by adding Subchapter I-1, and a heading is added to that subchapter to read as follows:

SUBCHAPTER I-1. OFFICE OF INSPECTOR GENERAL

SECTION 2. Section 411.244, Government Code, is transferred to Subchapter I-1, Chapter 411, Government Code, as added by this Act, redesignated as Section 411.251, Government Code, and amended, and Subchapter I-1, Chapter 411, Government Code, is amended by adding Sections 411.252, 411.253, 411.254, 411.255, and 411.256 to read as follows:

Sec. 411.251 [~~411.244~~]. ESTABLISHMENT AND PURPOSE [~~OFFICE OF INSPECTOR GENERAL~~]. (a) The commission shall establish the office of inspector general.

(b) The office of inspector general [~~which~~] is responsible for:

(1) acting to prevent and detect serious breaches of departmental policy, fraud, and abuse of office, including any acts of criminal conduct within the department; and

(2) independently and objectively reviewing, investigating, delegating [~~an investigation~~], and overseeing the investigation [~~of administrative and all other allegations~~] of:

(A) conduct described [~~referred to~~] in Subdivision (1);

(B) [~~(a)(1) above and the following~~];

[~~(A)~~] criminal activity occurring in all divisions of the department;

(C) [~~(B)~~] allegations of wrongdoing by department employees;

(D) [~~(C)~~] crimes committed on department property; and

(E) [~~(D)~~] serious breaches of department policy.

Sec. 411.252. OVERSIGHT OF INVESTIGATIONS. (a) [~~(b)~~] The office of inspector general has departmental jurisdiction for oversight and coordination over all investigations occurring on department property or involving department employees.

(b) The office shall coordinate and provide oversight, but is ~~[need]~~ not required to conduct~~;~~ all investigations under this subchapter ~~[section]~~.

(c) The inspector general shall delegate any investigation considered potentially appropriate for criminal prosecution ~~[allegations arising under this section]~~ to the Texas Ranger division or the criminal investigations ~~[Criminal Law Enforcement]~~ division of the department for investigation or referral back to the inspector general for further action.

(d) The ~~[However the]~~ inspector general shall continually monitor an investigation referred to another division of the department under Subsection (c), ~~[referred matters]~~ and the inspector general and the division shall report to the commission ~~[along with any other division investigating a matter]~~ on the ~~[its]~~ status of the investigation while pending.

Sec. 411.253. INITIATION OF INVESTIGATIONS. The office of inspector general may only initiate an investigation based on:

(1) authorization from the commission;

(2) approval of the inspector general or deputy inspector general;

(3) approval of the director, a deputy director, an assistant director of the Texas Rangers, or an assistant director of the criminal investigations division for criminal investigations; or

(4) commission rules or approved commission policies ~~[(e) An investigation under this section may be initiated only by the director or the commission].~~

Sec. 411.254. COMMISSION APPOINTMENT AND OVERSIGHT. (a) The commission shall appoint the inspector general and may appoint a deputy inspector general. The inspector general serves until removed by the commission.

(b) The inspector general is not required to be a peace officer as that term is defined by Article 2.12, Code of Criminal Procedure. The commission or director may commission the inspector general as a commissioned peace officer of the department if the inspector general holds a permanent peace officer license issued under Chapter 1701, Occupations Code.

(c) ~~[(e)]~~ The commission has direct oversight over the office of inspector general, including decisions regarding budget and staffing. The ~~[commission shall appoint the]~~ inspector general shall coordinate with the director for administrative support as provided by the commission.

(d) ~~[The inspector general serves until removed by the commission.]~~ The commission shall establish policies to ensure that the commission continues to oversee the office of inspector general as required by this section ~~[subsection]~~ and to ensure that the office of inspector general retains and exercises its original jurisdiction under Section 411.252 ~~[Subsection (b)]~~.

Sec. 411.255. REPORTS. (a) ~~[(e)]~~ The inspector general shall report directly to the commission regarding performance of and activities related to investigations~~[- report to the director for administrative purposes.]~~ and provide the director with information regarding investigations as appropriate.

(b) ~~[(f)]~~ The inspector general shall present at each regularly scheduled commission meeting and at other appropriate times:

(1) reports of investigations; and

(2) a summary of information relating to investigations conducted under this subchapter [section] that includes analysis of the number, type, and outcome of investigations, trends in the investigations, and recommendations to avoid future complaints.

Sec. 411.256. AUTHORITY OF STATE AUDITOR. [(§)] This chapter or other law related to the operation of the department's office of inspector general does not preempt the authority of the state auditor to conduct an audit or investigation under Chapter 321 or other law.

SECTION 3. This Act takes effect September 1, 2011.

HB 1413 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Chisum called up with senate amendments for consideration at this time,

HB 1413, A bill to be entitled An Act relating to the powers and duties of the Castro County Hospital District.

Representative Chisum moved to concur in the senate amendments to **HB 1413**.

The motion to concur in the senate amendments to **HB 1413** prevailed by (Record 1613): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; 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; Keffer(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Senate Committee Substitute

CSHB 1413, A bill to be entitled An Act relating to the powers and duties of the Castro County Hospital District.

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

SECTION 1. Section 1013.052, Special District Local Laws Code, is amended to read as follows:

Sec. 1013.052. NOTICE OF ELECTION. Notice [~~Not earlier than the 30th day or later than the 10th day before the date~~] of an election of directors [~~-, notice of the election~~] shall be published [~~one time~~] in a newspaper of general circulation in Castro County in accordance with Section 4.003, Election Code.

SECTION 2. Subchapter E, Chapter 1013, Special District Local Laws Code, is amended by adding Sections 1013.209 and 1013.210 to read as follows:

Sec. 1013.209. ADDITIONAL MEANS OF SECURING REPAYMENT OF BONDS. In addition to the authority to issue general obligation bonds and revenue bonds under this subchapter, the board may provide for the security and payment of district bonds from a pledge of a combination of ad valorem taxes as authorized by Section 1013.202 and revenue and other sources authorized by Section 1013.206.

Sec. 1013.210. USE OF BOND PROCEEDS. The district may use the proceeds of bonds issued under this subchapter to pay:

(1) any expense the board determines is reasonable and necessary to issue, sell, and deliver the bonds;

(2) interest payments on the bonds during a period of acquisition or construction of a project or facility to be provided through the bonds, not to exceed five years;

(3) costs related to the operation and maintenance of a project or facility to be provided through the bonds:

(A) during an estimated period of acquisition or construction, not to exceed five years; and

(B) for one year after the project or facility is acquired or constructed;

(4) costs related to the financing of the bond funds, including debt service reserve and contingency funds;

(5) costs related to the bond issuance;

(6) costs related to the acquisition of land or interests in land for a project or facility to be provided through the bonds; and

(7) costs of construction of a project or facility to be provided through the bonds, including the payment of related professional services and expenses.

SECTION 3. 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.

HB 2947 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 2947, A bill to be entitled An Act relating to the exception of an audit working paper of a hospital district from required disclosure under the public information law.

Representative Coleman moved to concur in the senate amendments to **HB 2947**.

The motion to concur in the senate amendments to **HB 2947** prevailed by (Record 1614): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — King, T.; Peña; Pickett; Villarreal.

Senate Committee Substitute

CSHB 2947, A bill to be entitled An Act relating to the exception of an audit working paper of a hospital district from required disclosure under the public information law.

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

SECTION 1. Section 552.116(a), Government Code, is amended to read as follows:

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, a school district, a hospital district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section.

SECTION 2. Section 552.116(b)(1), Government Code, is amended to read as follows:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, the bylaws adopted by or other action of the governing board of a hospital district, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

SECTION 3. The change in law made by this Act applies to an audit working paper created before, on, or after the effective date of this Act.

SECTION 4. 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.

(Ritter in the chair)

**HB 3328 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Keffer called up with senate amendments for consideration at this time,

HB 3328, A bill to be entitled An Act relating to the disclosure of the composition of hydraulic fracturing fluids used in hydraulic fracturing treatments.

Representative Keffer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3328**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3328**: Keffer, chair; Burnam, Parker, Crownover, and Strama.

**HB 2949 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Cook called up with senate amendments for consideration at this time,

HB 2949, A bill to be entitled An Act relating to the administration of the collection improvement program.

Representative Cook moved to concur in the senate amendments to **HB 2949**.

The motion to concur in the senate amendments to **HB 2949** prevailed by (Record 1615): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; 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; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Ritter(C).

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Keffer.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2949** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Articles 103.0033(b), (c), (e), (f), (h), (i), and (j), Code of Criminal Procedure, are amended to read as follows:

(b) This article applies ~~[only]~~ to each:

~~[(1)-a]~~ county in this state ~~[with a population of 50,000 or greater,]~~ and to each

~~[(2)-a]~~ municipality with a population of 100,000 or greater.

(c) Unless granted a waiver under Subsection (h), each ~~[county and]~~ municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county may develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county program must include district, county, and justice courts.

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and

(2) are planning ~~[able]~~ to implement a program before April 1 of the following year.

(f) The ~~[comptroller, in cooperation with the]~~ office~~[-]~~ shall develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. The office ~~[comptroller]~~ shall determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(h) The office~~[-, in consultation with the comptroller,]~~ may:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) for a municipality, determine whether it is not actually cost-effective to implement a program in the ~~[a county or]~~ municipality and grant a waiver to the ~~[county or]~~ municipality.

(i) Each county that implements a program and each municipality shall at least annually submit to the office ~~[and the comptroller]~~ a written report that includes updated information regarding the program, as determined by the office ~~[in cooperation with the comptroller]~~. The report must be in a form approved by the office ~~[in cooperation with the comptroller]~~.

(j) The office ~~[comptroller]~~ shall periodically audit ~~[counties and]~~ municipalities to verify information reported under Subsection (i) and confirm that the ~~[county or]~~ municipality is conforming with requirements relating to the program. ~~[The comptroller shall consult with the office in determining how frequently to conduct audits under this section.]~~

SECTION 2. Section 133.058(e), Local Government Code, is amended to read as follows:

(e) A municipality ~~[or county]~~ may not retain a service fee if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality ~~[or county]~~ may continue to retain a service fee under this section on receipt of a written confirmation from the office ~~[comptroller]~~ that the municipality ~~[or county]~~ is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 3. Section 133.103(c-1), Local Government Code, is amended to read as follows:

(c-1) The treasurer shall send to the comptroller 100 percent of the fees collected under this section by a municipality ~~[to the comptroller]~~ if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality ~~[or county]~~ shall continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the office ~~[comptroller]~~ that the municipality ~~[or county]~~ is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 4. 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.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2949** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Articles 103.0033(a), (b), (c), (d), (e), (f), (h), (i), and (j), Code of Criminal Procedure, are amended to read as follows:

(a) In this article:

(1) "Eligible case" means a criminal case in which the judgment has been entered by a trial court. The term does not include a criminal case in which a defendant has been placed on deferred disposition or has elected to take a driving safety course.

(2) "Office" means the Office of Court Administration of the Texas Judicial System.

(3) ~~(2)~~ "Program" means the program to improve the collection of court costs, fees, and fines imposed in criminal cases, as developed and implemented under this article.

(b) This article applies ~~only~~ to each[~~:~~

~~(1) a~~ county in this state ~~[with a population of 50,000 or greater,]~~ and to each

~~(2) a~~ municipality with a population of 100,000 or greater.

(c) Unless granted a waiver under Subsection (h), each ~~county and~~ municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county may develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county program must include district, county, and justice courts.

(d) The program must consist of:

(1) a component that conforms with a model developed by the office and designed to improve in-house collections for eligible cases through the application of best practices; and

(2) a component designed to improve the collection of balances for eligible cases more than 60 days past due, which may be implemented by entering into a contract with a private attorney or public or private vendor in accordance with Article 103.0031.

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and

(2) are planning ~~[able]~~ to implement a program before April 1 of the following year.

(f) The ~~[comptroller, in cooperation with the]~~ office[~~s~~] shall develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. The office ~~[comptroller]~~ shall determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(h) The office~~[, in consultation with the comptroller,]~~ may:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) for a municipality, determine whether it is not actually cost-effective to implement a program in the ~~[a county or]~~ municipality and grant a waiver to the ~~[county or]~~ municipality.

(i) Each county that implements a program and each municipality shall at least annually submit to the office ~~[and the comptroller]~~ a written report that includes updated information regarding the program, as determined by the office ~~[in cooperation with the comptroller]~~. The report must be in a form approved by the office ~~[in cooperation with the comptroller]~~.

(j) The office ~~[comptroller]~~ shall periodically audit ~~[counties and]~~ municipalities to verify information reported under Subsection (i) and confirm that the ~~[county or]~~ municipality is conforming with requirements relating to the program. ~~[The comptroller shall consult with the office in determining how frequently to conduct audits under this section.]~~

SECTION 2. Section 133.058(e), Local Government Code, is amended to read as follows:

(e) A municipality ~~[or county]~~ may not retain a service fee if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure, and if the municipality is unable to reestablish compliance on or before the 180th day after the date the municipality receives written notice of noncompliance from the office. After any period in which the municipality becomes unable to retain a service fee under this subsection, the ~~[The]~~ municipality ~~[or county]~~ may begin once more ~~[continue]~~ to retain the [a service] fee only ~~[under this section]~~ on receipt of a written confirmation from the office ~~[comptroller]~~ that the municipality ~~[or county]~~ is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 3. Section 133.103(c-1), Local Government Code, is amended to read as follows:

(c-1) The treasurer shall send to the comptroller 100 percent of the fees collected under this section by a municipality ~~[to the comptroller]~~ if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure, and if the municipality is unable to reestablish compliance on or before the 180th day after the date the municipality receives written notice of noncompliance from the office. After any period in which the treasurer is required under this subsection to send 100 percent of the fees collected under this section to the comptroller, the ~~[The]~~ municipality ~~[or county]~~ shall begin once more ~~[continue]~~ to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the office ~~[comptroller]~~ that the municipality ~~[or county]~~ is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 4. Section 706.005(a), Transportation Code, is amended to read as follows:

(a) A political subdivision shall immediately notify the department that there is no cause to continue to deny renewal of a person's driver's license based on the person's previous failure to appear or failure to pay or satisfy a judgment

ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a), on payment of a fee as provided by Section 706.006 and:

(1) the perfection of an appeal of the case for which the warrant of arrest was issued or judgment arose;

(2) the dismissal of the charge for which the warrant of arrest was issued or judgment arose;

(3) the posting of bond or the giving of other security to reinstate the charge for which the warrant was issued;

(4) the payment or discharge of the fine and cost owed on an outstanding judgment of the court; or

(5) other suitable arrangement to pay the fine and cost within the court's discretion.

SECTION 5. The change in law made by this Act in amending Sections 133.058(e) and 133.103(c-1), Local Government Code, applies only to an audit commenced on or after the effective date of this Act. An audit commenced before the effective date of this Act is governed by the law in effect when the audit was commenced, and the former law is continued in effect for that purpose.

SECTION 6. The change in law made by this Act in amending Article 103.0033, Code of Criminal Procedure, applies only to a court cost, fee, or fine imposed in a criminal case on or after the effective date of this Act. A court cost, fee, or fine imposed in a criminal case before the effective date of this Act is governed by the law in effect on the date the cost, fee, or fine was imposed, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2011.

HB 2516 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Alvarado called up with senate amendments for consideration at this time,

HB 2516, A bill to be entitled An Act relating to the appeal of an indefinite suspension of a municipal firefighter or police officer.

Representative Alvarado moved to concur in the senate amendments to **HB 2516**.

The motion to concur in the senate amendments to **HB 2516** prevailed by (Record 1616): 130 Yeas, 9 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycoc; Beck; Berman; Bohac; Bonnen; Brown; Button; Callegari; Carter; Castro; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst;

Kuempel; Landroop; Larson; Laubenberg; Lavender; Legler; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Branch; Cain; Howard, C.; Hughes; Lewis; Perry; Taylor, V.; White; Zedler.

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

Absent, Excused — Burnam; Christian; Garza; Miles; Price.

Absent — Burkett; Hopson; Keffer; Schwertner.

STATEMENT OF VOTE

When Record No. 1616 was taken, my vote failed to register. I would have voted yes.

Schwertner

Senate Committee Substitute

CSHB 2516, A bill to be entitled An Act relating to the appeal of an indefinite suspension of a municipal firefighter.

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

SECTION 1. Section 143.120, Local Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A temporary suspension of a firefighter under Subsection (c)(2) may not exceed 90 calendar days.

SECTION 2. 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.

LEAVE OF ABSENCE GRANTED

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

Gonzalez on motion of Mallory Caraway.

HCR 84 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Cain called up with senate amendments for consideration at this time,

HCR 84, A concurrent resolution designating 42 as the official State Domino Game of Texas.

Representative Cain moved to concur in the senate amendments to **HCR 84**.

The motion to concur in the senate amendments to **HCR 84** prevailed by (Record 1617): 130 Yeas, 6 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, Y.; Driver; Dukes; Dutton; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Castro; Deshotel; Hamilton; Harless; Nash; Villarreal.

Present, not voting — Mr. Speaker; Davis, S.; Ritter(C).

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Absent — Alonzo; Davis, J.; Eiland; Eissler; Keffer.

STATEMENT OF VOTE

I was shown voting no on Record No. 1617. I intended to vote yes.

Nash

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HCR 84** (senate committee printing page 1, line 40) by striking "Table" and substituting "Domino".

HB 2810 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative S. Miller called up with senate amendments for consideration at this time,

HB 2810, A bill to be entitled An Act relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.

Representative S. Miller moved to concur in the senate amendments to **HB 2810**.

The motion to concur in the senate amendments to **HB 2810** prevailed by (Record 1618): 137 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; 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; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Castro; Hernandez Luna; Lucio; Marquez; Vo.

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

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Senate Committee Substitute

CSHB 2810, A bill to be entitled An Act relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.

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

SECTION 1. Section 151.316(a), Tax Code, as amended by Chapters 1162 (**HB 3144**) and 1373 (**SB 958**), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

(a) The following items are exempted from the taxes imposed by this chapter:

- (1) horses, mules, and work animals;
- (2) animal life the products of which ordinarily constitute food for human consumption;
- (3) feed for farm and ranch animals;
- (4) feed for animals that are held for sale in the regular course of business;
- (5) seeds and annual plants the products of which:
 - (A) ordinarily constitute food for human consumption;
 - (B) are to be sold in the regular course of business; or
 - (C) are used to produce feed for animals exempted by this section;
- (6) fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:
 - (A) food for human consumption;
 - (B) feed for animal life; or

(C) other agricultural products to be sold in the regular course of business;

(7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business;

(8) machinery and equipment exclusively used in, and pollution control equipment required as a result of, the processing, packing, or marketing of agricultural products by an original producer at a location operated by the original producer for processing, packing, or marketing the producer's own products if:

(A) 50 percent or more of the products processed, packed, or marketed at or from the location are produced by the original producer and not purchased or acquired from others; and

(B) the producer does not process, pack, or market for consideration any agricultural products that belong to other persons in an amount greater than five percent of the total agricultural products processed, packed, or marketed by the producer;

(9) ice exclusively used by commercial fishing boats in the storing of aquatic species including but not limited to shrimp, other crustaceans, finfish, mollusks, and other similar creatures;

(10) tangible personal property, including a tire, sold or used to be installed as a component part of a motor vehicle, machinery, or other equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business;

(11) machinery and equipment exclusively used in an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3; ~~and~~

(12) tangible personal property incorporated into a structure that is used for the disposal of poultry carcasses in accordance with Section 26.303, Water Code; and

(13) tangible personal property incorporated into or attached to a structure that is located on a commercial dairy farm, is used or employed exclusively for the production of milk, and is:

(A) a free-stall dairy barn; or

(B) a dairy structure used solely for maternity purposes.

SECTION 2. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4. This Act takes effect September 1, 2011.

HB 9 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Branch called up with senate amendments for consideration at this time,

HB 9, A bill to be entitled An Act relating to student success-based funding for and reporting regarding public institutions of higher education.

HB 9 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GALLEGO: Mr. Branch, I am concerned—with respect to the item you just talked about, which I would consider the more nontraditional students. For institutions like the Lamar University components, or Sul Ross, or some of the smaller institutions that have a single mother with kids who is working and trying to provide for her family and at the same time going to school. I'm still concerned that this legislation punishes those people who are taking longer, because they are struggling to get by. The person may be in their 30s, or late 20s, or older frankly, who's trying to go back to school and get a degree to try and improve their life, but still has to maintain, essentially, school and the other—are you—is that not a concern?

REPRESENTATIVE BRANCH: Well, it's something we've been working on since about 2007 when President Natalicio at UTEP, I think, pointed out to many of us that a lot of folks were using these graduation rates, which were based on a NCAA criterion, and really what we should be focusing on more is graduations, because in many cases—in her illustration she had a train where people would get on and off, but they take longer. And so, this bill does in fact focus on graduations.

GALLEGO: It doesn't punish universities, or work to the disadvantage of universities where students are taking longer, because they are working, and they are essentially going to school part-time and balancing it? It doesn't reformulate, and the fund distribution will not punish those universities?

BRANCH: No, in fact, under this program, when it was considered the PIF—I guess, the incentive funding, the performance incentive funding pool—I think UTEP, which has a lot of at risk students, benefited. It was one of the universities that got the most out of that, because they were getting graduations, and they were getting extra for at-risk graduations. And the other part as I mentioned was

the high-need graduations. The notion there is if we need certain occupations, and these can evolve over time, then we want to incentivize, for example, nursing that Representative Howard and I just had the discussion about.

GALLEGO: So, Sul Ross State University, and its campuses, the Lamar University, and its campuses, they will not be disadvantaged under this proposal?

BRANCH: I think they will be advantaged, actually.

REMARKS ORDERED PRINTED

Representative Gallego moved to print remarks between Representative Branch and Representative Gallego.

The motion prevailed.

Representative Branch moved to concur in the senate amendments to **HB 9**.

The motion to concur in the senate amendments to **HB 9** prevailed by (Record 1619): 127 Yeas, 14 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Geren; Gonzales, V.; Gooden; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Truitt; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alvarado; Chisum; Coleman; Gallego; Giddings; Gonzales, L.; Guillen; Martinez; Muñoz; Peña; Reynolds; Thompson; Turner; Veasey.

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

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Absent — Torres.

STATEMENT OF VOTE

I was shown voting no on Record No. 1619. I intended to vote yes.

L. Gonzales

Senate Committee Substitute

CSHB 9, A bill to be entitled An Act relating to student success-based funding for and reporting regarding public institutions of higher education.

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

SECTION 1. This Act shall be known as the Higher Education Outcomes-Based Funding Act.

SECTION 2. Section 61.059, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (b-1) to read as follows:

(a) To finance a system of higher education and to secure an equitable distribution of state funds deemed to be available for higher education, the board shall perform the functions described in this section. Funding policies shall:

(1) allocate resources efficiently and provide incentives for programs of superior quality and for institutional diversity;

(2) provide incentives for supporting the five-year master plan developed and revised under Section 61.051; ~~and~~

(3) discourage unnecessary duplication of course offerings between institutions and unnecessary construction on any campus; and

(4) emphasize an alignment with education goals established by the board.

(b-1) A committee under Subsection (b) must be composed of representatives of a cross-section of institutions representing each of the institutional groupings under the board's accountability system. The commissioner of higher education shall solicit recommendations for the committee's membership from the chancellor of each university system and from the president of each institution of higher education that is not a component of a university system. The chancellor of a university system shall recommend to the commissioner at least one institutional representative for each institutional grouping to which a component of the university system is assigned. The president of an institution of higher education that is not a component of a university system shall recommend to the commissioner at least one institutional representative for the institutional grouping to which the institution is assigned.

(c) Formulas for funding shall:

(1) reflect the role and mission of each institution;

(2) ~~shall~~ emphasize funding elements that directly support faculty;

(3) ~~and shall~~ reflect both fixed and variable elements of cost; and

(4) incorporate, as the board considers appropriate, goals identified in the board's long-range statewide plan developed under Section 61.051.

SECTION 3. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0593 to read as follows:

Sec. 61.0593. STUDENT SUCCESS-BASED FUNDING RECOMMENDATIONS. (a) The legislature finds that it is in the state's highest public interest to evaluate student achievement at institutions of higher education and to develop higher education funding policy based on that evaluation. Funding policies that promote postsecondary educational success based on objective indicators of relative performance, such as degree completion rates, are critical to maintaining the state's competitiveness in the national and global economy and supporting the general welfare of this state. Therefore, the purpose of this section

is to ensure that institutions of higher education produce student outcomes that are directly aligned with the state's education goals and economic development needs.

(b) In this section:

(1) "At-risk student" means an undergraduate student of an institution of higher education:

(A) who has been awarded a grant under the federal Pell Grant program; or

(B) who, on the date the student initially enrolled in the institution:

(i) was 20 years of age or older;

(ii) had a score on the Scholastic Assessment Test (SAT) or the American College Test (ACT) that was less than the national mean score for students taking that test;

(iii) was enrolled as a part-time student; or

(iv) had not received a high school diploma but had received a high school equivalency certificate within the last six years.

(2) "Critical field" means a field of study designated as a critical field under Subsection (c).

(c) Except as otherwise provided under Subdivision (2), the fields of engineering, computer science, mathematics, physical science, allied health, nursing, and teaching certification in the field of science or mathematics are critical fields. Beginning September 1, 2012, the board, based on the board's determination of those fields of study in which the support and development of postsecondary education programs at the bachelor's degree level are most critically necessary for serving the needs of this state, by rule may:

(1) designate as a critical field a field of study that is not currently designated by this subsection or by the board as a critical field; or

(2) remove a field of study from the list of fields currently designated by this subsection or by the board as critical fields.

(d) This subsection applies only to a general academic teaching institution other than a public state college. In devising its funding formulas and making its recommendations to the legislature relating to institutional appropriations of funds under Section 61.059 and Subchapter D, Chapter 62, for institutions to which this subsection applies, the board, in the manner and to the extent the board considers appropriate and in consultation with those institutions, shall incorporate the consideration of undergraduate student success measures achieved during the preceding state fiscal biennium by each of the institutions. The success measures considered by the board under this subsection may include:

(1) the total number of bachelor's degrees awarded by the institution;

(2) the total number of bachelor's degrees in critical fields awarded by the institution;

(3) the total number of bachelor's degrees awarded by the institution to at-risk students; and

(4) as determined by the board, the six-year graduation rate of undergraduate students of the institution who initially enrolled in the institution in the fall semester immediately following their graduation from a public high school in this state as compared to the six-year graduation rate predicted for those students based on the composition of the institution's student body.

(e) Notwithstanding Subsection (d):

(1) not more than 10 percent of the total amount of general revenue appropriations of base funds for undergraduate education recommended by the board for all institutions to which Subsection (d) applies for a state fiscal biennium may be based on student success measures; and

(2) the board's recommendation for base funding for undergraduate education based on student success measures does not reduce or otherwise affect funding recommendations for graduate education.

(f) This subsection applies only to public junior colleges, public state colleges, and public technical institutes. In devising its funding formulas and making its recommendations to the legislature relating to institutional appropriations of incentive funds for institutions to which this subsection applies, the board, in the manner and to the extent the board considers appropriate and in consultation with those institutions, shall incorporate the consideration of the undergraduate student success measures achieved during the preceding state fiscal biennium by each of the institutions. The success measures considered by the board under this subsection may include:

(1) the following academic progress measures achieved by students at the institution:

(A) successful completion of:

(i) developmental education in mathematics;

(ii) developmental education in English;

(iii) the first college-level mathematics course with a grade of "C" or higher;

(iv) the first college-level English course with a grade of "C" or higher; and

(v) the first 30 semester credit hours at the institution; and

(B) transfer to a four-year college or university after successful completion of at least 15 semester credit hours at the institution; and

(2) the total number of the following awarded by the institution:

(A) associate's degrees;

(B) bachelor's degrees under Section 130.0012; and

(C) certificates identified by the board for purposes of this section as effective measures of student success.

(g) Biennially, the board, in consultation with institutions to which Subsections (d) and (f) apply, shall review the student success measures considered by the board under those subsections.

(h) The board shall include in its findings and recommendations to the legislature under Section 61.059:

(1) an evaluation of the effectiveness of the student success measures described by this section in achieving the purpose of this section during the preceding state fiscal biennium; and

(2) any related recommendations the board considers appropriate.

(i) The board shall adopt rules for the administration of this section, including rules requiring each institution of higher education to submit to the board any student data or other information the board considers necessary for the board to carry out its duties under this section.

SECTION 4. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0905 to read as follows:

Sec. 61.0905. REPORTS TO JOINT OVERSIGHT COMMITTEE. (a) Not later than September 30, 2011, and subsequently not later than July 1, 2012, the board shall submit to the Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency a written report reviewing, comparing, and highlighting national and global best practices on:

(1) improving student outcomes, including student retention, graduations, and graduation rates; and

(2) higher education governance, administration, and transparency.

(b) This section expires August 31, 2013.

SECTION 5. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 9** (senate committee printing) in SECTION 3 of the bill, in added Section 61.0593(d), Education Code, by striking page 2, lines 41 through 52, and substituting the following:

(d) This subsection applies only to a general academic teaching institution other than a public state college. In devising its funding formulas and making its recommendations to the legislature relating to institutional appropriations of funds under Section 61.059 for institutions to which this subsection applies, the board, in the manner and to the extent the board considers appropriate and in consultation with those institutions, shall incorporate the consideration of undergraduate student success measures achieved during the preceding state fiscal biennium by each of the institutions. At the time the board makes those recommendations, the board shall also make recommendations for incorporating the success measures, to the extent the board considers appropriate in consultation with those institutions, into the distribution of any incentive funds available for those institutions, including performance incentive funds under Subchapter D, Chapter 62. The board's recommendations must provide alternative approaches for applying the success measures and must compare the effects on funding of applying the success measures within the formula for base funding to applying the success measures as a separate formula. The success measures considered by the board under this subsection may include:

**HB 3708 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 3708, A bill to be entitled An Act relating to the Early High School Graduation Scholarship program and to the funding of certain exemptions from tuition and fees at public institutions of higher education from savings attributable to the program.

Representative Hochberg moved to concur in the senate amendments to **HB 3708**.

The motion to concur in the senate amendments to **HB 3708** prevailed by (Record 1620): 129 Yeas, 12 Nays, 2 Present, not voting.

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

Nays — Anderson, C.; Anderson, R.; Cain; Hughes; Laubenberg; Lavender; Paxton; Perry; Phillips; Sheets; Taylor, V.; Zedler.

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

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Absent — Elkins.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1620. I intended to vote no.

Flynn

Senate Committee Substitute

CSHB 3708, A bill to be entitled An Act relating to the Early High School Graduation Scholarship program and to the funding of certain exemptions from tuition and fees at public institutions of higher education from savings attributable to the program.

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

SECTION 1. Section 54.213(b), Education Code, is amended to read as follows:

(b) [~~Savings to the foundation school fund that occur as a result of the Early High School Graduation Scholarship program created in Subchapter K, Chapter 56, and that are not required for the funding of state credits for tuition and mandatory fees under Section 56.204 or school district credits under Section 56.2075 shall be used first to provide tuition exemptions under Section 54.212. Any of those savings remaining after providing tuition exemptions under Section 54.212 shall be used to provide tuition exemptions under Section 54.214.~~] The Texas Education Agency shall [~~also~~] accept and make available to provide tuition exemptions under Section 54.214 gifts, grants, and donations made to the agency for that purpose. The commissioner of education shall transfer those funds to the Texas Higher Education Coordinating Board to distribute to institutions of higher education that provide exemptions under that section. [Payment of funds under this subsection shall be made in the manner provided by Section 56.207 for state credits under Subchapter K, Chapter 56.]

SECTION 2. Section 56.204(a), Education Code, is amended to read as follows:

(a) In a total amount not to exceed the amount of funds appropriated for the current state fiscal year to pay for [~~An eligible person under the Early High School Graduation Scholarship program is entitled to~~] a state credit to apply toward tuition or tuition and mandatory fees, as applicable, at a public or private institution of higher education in this state, the commissioner of education shall award to eligible persons credits in the following amounts:

(1) \$2,000 to apply toward tuition and mandatory fees if the person successfully completed the recommended or advanced high school program established under Section 28.025 and graduated from high school on or after September 1, 2005, in 36 consecutive months or less and an additional \$1,000 to apply toward tuition and mandatory fees if the person graduated with at least 15 hours of college credit;

(2) \$500 to apply toward tuition and mandatory fees if the person successfully completed the recommended or advanced high school program established under Section 28.025 and graduated from high school on or after September 1, 2005, in more than 36 consecutive months but not more than 41 consecutive months and an additional \$1,000 to apply toward tuition and mandatory fees if the person graduated with at least 30 hours of college credit;

(3) \$1,000 to apply toward tuition and mandatory fees if the person successfully completed the recommended or advanced high school program established under Section 28.025 and graduated from high school on or after September 1, 2005, in more than 41 consecutive months but not more than 45 consecutive months with at least 30 hours of college credit; or

(4) \$1,000 to apply only toward tuition if the person graduated before September 1, 2005, after successfully completing the requirements for a high school diploma in not more than 36 consecutive months.

SECTION 3. Section 56.207(b), Education Code, is amended to read as follows:

(b) On receipt of a report from the coordinating board under Subsection (a), the commissioner of education shall transfer to the coordinating board, from funds appropriated for the purpose of the Early High ~~[Foundation]~~ School Graduation Scholarship program ~~[Program]~~, an amount commensurate with the amount of funds appropriated ~~[sufficient]~~ to pay each eligible institution of higher education the amount of state credit for tuition or tuition and mandatory fees, as applicable, that is applied by the institution during the period covered by the report.

SECTION 4. Sections 56.202(b) and 56.208, Education Code, are repealed.

SECTION 5. As soon as practicable after this Act takes effect, the Texas Higher Education Coordinating Board shall revise rules adopted under Section 56.209(a), Education Code, as necessary to conform to changes made by this Act to Subchapter K, Chapter 56, Education Code. For that purpose, the coordinating board may adopt the revisions to those rules in the manner provided by law for emergency rules. This section expires September 1, 2012.

SECTION 6. The changes in law made by this Act apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded under Subchapter K, Chapter 56, Education Code, before the effective date of this Act.

SECTION 7. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3708** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 29, Education Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. PUBLIC JUNIOR COLLEGE AND SCHOOL DISTRICT PARTNERSHIP PROGRAM TO PROVIDE DROPOUT RECOVERY

Sec. 29.401. APPLICABILITY. (a) This subchapter applies only to a public junior college, as defined by Section 61.003, located in a county:

(1) with a population of 750,000 or more; and

(2) with less than 65 percent of the population 25 years and older having graduated from high school, according to the most recent American Community Survey five-year estimates compiled by the United States Census Bureau.

(b) The application of this subchapter to a public junior college is not affected if, after the public junior college enters into a partnership and begins providing a dropout recovery program as provided by this subchapter, the county's demographics under Subsection (a)(2) change and the county no longer meets the requirements under Subsection (a)(2).

(c) This subchapter applies only to a school district with a dropout rate that is higher than 15 percent based on four-year high school completion rates. The application of this subchapter to a district is not affected if, after the district enters into a partnership as provided by this subchapter, the district's dropout rate changes and the district no longer meets the requirements under this subsection.

(d) This section expires September 1, 2013.

Sec. 29.402. PARTNERSHIP. (a) Beginning September 1, 2012, a public junior college may enter into an articulation agreement to partner with one or more school districts located in the public junior college district to provide on the campus of the public junior college a dropout recovery program for students described by Subsection (b) to successfully complete and receive a diploma from a high school of the appropriate partnering school district.

(b) A person who is under 26 years of age is eligible to enroll in a dropout recovery program under this subchapter if the person:

(1) must complete not more than three course credits to complete the curriculum requirements for the minimum, recommended, or advanced high school program, as appropriate, for high school graduation; or

(2) has failed to perform satisfactorily on an end-of-course assessment instrument administered under Section 39.023(c) or an assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (SB 1031), Acts of the 80th Legislature, Regular Session, 2007.

(c) A public junior college under this section shall:

(1) design a dropout recovery curriculum that includes career and technology education courses that lead to industry or career certification;

(2) integrate into the dropout recovery curriculum research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:

(A) high quality, college readiness instruction with strong academic and social supports;

(B) secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and

(C) information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for the purpose;

(3) offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses; and

(4) coordinate with each partnering school district to provide in the articulation agreement that the district retains accountability for student attendance, student completion of high school course requirements, and student performance on assessment instruments as necessary for the student to receive a diploma from a high school of the partnering school district.

(d) A dropout recovery program provided under this subchapter must comply with the requirements of Sections 29.081(e) and (f).

Sec. 29.403. FINANCING. (a) A public junior college district may receive from each partnering school district for each student from that district enrolled in a dropout recovery program under this subchapter an amount negotiated between the junior college district and that partnering district not to exceed the total average per student funding amount in that district during the preceding school year for maintenance and operations, including state and local funding, but excluding money from the available school fund.

(b) A student who is enrolled in a program under this subchapter is included in determining the average daily attendance under Section 42.005 of the partnering school district.

Sec. 29.404. OTHER FUNDING. (a) To the extent consistent with the General Appropriations Act, a public junior college under this subchapter is eligible to receive dropout prevention and intervention program funds appropriated to the agency.

(b) A public junior college under this subchapter may receive gifts, grants, and donations to use for the purposes of this subchapter.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 3708** by adding an appropriately numbered SECTION of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

SECTION ____ . Chapter 54, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. TEXAS SAVE AND MATCH PROGRAM

Sec. 54.801. DEFINITIONS. In this subchapter:

(1) "Accredited out-of-state institution of higher education," "career school," "general academic teaching institution," "private or independent institution of higher education," and "two-year institution of higher education" have the meanings assigned by Section 54.751.

(2) "Beneficiary" means a beneficiary on whose behalf a purchaser enters into a prepaid tuition contract with the board under Subchapter H or for whom a savings trust account is opened under Subchapter G.

(3) "Board" means the Prepaid Higher Education Tuition Board.

(4) "Fund" means the Texas save and match trust fund established under Section 54.808.

(5) "Program" means the Texas Save and Match Program established under this subchapter.

(6) "Program entity" means the Texas Match the Promise Foundation, a Texas nonprofit corporation, or any other tax-exempt charitable organization established by law to implement the program.

Sec. 54.802. TEXAS SAVE AND MATCH PROGRAM. (a) The board, in cooperation with the program entity, shall administer the Texas Save and Match Program, under which money contributed to a savings trust account by an account owner under a higher education savings plan established under Subchapter G or paid by a purchaser under a prepaid tuition contract under Subchapter H on behalf of an eligible beneficiary may be matched with:

(1) contributions made by any person to the program entity for use in making additional savings trust account contributions under Subchapter G or in purchasing additional tuition units under prepaid tuition contracts under Subchapter H; or

(2) money appropriated by the legislature for the program to be used by the board to make additional savings trust account contributions under Subchapter G or to purchase additional tuition units under Subchapter H.

(b) In addition to the board's powers assigned under Subchapters F, G, and H, the board has the powers necessary or proper to carry out its duties under this subchapter, including the power to:

(1) sue and be sued;

(2) enter into contracts and other necessary instruments;

(3) enter into agreements or other transactions with the United States, state agencies, general academic teaching institutions, two-year institutions of higher education, and local governments;

(4) appear on its own behalf before governmental agencies;

(5) contract for necessary goods and services, including specifying in the contract duties to be performed by the provider of a good or service that are a part of or are in addition to the person's primary duties under the contract;

(6) engage the services of private consultants, actuaries, trustees, records administrators, managers, legal counsel, and auditors for administrative or technical assistance;

(7) solicit and accept gifts, grants, donations, loans, and other aid from any source or participate in any other manner in any government program to carry out this subchapter;

(8) impose administrative fees;

(9) contract with a person to market the program;

(10) purchase liability insurance covering the board and employees and agents of the board; and

(11) establish other policies, procedures, and eligibility criteria to implement this subchapter.

(c) Notwithstanding other law, for purposes of Subchapter I, Chapter 659, Government Code:

(1) the program entity is considered an eligible charitable organization entitled to participate in a state employee charitable campaign under Subchapter I, Chapter 659, Government Code; and

(2) a state employee is entitled to authorize a payroll deduction for contributions to the program entity as a charitable contribution under Section 659.132, Government Code.

Sec. 54.803. INITIAL ELIGIBILITY FOR PARTICIPATION IN PROGRAM. (a) To be initially eligible to participate in the program, a beneficiary, at the time a prepaid tuition contract is entered into on the beneficiary's behalf under Subchapter H or a savings trust account is opened on the beneficiary's behalf under Subchapter G, as applicable, must be:

(1) a resident of this state; or

(2) a dependent for purposes of Section 152, Internal Revenue Code of 1986, of a resident of this state.

(b) To be initially eligible to receive matching funds described by Section 54.802(a)(2) under the program, a beneficiary, at the time a prepaid tuition contract is entered into on the beneficiary's behalf under Subchapter H, or a savings trust account is opened on the beneficiary's behalf under Subchapter G, as applicable, must be eligible for free meals under the national free or reduced-price breakfast and lunch program.

Sec. 54.804. LIMITATIONS. A matching account established by the board or program entity on behalf of a beneficiary under this subchapter is forfeited and reverts to the board or program entity on the occurrence of any of the following:

(1) the 10th anniversary of the date the beneficiary is projected to graduate from high school, as indicated by the purchaser in the enrollment contract, except that time spent by the beneficiary as an active duty member of the United States armed services tolls the period described by this subdivision;

(2) a change of beneficiary by the account owner or purchaser of the matched account;

(3) a contract cancellation of the matched account and refund request;

(4) the successful completion by the beneficiary of an associate or bachelor's degree program;

(5) transfer of the matched account to another qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986; or

(6) any other event the board or program entity determines would be inconsistent with the program's purposes.

Sec. 54.805. MATCHING ACCOUNT ADMINISTRATION. (a) A matching account established by the board or program entity on behalf of a beneficiary under this subchapter must be accounted for separately from the beneficiary's prepaid tuition contract balance or savings trust account balance.

(b) To the extent possible, money or tuition units in a beneficiary's matching account shall be used or redeemed after money is used from the beneficiary's savings trust account under Subchapter G or tuition units are redeemed from the prepaid tuition contract for the beneficiary under Subchapter H.

(c) To the extent possible, the board shall include information about a matching account in the periodic statement provided to applicable account owners and purchasers under Subchapters G and H.

Sec. 54.806. CONFIDENTIALITY. (a) Records in the custody of the board or program entity relating to the participation of specific purchasers, beneficiaries, applicants, scholarship recipients, or donors under the program are confidential.

(b) Notwithstanding Subsection (a), the board or program entity may release information described by Subsection (a) to the extent required by a general academic teaching institution, two-year institution of higher education, private or independent institution of higher education, career school, or accredited out-of-state institution of higher education at which a beneficiary may enroll or is enrolled. The institution or school receiving information described by Subsection (a) shall keep the information confidential.

(c) Notwithstanding any other provision of this subchapter, the board or program entity may release information to the Internal Revenue Service or to any state tax agency as required by applicable tax law.

(d) Notwithstanding any other provision of this subchapter, the board or program entity may release information relating to donors who authorize release of that information.

Sec. 54.807. PILOT PROJECTS UNDER PROGRAM. To fulfill the intent of the program, the board may use funds described by Section 54.802(a)(2) to establish pilot projects under the program in an effort to incentivize participation in the higher education savings program under Subchapter G and the prepaid tuition unit undergraduate education program under Subchapter H, including projects that incentivize participation by:

(1) awarding additional matching grants based on a beneficiary's achievement of specified academic goals;

(2) providing initial matching grants and paying application fees;

(3) providing incentives for employers to contribute matching funds to the program; and

(4) creating a program information portal designed to increase program awareness and accessibility among school districts, parents, and students.

Sec. 54.808. TEXAS SAVE AND MATCH TRUST FUND; AGREEMENTS BETWEEN BOARD AND PROGRAM ENTITY REGARDING PROGRAM ENTITY FUNDS. (a) The Texas save and match trust fund is established as a trust fund to be held with the comptroller.

(b) Money in the fund may be spent without appropriation and only to establish matching accounts, make deposits, purchase tuition units, and award matching grants and scholarships under the program and to pay the costs of program administration and operations.

(c) The board may invest, reinvest, and direct the investment of any available money in the fund.

(d) Interest and income from the assets of the fund shall be credited to and deposited in the fund.

(e) The board and the program entity may enter into an agreement under which the board may hold and manage funds of the program entity and provide services to the program entity.

Sec. 54.809. RULES. The board shall adopt rules for the administration of this subchapter.

SECTION 2. Subchapter A, Chapter 56, Education Code, is amended by adding Section 56.007 to read as follows:

Sec. 56.007. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. Notwithstanding any other law, the right of a person to assets held in or the right to receive payments or benefits under any fund or plan established under Subchapter G, H, or I, Chapter 54, including an interest in a savings trust account, prepaid tuition account, or related matching account, may not be considered an asset of the person, or otherwise included in the person's household income or other financial resources, for purposes of determining the person's eligibility for a TEXAS grant or any other state-funded student financial assistance.

SECTION 3. Subchapter C, Chapter 62, Health and Safety Code, is amended by adding Section 62.1012 to read as follows:

Sec. 62.1012. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of determining whether a child meets family income and resource requirements for eligibility for the child health plan, the commission may not consider as income or resources a right to assets held in or a right to receive payments or benefits under:

(1) any fund or plan established under Subchapter G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

SECTION 4. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0039 to read as follows:

Sec. 31.0039. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. For purposes of determining the amount of financial assistance granted to an individual under this chapter for the support of dependent children or determining whether the family meets household income and resource requirements for financial assistance under this chapter, the department may not consider the right to assets held in or the right to receive payments or benefits under:

(1) any fund or plan established under Subchapter G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

SECTION 5. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.02611 to read as follows:

Sec. 32.02611. EXCLUSION OF ASSETS IN PREPAID TUITION PROGRAMS AND HIGHER EDUCATION SAVINGS PLANS. (a) Except as provided by Subsection (b), in determining eligibility and need for medical assistance, the department may not consider as assets or resources a right to assets held in or a right to receive payments or benefits under:

(1) any fund or plan established under Subchapter G, H, or I, Chapter 54, Education Code, including an interest in a savings trust account, prepaid tuition contract, or related matching account; or

(2) any qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986.

(b) In determining eligibility and need for medical assistance for an applicant who may be eligible on the basis of the applicant's eligibility for medical assistance for the aged, blind, or disabled under 42 U.S.C. Section 1396a(a)(10), the department may consider as assets or resources a right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program described by Subsection (a).

(c) Notwithstanding Subsection (b), the department shall seek a federal waiver authorizing the department to exclude, for purposes of determining the eligibility of an applicant described by that subsection, the right to assets held in or a right to receive payments or benefits under any fund, plan, or tuition program described by Subsection (a) if the fund, plan, or tuition program was established before the 21st birthday of the beneficiary of the fund, plan, or tuition program.

SECTION 6. Section 54.7521, Education Code, is repealed.

SECTION 7. The Prepaid Higher Education Tuition Board shall adopt the initial rules required by Subchapter I, Chapter 54, Education Code, as added by this Act, not later than May 31, 2012.

SECTION 8. The Texas Save and Match Program established by this Act is an expansion of the Texas Save and Match program created under Section 54.7521, Education Code. On and after the effective date of the repeal of Section 54.7521, Education Code, by this Act, the tax-exempt charitable organization created under that section to provide matching funds under that program may continue to accept tax-deductible donations for the purpose of providing matching funds under the program established by this Act.

SECTION 9. Subchapter I, Chapter 54, Education Code, as added by this Act, applies to a prepaid tuition contract purchased for a beneficiary under Subchapter H, Chapter 54, Education Code, regardless of whether the prepaid tuition contract was purchased before, on, or after the effective date of this Act. Subchapter I, Chapter 54, Education Code, as added by this Act, applies only to a savings trust account opened for a beneficiary under Subchapter G, Chapter 54, Education Code, on or after January 1, 2012.

SECTION 10. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 11. The changes in law made by this Act apply to a person who receives health benefits coverage under Chapter 62, Health and Safety Code, financial assistance under Chapter 31, Human Resources Code, or medical assistance under Chapter 32, Human Resources Code, on or after the effective date of this Act, regardless of the date on which eligibility for coverage or assistance was initially determined.

SECTION 12. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Section 6 of this Act takes effect January 1, 2012.

**HB 2337 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 2337, A bill to be entitled An Act relating to the admissibility of certain statements made by a child in a juvenile justice or criminal proceeding.

Representative Gallego moved to concur in the senate amendments to **HB 2337**.

The motion to concur in the senate amendments to **HB 2337** prevailed by (Record 1621): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Ritter(C).

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Senate Committee Substitute

CSHB 2337, A bill to be entitled An Act relating to the admissibility of certain statements made by a child in a juvenile justice or criminal proceeding.

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

SECTION 1. Sections 51.095(b) and (c), Family Code, are amended to read as follows:

(b) This section and Section 51.09 do not preclude the admission of a statement made by the child if:

(1) the statement does not stem from interrogation of the child under a circumstance described by Subsection (d); or

(2) without regard to whether the statement stems from interrogation of the child under a circumstance described by Subsection (d), the statement is:

(A) voluntary and has a bearing on the credibility of the child as a witness; or

(B) recorded by an electronic recording device, including a device that records images, and is obtained:

(i) in another state in compliance with the laws of that state or this state; or

(ii) by a federal law enforcement officer in this state or another state in compliance with the laws of the United States.

(c) An electronic recording of a child's statement made under Subsection (a)(5) or (b)(2)(B) shall be preserved until all juvenile or criminal matters relating to any conduct referred to in the statement are final, including the exhaustion of all appeals, or barred from prosecution.

SECTION 2. The change in law made by this Act applies only to a statement relating to conduct violating a penal law that occurred on or after the effective date of this Act. A statement relating to conduct violating a penal law that occurred before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct violating a penal law occurred before the effective date of this Act if any element of the violation occurred before that date.

SECTION 3. This Act takes effect September 1, 2011.

**HB 3459 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Eiland called up with senate amendments for consideration at this time,

HB 3459, A bill to be entitled An Act relating to the containment of costs incurred in the correctional health care system.

Representative Eiland moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3459**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3459**: Eiland, chair; Dutton, Madden, Perry, and Turner.

**HB 1940 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Perry called up with senate amendments for consideration at this time,

HB 1940, A bill to be entitled An Act relating to the requirement of a preliminary hearing for certain persons released from the Texas Department of Criminal Justice who are alleged to have violated a condition of release.

Representative Perry moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1940**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1940**: Perry, chair; Madden, Allen, Parker, and Cain.

**SB 100 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative V. Taylor, the house granted the request of the senate for the appointment of a Conference Committee on **SB 100**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 100**: V. Taylor, chair; Madden, Branch, Pickett, and L. Taylor.

**SB 293 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative J. Davis, the house granted the request of the senate for the appointment of a Conference Committee on **SB 293**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 293**: J. Davis, chair; Hopson, Menendez, Sheets, and Truitt.

**SB 8 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE INSTRUCTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Kolkhorst, the house granted the request of the senate for the appointment of a Conference Committee on **SB 8**.

Representative Chisum moved to instruct the Conference Committee on **SB 8** to retain the language in Amendment No. 3.

The motion to instruct conferees prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 8**: Kolkhorst, chair; Coleman, Geren, Hunter, and Schwertner.

HB 3577 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative L. Gonzales submitted the following conference committee report on **HB 3577**:

Austin, Texas, May 25, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3577** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona
Duncan
Eltife
Watson
Zaffirini

L. Gonzales
Schwertner
Strama
Workman
Scott

On the part of the senate

On the part of the house

HB 3577, A bill to be entitled An Act relating to eligibility requirements for the Texas Educational Opportunity Grant.

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

SECTION 1. Section 56.404(e), Education Code, is amended to read as follows:

(e) A person may not receive a grant under this subchapter and ~~if the person is eligible for~~ a TEXAS grant under Subchapter M for the same semester or other term, regardless of whether the person is otherwise eligible for both grants during that semester or term. A person who but for this subsection would be awarded both a grant under this subchapter and a TEXAS grant for the same semester or other term is entitled to receive only the grant of the greater amount.

SECTION 2. The change in law made by this Act relating to the eligibility of a student for a Texas Educational Opportunity Grant applies beginning with grants awarded for the 2011-2012 academic year. Grants awarded for an academic year before the 2011-2012 academic year are 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 3. 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.

Representative L. Gonzales moved to adopt the conference committee report on **HB 3577**.

The motion to adopt the conference committee report on **HB 3577** prevailed by (Record 1622): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Ritter(C).

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

SB 602 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Marquez submitted the conference committee report on **SB 602**.

Representative Marquez moved to adopt the conference committee report on **SB 602**.

The motion to adopt the conference committee report on **SB 602** prevailed by (Record 1623): 138 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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 — Berman; Flynn.

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

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Absent — Coleman; Lyne.

SB 249 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Orr submitted the conference committee report on **SB 249**.

Representative Orr moved to adopt the conference committee report on **SB 249**.

The motion to adopt the conference committee report on **SB 249** prevailed by (Record 1624): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Ritter(C).

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Absent — Lyne; Miller, S.; Rodriguez.

STATEMENT OF VOTE

When Record No. 1624 was taken, my vote failed to register. I would have voted yes.

S. Miller

HR 2549 - ADOPTED**(by Guillen)**

The following privileged resolution was laid before the house:

HR 2549

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 3726** (preservation and maintenance of the Alamo by the General Land Office) to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 2 of the bill, in added Section 31.453(e), Natural Resources Code, to read as follows:

(e) The land office may enter into an agreement with another organization for purposes of this subchapter if the land office is unable to enter into an agreement with the Daughters of the Republic of Texas as required by Subsection (a) before January 1, 2012. On the effective date of an agreement entered into with another organization under this subsection, any reference in this subchapter to the Daughters of the Republic of Texas means the organization with which the land office enters into an agreement.

Explanation: The change is necessary to allow the General Land Office to enter into an agreement for the preservation and maintenance of the Alamo with another organization if a timely agreement with the Daughters of the Republic of Texas cannot be reached.

HR 2549 was adopted by (Record 1625): 135 Yeas, 4 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, V.; 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; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Zedler; Zerwas.

Nays — Coleman; Gonzales, L.; Lavender; Otto.

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

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Absent — Nash; Workman.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1625. I intended to vote no.

Anchia

I was shown voting yes on Record No. 1625. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 1625. I intended to vote no.

Darby

I was shown voting yes on Record No. 1625. I intended to vote no.

Harless

I was shown voting yes on Record No. 1625. I intended to vote no.

Hilderbran

When Record No. 1625 was taken, I was in the house but away from my desk. I would have voted yes.

Nash

SB 263 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kolkhorst submitted the conference committee report on **SB 263**.

Representative Kolkhorst moved to adopt the conference committee report on **SB 263**.

The motion to adopt the conference committee report on **SB 263** prevailed by (Record 1626): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; 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; Ritter(C).

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Absent — Miller, S.

STATEMENT OF VOTE

When Record No. 1626 was taken, my vote failed to register. I would have voted yes.

S. Miller

HB 4 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Pitts called up with senate amendments for consideration at this time,

HB 4, A bill to be entitled An Act relating to making supplemental appropriations and giving direction and adjustment authority regarding appropriations.

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. 7).

HB 4 - (consideration continued)

Representative Pitts moved to concur in the senate amendments to **HB 4**.

The motion to concur in the senate amendments to **HB 4** prevailed by (Record 1627): 95 Yeas, 34 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Eiland; Elkins; Fletcher; Flynn; Frullo; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Harless; Hartnett; Hilderbran; Hopson; 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; Pickett; Pitts; Quintanilla; Riddle; Ritter(C); Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Castro; Coleman; Davis, Y.; Dukes; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Guillen; Hernandez Luna; Hochberg; Howard, D.; King, T.; Lozano; Lucio; Mallory Caraway; Martinez; McClendon; Menendez; Muñoz; Naishtat; Raymond; Reynolds; Rodriguez; Strama; Taylor, V.; Thompson; Turner; Veasey; Villarreal.

Present, not voting — Mr. Speaker; Alvarado.

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Miles; Price.

Absent — Driver; Dutton; Eissler; Gutierrez; Hardcastle; Harper-Brown; Howard, C.; Johnson; Marquez; Martinez Fischer; Oliveira; Vo; Walle.

The chair stated that **HB 4** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

STATEMENTS OF VOTE

I was shown voting present, not voting on Record No. 1627. I intended to vote no.

Alvarado

When Record No. 1627 was taken, I was in the house but away from my desk. I would have voted yes.

Driver

When Record No. 1627 was taken, I was in the house but away from my desk. I would have voted yes.

Eissler

When Record No. 1627 was taken, I was temporarily out of the house chamber. I would have voted yes.

Hardcastle

When Record No. 1627 was taken, I was temporarily out of the house chamber. I would have voted no.

Johnson

When Record No. 1627 was taken, I was in the house but away from my desk. I would have voted no.

Martinez Fischer

I was shown voting yes on Record No. 1627. I intended to vote no.

Quintanilla

REASONS FOR VOTE

Although I ultimately voted for **HB 4**, I certainly do not support every item of spending therein. Chief among my strong objections is the allocation of \$25 million for Formula One racing. At a time when teachers are losing their jobs and essential services for the elderly and disabled are being cut, it is irresponsible to

invest our precious tax dollars in a nonessential service such as this. This money can, and should, be better used to preserve teacher jobs and provide aid to our most vulnerable Texans.

Carter

The message sent by the citizens of Texas is very clear. Although our state is experiencing an environmental drought, economically our state is flooding with need. If ever there was a time to use the rainy day fund, that time is now and this has been echoed across our state over and over again. The public does not want us to cut school funding, the public does not want us to cut health and human services in areas that will disproportionately affect our most vulnerable populations, and the public does not want us to cut thousands of state jobs that help support the citizens of Texas and their families. Some legislators would argue that by voting against **HB 4** we are voting against balancing the budget without raising taxes, or we are voting against paying our debts as a state, or we are voting against living within our means. These allegations are not true. The senate version of **HB 4** made less cuts than the house version, but I am against making any cuts when there are other means and alternatives available to avoid such actions. The impact of these cuts are far too high. Our seniors cannot afford these cuts, our children cannot afford these cuts, our disabled cannot afford these cuts, our students cannot afford these cuts, and our poor cannot afford these cuts. As long as we have money in the bank, which we identify as the economic stabilization fund or the rainy day fund, Texas cannot afford these cuts.

I voted no on **HB 4** as it contains over \$1 billion in cuts. Many of the cuts could have been avoided with the use of additional dollars from the economic stabilization fund. The proposed cuts will weaken our state's educational and health care infrastructure. With **HB 4**, we are fiscally promoting a population that will be both ill and uneducated. This is not what my constituents sent me here to do.

It was a difficult decision as there was a much needed school of pharmacy for North Texas in the bill, a measure I have worked on for several sessions. In the end, I chose good public policy and what was best overall for the hardworking families of Texas.

Giddings

Senate Committee Substitute

CSHB 4, A bill to be entitled An Act relating to making supplemental appropriations and giving direction and adjustment authority regarding appropriations.

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

SECTION 1. CERTAIN REDUCTIONS IN APPROPRIATIONS FOR THE STATE FISCAL YEAR ENDING AUGUST 31, 2011. (a) The appropriations from the general revenue fund for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the agencies listed in this subsection are reduced respectively for each agency, in the unencumbered

amounts indicated by this subsection, for a total aggregate reduction of \$1,059,070,326. Each of the following agencies shall identify the strategies and objectives out of which the indicated reductions in unencumbered amounts appropriated to the agency from the general revenue fund are made except to the extent a strategy or objective is specified by this subsection:

(1) Office of the Attorney General: \$17,484,078 from General Revenue Fund 0001;

(2) Bond Review Board: \$52,066 from General Revenue Fund 0001;

(3) Comptroller of Public Accounts: \$13,732,608 from General Revenue Fund 0001;

(4) Texas Ethics Commission: \$163,972 from General Revenue Fund 0001;

(5) Facilities Commission: \$1,291,970 from General Revenue Fund 0001;

(6) Public Finance Authority: \$56,892,135 from General Revenue Fund 0001;

(7) Fire Fighters' Pension Commissioner: \$16,889 from General Revenue Fund 0001;

(8) Office of the Governor: \$271,118 from General Revenue Fund 0001;

(9) Trusteed Programs within the Office of the Governor: \$2,541,907 from General Revenue Fund 0001;

(10) Historical Commission: \$919,769 from General Revenue Fund 0001;

(11) Department of Information Resources: \$59,451 from General Revenue Fund 0001;

(12) Library & Archives Commission: \$2,393,317 from General Revenue Fund 0001;

(13) Pension Review Board: \$42,189 from General Revenue Fund 0001;

(14) Preservation Board: \$295,823 from General Revenue Fund 0001;

(15) Secretary of State: \$789,485 from General Revenue Fund 0001;

(16) Veterans Commission: \$359,819 from General Revenue Fund 0001;

(17) Department of Aging and Disability Services: \$57,486,512 from General Revenue Fund 0001;

(18) Department of Assistive and Rehabilitative Services: \$7,271,451 from General Revenue Fund 0001;

(19) Department of Family and Protective Services: \$16,465,070 from General Revenue Fund 0001;

(20) Department of State Health Services: \$30,888,622 from General Revenue Fund 0001;

(21) Health and Human Services Commission: \$114,214,139 from General Revenue Fund 0001;

(22) Texas Education Agency: \$90,277,640 from General Revenue Fund 0001;

- (23) School for the Blind and Visually Impaired: \$1,397,421 from General Revenue Fund 0001;
- (24) School for the Deaf: \$781,956 from General Revenue Fund 0001;
- (25) Teacher Retirement System: \$3,700,000 from General Revenue Fund 0001;
- (26) Higher Education Employees Group Insurance Contributions: \$56,153,317 from General Revenue Fund 0001;
- (27) Higher Education Coordinating Board: \$17,683,061 from General Revenue Fund 0001;
- (28) The University of Texas System Administration: \$250,000 from General Revenue Fund 0001;
- (29) The University of Texas at Arlington: \$7,979,094 from General Revenue Fund 0001;
- (30) The University of Texas at Austin: \$34,802,552 from General Revenue Fund 0001;
- (31) The University of Texas at Dallas: \$9,601,643 from General Revenue Fund 0001;
- (32) The University of Texas at El Paso: \$11,976,764 from General Revenue Fund 0001;
- (33) The University of Texas - Pan American: \$7,344,515 from General Revenue Fund 0001;
- (34) The University of Texas at Brownsville: \$3,581,390 from General Revenue Fund 0001;
- (35) The University of Texas of the Permian Basin: \$5,918,190 from General Revenue Fund 0001;
- (36) The University of Texas at San Antonio: \$12,397,011 from General Revenue Fund 0001;
- (37) The University of Texas at Tyler: \$4,365,466 from General Revenue Fund 0001;
- (38) Texas A&M University System Administrative and General Offices: \$250,000 from General Revenue Fund 0001;
- (39) Texas A&M University: \$18,065,118 from General Revenue Fund 0001;
- (40) Texas A&M University at Galveston: \$1,240,706 from General Revenue Fund 0001;
- (41) Prairie View A&M University: \$3,632,323 from General Revenue Fund 0001;
- (42) Tarleton State University: \$2,377,562 from General Revenue Fund 0001;
- (43) Texas A&M University - Corpus Christi: \$4,151,741 from General Revenue Fund 0001;
- (44) Texas A&M University - Kingsville: \$3,383,777 from General Revenue Fund 0001;
- (45) Texas A&M International University: \$2,096,339 from General Revenue Fund 0001;

- (46) West Texas A&M University: \$2,798,970 from General Revenue Fund 0001;
- (47) Texas A&M University - Commerce: \$2,861,747 from General Revenue Fund 0001;
- (48) Texas A&M University - Texarkana: \$671,472 from General Revenue Fund 0001;
- (49) University of Houston System Administration: \$257,077 from General Revenue Fund 0001;
- (50) University of Houston: \$15,995,397 from General Revenue Fund 0001;
- (51) University of Houston - Clear Lake: \$2,780,479 from General Revenue Fund 0001;
- (52) University of Houston - Downtown: \$1,849,987 from General Revenue Fund 0001;
- (53) University of Houston - Victoria: \$1,099,229 from General Revenue Fund 0001;
- (54) Midwestern State University: \$1,702,745 from General Revenue Fund 0001;
- (55) University of North Texas System Administration: \$713,628 from General Revenue Fund 0001;
- (56) University of North Texas: \$7,759,219 from General Revenue Fund 0001;
- (57) Stephen F. Austin State University: \$5,043,398 from General Revenue Fund 0001;
- (58) Texas Southern University: \$3,876,116 from General Revenue Fund 0001;
- (59) Texas Tech University System Administration: \$200,000 from General Revenue Fund 0001;
- (60) Texas Tech University: \$11,692,679 from General Revenue Fund 0001;
- (61) Angelo State University: \$2,328,579 from General Revenue Fund 0001;
- (62) Texas Woman's University: \$1,924,726 from General Revenue Fund 0001;
- (63) Texas State University System: \$85,294 from General Revenue Fund 0001;
- (64) Lamar University: \$5,140,684 from General Revenue Fund 0001;
- (65) Lamar Institute of Technology: \$732,715 from General Revenue Fund 0001;
- (66) Lamar State College - Orange: \$540,586 from General Revenue Fund 0001;
- (67) Lamar State College - Port Arthur: \$863,307 from General Revenue Fund 0001;
- (68) Sam Houston State University: \$3,448,892 from General Revenue Fund 0001;

(69) Texas State University - San Marcos: \$6,857,731 from General Revenue Fund 0001;

(70) Sul Ross State University: \$1,149,935 from General Revenue Fund 0001;

(71) Sul Ross State University Rio Grande College: \$451,287 from General Revenue Fund 0001;

(72) The University of Texas Southwestern Medical Center at Dallas: \$17,126,319 from General Revenue Fund 0001;

(73) The University of Texas Medical Branch at Galveston: \$33,083,291 from General Revenue Fund 0001;

(74) The University of Texas Health Science Center at Houston: \$19,408,079 from General Revenue Fund 0001;

(75) The University of Texas Health Science Center at San Antonio: \$20,364,412 from General Revenue Fund 0001;

(76) The University of Texas M. D. Anderson Cancer Center: \$20,446,441 from General Revenue Fund 0001;

(77) The University of Texas Health Center at Tyler: \$5,349,891 from General Revenue Fund 0001;

(78) Texas A&M University System Health Science Center: \$10,672,046 from General Revenue Fund 0001;

(79) University of North Texas Health Science Center at Fort Worth: \$4,957,588 from General Revenue Fund 0001;

(80) Texas Tech University Health Sciences Center: \$14,283,190 from General Revenue Fund 0001;

(81) Texas State Technical College System Administration: \$314,674 from General Revenue Fund 0001;

(82) Texas State Technical College - Harlingen: \$1,707,490 from General Revenue Fund 0001;

(83) Texas State Technical College - West Texas: \$1,111,674 from General Revenue Fund 0001;

(84) Texas State Technical College - Marshall: \$433,962 from General Revenue Fund 0001;

(85) Texas State Technical College - Waco: \$2,416,071 from General Revenue Fund 0001;

(86) Texas AgriLife Research: \$4,506,706 from General Revenue Fund 0001;

(87) Texas AgriLife Extension Service: \$4,932,005 from General Revenue Fund 0001;

(88) Texas Engineering Experiment Station: \$1,145,627 from General Revenue Fund 0001;

(89) Texas Transportation Institute: \$56,250 from General Revenue Fund 0001;

(90) Texas Engineering Extension Service: \$596,416 from General Revenue Fund 0001;

(91) Texas Forest Service: \$1,032,378 from General Revenue Fund 0001;

- (92) Texas Veterinary Medical Diagnostic Laboratory: \$617,294 from General Revenue Fund 0001;
- (93) Supreme Court of Texas: \$559,922 from General Revenue Fund 0001;
- (94) Court of Criminal Appeals: \$269,433 from General Revenue Fund 0001;
- (95) First Court of Appeals District, Houston: \$233,239 from General Revenue Fund 0001;
- (96) Second Court of Appeals District, Fort Worth: \$175,606 from General Revenue Fund 0001;
- (97) Third Court of Appeals District, Austin: \$154,183 from General Revenue Fund 0001;
- (98) Fourth Court of Appeals District, San Antonio: \$177,249 from General Revenue Fund 0001;
- (99) Fifth Court of Appeals District, Dallas: \$319,965 from General Revenue Fund 0001;
- (100) Sixth Court of Appeals District, Texarkana: \$85,715 from General Revenue Fund 0001;
- (101) Seventh Court of Appeals District, Amarillo: \$105,089 from General Revenue Fund 0001;
- (102) Eighth Court of Appeals District, El Paso: \$85,864 from General Revenue Fund 0001;
- (103) Ninth Court of Appeals District, Beaumont: \$104,734 from General Revenue Fund 0001;
- (104) Tenth Court of Appeals District, Waco: \$84,894 from General Revenue Fund 0001;
- (105) Eleventh Court of Appeals District, Eastland: \$85,548 from General Revenue Fund 0001;
- (106) Twelfth Court of Appeals District, Tyler: \$86,576 from General Revenue Fund 0001;
- (107) Thirteenth Court of Appeals District, Corpus Christi-Edinburg: \$154,821 from General Revenue Fund 0001;
- (108) Fourteenth Court of Appeals District, Houston: \$234,047 from General Revenue Fund 0001;
- (109) Office of Court Administration, Texas Judicial Council: \$521,168 from General Revenue Fund 0001;
- (110) Office of Capital Writs: \$37,089 from General Revenue Fund 0001;
- (111) Office of State Prosecuting Attorney: \$53,188 from General Revenue Fund 0001;
- (112) State Law Library: \$27,077 from General Revenue Fund 0001;
- (113) Judiciary Section, Comptroller's Department: \$862,018 from General Revenue Fund 0001;
- (114) State Commission on Judicial Conduct: \$62,772 from General Revenue Fund 0001;

- (115) Adjutant General's Department: \$1,362,009 from General Revenue Fund 0001;
- (116) Alcoholic Beverage Commission: \$2,793,890 from General Revenue Fund 0001;
- (117) Department of Criminal Justice: \$65,874,494 from General Revenue Fund 0001;
- (118) Commission on Jail Standards: \$78,513 from General Revenue Fund 0001;
- (119) Juvenile Probation Commission: \$7,015,504 from General Revenue Fund 0001;
- (120) Commission on Law Enforcement Officer Standards and Education: \$74,940 from General Revenue Fund 0001;
- (121) Department of Public Safety: \$6,045,065 from General Revenue Fund 0001;
- (122) Youth Commission: \$13,245,121 from General Revenue Fund 0001;
- (123) Department of Agriculture: \$4,342,526 from General Revenue Fund 0001;
- (124) Animal Health Commission: \$973,114 from General Revenue Fund 0001;
- (125) Commission on Environmental Quality: \$298,050 from General Revenue Fund 0001;
- (126) General Land Office and Veterans' Land Board: \$903,431 from General Revenue Fund 0001;
- (127) Parks and Wildlife Department: \$227,845 from General Revenue Fund 0001;
- (128) Railroad Commission: \$2,322,377 from General Revenue Fund 0001;
- (129) Soil and Water Conservation Board: \$1,690,749 from General Revenue Fund 0001;
- (130) Debt Service Payments - Non-Self Supporting G.O. Water Bonds: \$27,398,762 from General Revenue Fund 0001;
- (131) Water Development Board: \$823,997 from General Revenue Fund 0001;
- (132) Department of Housing and Community Affairs: \$1,203,967 from General Revenue Fund 0001;
- (133) Texas Lottery Commission: \$388,007 from General Revenue Fund 0001;
- (134) Department of Motor Vehicles: \$1,138,428 from General Revenue Fund 0001;
- (135) Department of Rural Affairs: \$732,117 from General Revenue Fund 0001;
- (136) Department of Transportation: \$20,000,000 from General Revenue Fund 0001;
- (137) Texas Workforce Commission: \$3,754,693 from General Revenue Fund 0001;

(138) State Office of Administrative Hearings: \$252,505 from General Revenue Fund 0001;

(139) Board of Chiropractic Examiners: \$14,816 from General Revenue Fund 0001;

(140) Texas State Board of Dental Examiners: \$114,118 from General Revenue Fund 0001;

(141) Funeral Service Commission: \$18,444 from General Revenue Fund 0001;

(142) Board of Professional Geoscientists: \$40,349 from General Revenue Fund 0001;

(143) Office of Public Insurance Counsel: \$80,533 from General Revenue Fund 0001;

(144) Board of Professional Land Surveying: \$32,463 from General Revenue Fund 0001;

(145) Department of Licensing and Regulation: \$1,779,282 from General Revenue Fund 0001;

(146) Texas Medical Board: \$227,469 from General Revenue Fund 0001;

(147) Texas Board of Nursing: \$269,638 from General Revenue Fund 0001;

(148) Optometry Board: \$11,010 from General Revenue Fund 0001;

(149) Board of Pharmacy: \$212,929 from General Revenue Fund 0001;

(150) Executive Council of Physical Therapy & Occupational Therapy Examiners: \$76,090 from General Revenue Fund 0001;

(151) Board of Plumbing Examiners: \$169,609 from General Revenue Fund 0001;

(152) Board of Podiatric Medical Examiners: \$5,959 from General Revenue Fund 0001;

(153) Board of Examiners of Psychologists: \$49,005 from General Revenue Fund 0001;

(154) Real Estate Commission: \$503,762 from General Revenue Fund 0001;

(155) Securities Board: \$982,946 from General Revenue Fund 0001;

(156) Public Utility Commission of Texas: \$808,890 from General Revenue Fund 0001;

(157) Office of Public Utility Counsel: \$131,904 from General Revenue Fund 0001;

(158) Board of Veterinary Medical Examiners: \$4,419 from General Revenue Fund 0001; and

(159) agencies and entities appropriated general revenue funds by Article X, Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act): \$11,688,731 from General Revenue Fund 0001, subject to Section 2 of this Act.

(b)(i) The unencumbered appropriation from the sporting good sales tax transfers to the general revenue fund (State Parks Account No. 64), pursuant to Section 11.035, Parks and Wildlife Code, and Section 151.801, Tax Code, for the

state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Parks and Wildlife Department is reduced by \$1,259,680.

(ii) The unencumbered appropriation from the sporting good sales tax transfers to the general revenue fund (Texas Recreation and Parks Account No. 467), pursuant to Section 24.003, Parks and Wildlife Code, and Section 151.801, Tax Code, for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Parks and Wildlife Department is reduced by \$3,150,000.

(iii) The unencumbered appropriation from the sporting good sales tax transfers to the general revenue fund (Large County and Municipality Recreation and Parks Account No. 5150), pursuant to Section 24.053, Parks and Wildlife Code, and Section 151.801, Tax Code, for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Parks and Wildlife Department is reduced by \$2,100,000.

(iv) The unencumbered appropriation from the sporting good sales tax transfers to the general revenue fund (State Parks Account No. 64), pursuant to Section 11.035, Parks and Wildlife Code, and Section 151.801, Tax Code, for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Public Finance Authority is reduced by \$5,847,851.

(c) The amounts of the unencumbered appropriations listed below that were appropriated from the general revenue fund by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), for Public Junior/Community Colleges, are reduced for the state fiscal year ending August 31, 2011, in the aggregate amount of \$76,111,610 as indicated by this subsection. Pursuant to Section 130.0031, Education Code, the Texas Higher Education Coordinating Board and the comptroller of public accounts shall apply the reductions in general revenue appropriations to each community or junior college in the amounts indicated:

- (1) Alamo Community College: \$6,811,203;
- (2) Alvin Community College: \$630,970;
- (3) Amarillo College: \$1,286,495;
- (4) Angelina College: \$630,541;
- (5) Austin Community College: \$3,507,989;
- (6) Blinn College: \$2,047,679;
- (7) Brazosport College: \$438,799;
- (8) Central Texas College: \$1,588,719;
- (9) Cisco Junior College: \$522,994;
- (10) Clarendon College: \$199,528;
- (11) Coastal Bend College: \$487,469;
- (12) College of the Mainland: \$476,780;
- (13) Collin County Community College: \$2,387,580;
- (14) Dallas County Community College: \$8,912,016;

- (15) Del Mar College: \$1,391,753;
- (16) El Paso Community College: \$2,523,687;
- (17) Frank Phillips College: \$212,352;
- (18) Galveston College: \$354,701;
- (19) Grayson County College: \$558,045;
- (20) Hill College: \$793,644;
- (21) Houston Community College: \$5,275,284;
- (22) Howard College: \$822,395;
- (23) Kilgore College: \$937,550;
- (24) Laredo Community College: \$963,810;
- (25) Lee College: \$767,122;
- (26) Lone Star College System: \$4,621,188;
- (27) McLennan Community College: \$1,050,779;
- (28) Midland College: \$952,683;
- (29) Navarro College: \$1,136,872;
- (30) North Central Texas College: \$958,088;
- (31) Northeast Texas Community College: \$317,400;
- (32) Odessa College: \$635,532;
- (33) Panola College: \$397,491;
- (34) Paris Junior College: \$695,431;
- (35) Ranger College: \$156,117;
- (36) San Jacinto College: \$2,916,262;
- (37) South Plains College: \$1,127,037;
- (38) South Texas College: \$2,292,651;
- (39) Southwest Texas Junior College: \$574,796;
- (40) Tarrant County College: \$4,739,004;
- (41) Temple College: \$620,631;
- (42) Texarkana College: \$697,627;
- (43) Texas Southmost College: \$1,737,231;
- (44) Trinity Valley Community College: \$1,482,408;
- (45) Tyler Junior College: \$1,969,699;
- (46) Vernon College: \$442,264;
- (47) Victoria College: \$508,508;
- (48) Weatherford College: \$617,559;
- (49) Western Texas College: \$300,881; and
- (50) Wharton County Junior College: \$634,366.

(d) The appropriations from dedicated accounts in the general revenue fund for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the agencies listed in this subsection are reduced respectively for each agency, in the unencumbered amounts indicated by this subsection from the dedicated accounts indicated by this subsection, for a total aggregate reduction of \$137,092,585. Each of the following agencies shall identify the strategies and objectives out of which the indicated reductions in unencumbered amounts appropriated to the agency from the indicated account in the general revenue fund are made:

(1) Commission on the Arts: \$230,069 from general revenue dedicated account number 334, Commission on the Arts Operating Account;

(2) Office of the Attorney General: \$5,510 from general revenue dedicated account number 5006, AG Law Enforcement Account;

(3) Office of the Attorney General: \$5,236 from general revenue dedicated account number 5010, Sexual Assault Program Account;

(4) Commission on State Emergency Communications: \$1,864,589 from general revenue dedicated account number 5007, Commission on State Emergency Communications Account;

(5) Commission on State Emergency Communications: \$2,039,808 from general revenue dedicated account number 5050, 9-1-1 Service Fees Account;

(6) Facilities Commission: \$120,900 from general revenue dedicated account number 570, Federal Surplus Property Service Charge Account;

(7) Historical Commission: \$234,600 from general revenue dedicated account number 664, Texas Preservation Trust Account;

(8) Department of Assistive and Rehabilitative Services: \$24,159 from general revenue dedicated account number 492, Business Enterprise Program Account;

(9) Department of State Health Services: \$774,607 from general revenue dedicated account number 19, Vital Statistics Account;

(10) Department of State Health Services: \$10,530 from general revenue dedicated account number 129, Hospital Licensing Account;

(11) Department of State Health Services: \$26,190 from general revenue dedicated account number 341, Food and Drug Retail Fee Account;

(12) Department of State Health Services: \$29,022 from general revenue dedicated account number 512, Bureau of Emergency Management Account;

(13) Department of State Health Services: \$195,168 from general revenue dedicated account number 524, Public Health Services Fee Account;

(14) Department of State Health Services: \$16,283 from general revenue dedicated account number 5017, Asbestos Removal Licensure Account;

(15) Department of State Health Services: \$4,590 from general revenue dedicated account number 5020, Workplace Chemicals List Account;

(16) Department of State Health Services: \$76,680 from general revenue dedicated account number 5024, Food and Drug Registration Account;

(17) Department of State Health Services: \$1,500,000 from general revenue dedicated account number 5049, State Owned Multicategorical Teaching Hospital Account;

(18) Department of State Health Services: \$5,000,810 from general revenue dedicated account number 5111, Designated Trauma Facility and EMS Account;

(19) Higher Education Coordinating Board: \$17,500 from general revenue dedicated account number 106, Scholarship Fund for Fifth Year Accounting Students Account;

(20) Higher Education Coordinating Board: \$16,000 from general revenue dedicated account number 542, Medical School Tuition Set Aside Account;

(21) Higher Education Coordinating Board: \$407,000 from general revenue dedicated account number 5144, Physician Education Loan Repayment Program Account;

(22) Texas A&M University System Administrative and General Offices: \$453,819 from general revenue dedicated account number 96, Texas A&M University Mineral Income Account;

(23) Prairie View A&M University: \$292,938 from general revenue dedicated account number 5029, Center for Study and Prevention of Juvenile Crime and Delinquency Account;

(24) The University of Texas Medical Branch at Galveston: \$9,375 from general revenue dedicated account number 5007, Commission on State Emergency Communications Account;

(25) Texas AgriLife Research: \$25,000 from general revenue dedicated account number 151, Clean Air Account;

(26) Texas Engineering Experiment Station: \$47,601 from general revenue dedicated account number 5071, Emissions Reduction Plan Account;

(27) Texas Forest Service: \$375,000 from general revenue dedicated account number 5064, Volunteer Fire Department Assistance Account;

(28) Office of Court Administration, Texas Judicial Council: \$726,628 from general revenue dedicated account number 5073, Fair Defense Account;

(29) Office of Capital Writs: \$41,169 from general revenue dedicated account number 5073, Fair Defense Account;

(30) Department of Criminal Justice: \$1,060,000 from general revenue dedicated account number 5060, Private Sector Prison Industries Account;

(31) Commission on Law Enforcement Officer Standards and Education: \$49,500 from general revenue dedicated account number 116, Law Enforcement Officer Standards and Education Account;

(32) Department of Public Safety: \$1,100,000 from general revenue dedicated account number 99, Operators and Chauffeurs License Account;

(33) Department of Agriculture: \$8,329 from general revenue dedicated account number 5002, Young Farmer Loan Guarantee Account;

(34) Department of Agriculture: \$44,000 from general revenue dedicated account number 5051, Go Texan Partner Program Plates Account;

(35) Commission on Environmental Quality: \$100,000 from general revenue dedicated account number 88, Low-Level Radioactive Waste Account;

(36) Commission on Environmental Quality: \$37,861 from general revenue dedicated account number 146, Used Oil Recycling Account;

(37) Commission on Environmental Quality: \$2,169,081 from general revenue dedicated account number 151, Clean Air Account;

(38) Commission on Environmental Quality: \$141,701 from general revenue dedicated account number 153, Water Resource Management Account;

(39) Commission on Environmental Quality: \$5,208 from general revenue dedicated account number 158, Watermaster Administration Account;

(40) Commission on Environmental Quality: \$151,822 from general revenue dedicated account number 549, Waste Management Account;

(41) Commission on Environmental Quality: \$210,950 from general revenue dedicated account number 550, Hazardous and Solid Waste Remediation Fees Account;

(42) Commission on Environmental Quality: \$244,249 from general revenue dedicated account number 655, Petroleum Storage Tank Remediation Account;

(43) Commission on Environmental Quality: \$13,963,227 from general revenue dedicated account number 5071, Emissions Reduction Plan Account;

(44) Commission on Environmental Quality: \$105,430 from general revenue dedicated account number 5093, Dry Cleaning Facility Release Account;

(45) Commission on Environmental Quality: \$425,384 from general revenue dedicated account number 5094, Operating Permit Fees Account;

(46) General Land Office and Veterans' Land Board: \$284,517 from general revenue dedicated account number 27, Coastal Protection Account;

(47) Parks and Wildlife Department: \$4,205,299 from general revenue dedicated account number 64, State Parks Account;

(48) Parks and Wildlife Department: \$7,317,562 from general revenue dedicated account number 9, Game, Fish, and Water Safety Account;

(49) Parks and Wildlife Department: \$300,000 from general revenue dedicated account number 467, Texas Recreation and Parks Account;

(50) Parks and Wildlife Department: \$200,000 from general revenue dedicated account number 5150, Large County and Municipality Recreation and Parks Account;

(51) Railroad Commission: \$161,191 from general revenue dedicated account number 101, Alternative Fuels Research and Education Account;

(52) Railroad Commission: \$2,333,597 from general revenue dedicated account number 145, Oil-Field Cleanup Account;

(53) Texas Department of Rural Affairs: \$157,500 from general revenue dedicated account number 5047, Permanent Fund for Rural Health Facility Capital Improvement Account;

(54) Texas Workforce Commission: \$294,654 from general revenue dedicated account number 165, Unemployment Compensation Special Administration Account;

(55) Reimbursements to the Unemployment Compensation Benefit Account: \$123,627 from general revenue dedicated account number 165, Unemployment Compensation Special Administration Account;

(56) Department of Licensing and Regulation: \$2,651 from general revenue dedicated account number 99, Operators and Chauffeurs License Account;

(57) Texas Medical Board: \$55,741 from general revenue dedicated account number 5105, Public Assurance Account;

(58) Racing Commission: \$507,420 from general revenue dedicated account number 597, Texas Racing Commission Account; and

(59) Public Utility Commission of Texas: \$86,762,303 from general revenue dedicated account number 5100, System Benefit Account.

(e) The appropriations from funds and from dedicated accounts in the general revenue fund for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the agencies listed in this subsection are reduced respectively for each agency, in the unencumbered amounts indicated by this subsection from the funds or dedicated accounts indicated by this subsection, for a total aggregate reduction of \$60,757,700. Each of the following agencies shall identify the strategies and objectives out of which the indicated reductions in unencumbered amounts appropriated to the agency from the indicated fund or account are made:

(1) Texas Education Agency: \$10,000,000 from State Textbook Fund 0003; and

(2) Texas Education Agency: \$50,757,700 from Foundation School Fund 193.

(f)(1) The appropriations from the general revenue fund for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Judiciary Section, Comptroller's Department from General Revenue Fund 0001 are reduced respectively in the unencumbered amounts indicated by this subsection:

- (A) \$130,561 under Strategy A.1.2., Visiting Judges - Regions;
- (B) \$9,515 under Strategy A.1.3., Visiting Judges - Appellate;
- (C) \$8,900 under Strategy A.1.5., District Judges: Travel;
- (D) \$5,250 under Strategy B.1.5., Felony Prosecutors: Travel;
- (E) \$133,456 under Strategy B.1.6., Felony Prosecutors: Expenses;
- (F) \$140 under Strategy B.1.7., Travis Co. Asst. DA Supplements;
- (G) \$38,203 under Strategy D.1.4., Public Integrity Unit, Travis

Co.;

(H) \$97,988 under Strategy D.1.5., Special Prosecution Unit, Walker Co.;

(I) \$101,770 under Strategy D.1.9., Sex Offender Treatment and Supervision; and

(J) \$4,425 under Strategy D.1.11., Montgomery Co. - 435th Dist. Ct. Staff.

(2) The amounts of the unencumbered appropriations from General Revenue Fund 0001 that were appropriated in Strategy A.1.1., District Judge Salaries, page IV-31, Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Judiciary Section, Comptroller's Department, are reduced by \$4,907,836, and the appropriations from Judicial Fund 0573 are increased by \$6,507,836, for the state fiscal year ending August 31, 2011. Additionally, the appropriations in Strategy A.1.1., District Judge Salaries, for the state fiscal year ending August 31, 2011, are converted from an estimated to a sum certain appropriation of \$23,440,403 from General Revenue Fund 0001 and \$34,812,243 from Judicial Fund 0573.

(g) The appropriations from federal funds (TANF) for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Department of Assistive and Rehabilitative Services are reduced by \$4,319,216.

(h) The amounts of the unencumbered appropriations that were appropriated by Rider 3, page I-62, Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Department of Information Resources for the state fiscal year ending August 31, 2011, are reduced by \$1,250,000 from appropriated receipts, and are reduced by \$500,000 from interagency contracts. The comptroller of public accounts shall transfer the sum of those amounts from the Department of Information Resources clearing account to the undedicated portion of the general revenue fund.

(i) The amounts of the unencumbered appropriations from interagency contracts that were appropriated by Rider 8, page I-63, Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Department of Information Resources are reduced by \$2,550,000 for the state fiscal year ending August 31, 2011. The comptroller of public accounts shall transfer that amount from the Department of Information Resources telecommunications revolving account to the undedicated portion of the general revenue fund.

SECTION 2. REDUCTIONS FROM LEGISLATIVE AGENCIES. The lieutenant governor and the speaker of the house of representatives jointly shall identify the various Article X agencies and entities from which amounts are to be transferred and shall determine the amount reduced and transferred from each agency or entity for purposes of Section 1(a)(159) of this Act.

SECTION 3. GENERAL LAND OFFICE: CERTAIN REDUCTIONS. The appropriations to the General Land Office for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), from general revenue dedicated account number 27, Coastal Protection Account, are reduced by \$204,220.

SECTION 4. PARKS AND WILDLIFE DEPARTMENT: CERTAIN REDUCTIONS. The unencumbered appropriations from the sporting good sales tax transfers to the general revenue fund (State Parks Account No. 64), pursuant to Section 11.035, Parks and Wildlife Code, and Section 151.801, Tax Code, for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Parks and Wildlife Department are reduced by \$7,407,220 as a result of lapses for coastal erosion projects.

SECTION 5. TRUSTEED PROGRAMS WITHIN THE OFFICE OF THE GOVERNOR: CERTAIN REDUCTIONS. The unencumbered appropriations for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Trusteed Programs within the Office of the Governor from General Revenue Fund 0001 under Strategy A.1.2., Disaster Funds, are reduced by \$20,000,000.

SECTION 6. COMMISSION ON ENVIRONMENTAL QUALITY: EMISSIONS REDUCTION PLAN. The unencumbered appropriations for the state fiscal year ending August 31, 2011, made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Commission on Environmental Quality from general revenue dedicated account number 5071, Emissions Reduction Plan Account, are reduced by \$35,000,000.

SECTION 7. OFFICE OF THE ATTORNEY GENERAL: CONTINGENCY FEE PAYMENT. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2011, the amount of \$17,311,326 is appropriated out of the suspense account established by the comptroller of public accounts and the attorney general in General Revenue Fund 0001 for the payment of itemized claims and judgements, plus interest, if any, against the state of Texas, to the Office of the Attorney General, for the fiscal year ending August 31, 2011, for a contingency fee payment payable under the outside counsel contract OCC No. 2007-302-0012 to Wright and Greenhill, P.C., for work performed in reaching the final judgment in State of Texas ex rel. Ven-a-Care of Florida v. Mylan Pharmaceuticals USA et al., Cause No. D-1-GV-07-001259, District Court of Travis County, 201st Judicial District.

SECTION 8. TEXAS EDUCATION AGENCY: FOUNDATION SCHOOL PROGRAM. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2011, the amount of \$600,000,000 is appropriated out of Foundation School Fund 193 to the Texas Education Agency for the two-year period beginning on the effective date of this Act for the Foundation School Program.

SECTION 9. REAL ESTATE COMMISSION: CAPITAL BUDGET AUTHORITY FOR IMAGING COSTS. In addition to the capital budget authority previously granted for the state fiscal biennium ending August 31, 2011, the Real Estate Commission may use \$196,000 in capital budget authority for the capital budget item for image system implementation.

SECTION 10. DEPARTMENT OF TRANSPORTATION: CERTAIN RIDERS. Rider 63 on page VII-37 following the appropriations to the Department of Transportation made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), is repealed, and the department is not required to comply with that rider on and after the effective date of this Act.

SECTION 11. TEXAS EDUCATION AGENCY: INSTRUCTIONAL MATERIALS APPROPRIATIONS. \$184,000,000 of the appropriations made by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Texas Education Agency from State Textbook Fund 0003 for the fiscal year ending August 31, 2011, is allocated as follows:

(1) an estimated \$85,000,000 is allocated to fund continuing contracts costs for materials scheduled to enter classrooms for the 2011-2012 school year;

(2) an estimated \$60,000,000 is allocated for the purchase of supplemental science instructional materials requested by the State Board of Education in May 2010; and

(3) an estimated \$39,000,000 is allocated for the purchase of prekindergarten systems as requested by the State Board of Education under Proclamation 2011.

SECTION 12. CONTINGENT UNEXPENDED BALANCE AUTHORITY. Contingent on the 82nd Legislature, Regular Session, 2011, not acting to reduce by \$10,000,000 or more the appropriations to the comptroller of public accounts for the state fiscal biennium ending August 31, 2011, made by Rider 17.58, page IX-81, Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), for deposit into Major Events Trust Fund 0869, the unobligated and unexpended balance of Major Events Trust Fund 0869, not to exceed \$10,000,000, is hereby transferred to General Revenue Fund 0001, notwithstanding the provisions of Section 5A, Chapter 1507 (**SB 456**), Acts of the 76th Legislature, Regular Session, 1999 (Article 5190.14, Vernon's Texas Civil Statutes).

SECTION 13. TEXAS STATE TECHNICAL COLLEGE - WACO: CONNALLY TECHNOLOGY CENTER. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2011, the amount of \$2,000,000 is appropriated out of General Revenue Fund 0001 to the Texas State Technical College - Waco for the two-year period beginning on the effective date of this Act for the purpose of making repairs to the Connally Technology Center. The legislature finds there is a demonstrated need for undertaking the repair of this building.

SECTION 14. DEPARTMENT OF CRIMINAL JUSTICE: CORRECTIONAL MANAGED HEALTH CARE. The amount of \$57,000,000 is appropriated out of General Revenue Fund 0001 to the Department of Criminal Justice for the two-year period beginning on the effective date of this Act for the purpose of providing for correctional managed health care.

SECTION 15. TEXAS FOREST SERVICE: WILDFIRES. The amount of \$39,800,000 is appropriated out of General Revenue Fund 0001 to the Texas Forest Service for the two-year period beginning on the effective date of this Act to pay for costs incurred associated with fighting wildfires.

SECTION 16. APPROPRIATION FROM ECONOMIC STABILIZATION FUND. The amount of \$3,248,247,540 is appropriated from Economic Stabilization Fund 0599 to the comptroller of public accounts for the purpose of depositing that amount to the credit of General Revenue Fund 0001 as money available for use during the state fiscal year ending August 31, 2011, to make expenditures previously authorized by appropriations from that fund for the state fiscal biennium ending August 31, 2011.

SECTION 17. TEXAS MILITARY VALUE REVOLVING LOAN ACCOUNT. (a) The Texas Military Preparedness Commission is appropriated \$29,000,000 in General Obligation Bond Proceeds pursuant to Section 49-n, Article III, Texas Constitution, as added by **SJR 55**, Acts of the 78th Legislature, Regular Session, 2003. The proceeds from the sale of the bonds shall be

deposited in general revenue dedicated account number 5114, Texas Military Value Revolving Loan Account, to provide for economic development projects that benefit defense-related communities as provided by Subchapter D, Chapter 436, Government Code, without further appropriation.

(b) The Texas Public Finance Authority is appropriated an amount, estimated to be \$0, for the fiscal year ending August 31, 2011, out of general revenue dedicated account number 5114, Texas Military Value Revolving Loan Account, to pay the related debt service.

SECTION 18. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES: UNEXPENDED BALANCE AUTHORITY. The unexpended and unencumbered balance of the amounts appropriated by Chapter 1409 (**HB 4586**), Acts of the 81st Legislature, Regular Session, 2009, are appropriated to the Department of Assistive and Rehabilitative Services for the same purposes for a period beginning on the effective date of this Act and ending on August 31, 2011.

SECTION 19. TEXAS EDUCATION AGENCY: FUNDING FOR SCHOOL DISTRICTS SUBJECT TO PURCHASE OF ATTENDANCE CREDITS BASED ON ACTUAL REVENUE PER STUDENT. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2011, the amount of \$3,630,776 is appropriated out of General Revenue Fund 0001 to the Texas Education Agency, Strategy A.1.1., FSP - Equalized Operations, for the two-year period beginning on the effective date of this Act, for use by the commissioner of education to allow school districts that adopted a maintenance and operations tax rate for the 2009 tax year of less than \$0.30 to determine the cost of attendance credits necessary to achieve the equalized wealth level under Chapter 41, Education Code, for the 2009-2010 school year based on Section 41.093(a)(1), Education Code, instead of Section 41.093(a)(2), Education Code.

SECTION 20. HEALTH AND HUMAN SERVICES COMMISSION: UNEXPENDED BALANCE AUTHORITY FOR HUMAN RESOURCES UPGRADE. From the appropriations made to the Health and Human Services Commission from General Revenue Fund 0001 for the state fiscal year ending August 31, 2011, by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), in Strategy A.2.1., Consolidated System Support (page II-76), and Strategy B.1.4., Children & Medically Needy (page II-76), for the HHS HR/Payroll system upgrade, the unobligated and unexpended balance (estimated to be \$6,700,000) is appropriated to the Health and Human Services Commission for the two-year period beginning on the effective date of this Act for the HHS HR/Payroll system upgrade.

SECTION 21. (a) Subject to Subsection (b) of this section, this Act takes effect immediately.

(b) Section 16 of this Act takes effect only if this Act is approved by a vote of three-fifths of the members present in each house of the legislature, as provided by Section 49-g(k), Article III, Texas Constitution. The appropriations under Section 16 of this Act are subject to certification by the comptroller of public accounts as provided by Section 49-g(k), Article III, Texas Constitution.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 4** (senate committee printing) as follows:

(1) In SECTION 1(a) of the bill (page 1, line 21), strike "\$1,059,070,326" and substitute "\$1,065,962,443".

(2) In SECTION 1(a)(5) of the bill (page 1, line 34), strike "\$1,291,970" and substitute "\$2,791,970".

(3) In SECTION 1(a)(29) of the bill (page 2, line 19), strike "\$7,979,094" and substitute "\$12,979,094".

(4) In SECTION 1(a)(74) of the bill (page 3, line 41), strike "\$19,408,079" and substitute "\$20,408,079".

(5) In SECTION 1(a)(117) of the bill (page 4, line 57), strike "\$65,874,494" and substitute "\$67,874,494".

(6) In SECTION 1(a)(121) of the bill (page 4, line 65), strike "\$6,045,065" and substitute "\$2,245,065".

(7) In SECTION 1(a)(129) of the bill (page 5, line 12), strike "\$1,690,749" and substitute "\$2,790,749".

(8) In SECTION 1(a)(136) of the bill (page 5, line 26), strike "\$20,000,000" and substitute "\$20,092,117".

(9) In SECTION 1(d) of the bill (page 7, line 41), strike "\$137,092,585" and substitute "\$160,092,585".

(10) In SECTION 1(d) of the bill, between Subdivisions (20) and (21) (page 8, between lines 36 and 37), insert the following:

(20-a) Higher Education Coordinating Board: \$23,000,000 from general revenue dedicated account number 5103, Texas B-On-Time Student Loan Account;

(11) Strike SECTION 7 of the bill (page 11, line 58, through page 12, line 2) and substitute the following appropriately numbered SECTION:

SECTION _____. OFFICE OF THE ATTORNEY GENERAL: CONTINGENCY FEE PAYMENT. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2011, the amount of \$17,311,326 is appropriated out of the suspense account established by the comptroller of public accounts and the attorney general in General Revenue Fund 0001 for the payment of itemized claims and judgments, plus interest, if any, against the state of Texas, to the Office of the Attorney General, for the fiscal year ending August 31, 2011, for a contingency fee payment payable under the outside counsel contract OCC No. 2007-302-0012 to Wright and Greenhill, P.C., for work performed in reaching the final judgments in State of Texas ex rel. Ven-a-Care of Florida v. Mylan Pharmaceuticals USA et al., Cause No. D-1-GV-07-001259, District Court of Travis County, 201st Judicial District, and State of Texas ex rel. Ven-A-Care of the Florida Keys, Inc. v. TEVA, et al., Cause No. D-1-GV-07-001259, District Court of Travis County, 201st Judicial District.

(12) In SECTION 8 of the bill (page 12, line 6), strike "\$600,000,000" and substitute "\$550,000,000".

(13) In SECTION 11 of the bill, between "APPROPRIATIONS." and "\$184,000,000", insert "(a)".

(14) Between the end of SECTION 11 of the bill and SECTION 12 of the bill (page 12, between lines 36 and 37), insert the following:

(b) Notwithstanding Subsection (a) of this section and contingent on **HB 6**, Acts of the 82nd Legislature, Regular Session, 2011, or a similar Act of that legislative session relating to the establishment of an instructional materials allotment, being enacted by the vote necessary for the Act to take effect immediately and the Act immediately becoming law, Subsection (a) of this section has no effect and the \$184,000,000 described by that subsection is allocated to fund the instructional materials allotment in accordance with the provisions of **HB 6** or the similar Act, as applicable.

(15) In SECTION 15 of the bill (page 12, line 65), strike "\$39,800,000" and substitute "\$81,000,000".

(16) In SECTION 15 of the bill (page 12, lines 66 through 67), strike "two-year period beginning on the effective date of this Act" and substitute "state fiscal biennium ending August 31, 2013,".

(17) Strike SECTION 16 of the bill (page 12, line 69, through page 13, line 7).

(18) Strike SECTION 19 of the bill (page 13, lines 30 through 43).

(19) Strike SECTION 21 of the bill (page 13, lines 57 through 65).

(20) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. FACILITIES COMMISSION: UTILITY COSTS. (a) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2011, the amount of \$1,500,000 is appropriated out of General Revenue Fund 0001 to the Facilities Commission under Strategy B.2.1., Facilities Operation, for the two-year period beginning on the effective date of this Act for the purpose of providing for payment of increased utility costs as a result of an increase in utility rates.

(b) Notwithstanding Section 14.01, Part 14, Article IX, Appropriation Transfers, or similar provisions of Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), money appropriated by this section may not be transferred by the Facilities Commission to another appropriation item or be used by the commission for a purpose other than payment of utility expenses without the prior written approval of the Legislative Budget Board.

SECTION _____. SUPREME COURT OF TEXAS: CERTAIN EXPENDITURES. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2011, the Supreme Court of Texas is appropriated \$71,535 from Judicial Fund 0573 for personnel costs, security expenses, unemployment reimbursements, and travel expenses.

SECTION _____. DEPARTMENT OF AGRICULTURE: RURAL LAND EVALUATION. The Department of Agriculture may use appropriations made to the department from General Revenue Fund 0001 for the state fiscal year ending August 31, 2011, by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), for the state fiscal year ending August 31, 2011, for the additional purposes of funding an assessment of the

impact of illegal activity along the Texas-Mexico border on rural landowners and the agriculture industry and working in conjunction with other appropriate entities to develop recommendations to enhance border security.

SECTION _____. TEXAS AGRILIFE RESEARCH: VEGETABLE AND FRUIT RESEARCH. Contingent on the comptroller of public accounts certifying at least \$1,000,000 in general revenue receipts in excess of the estimated general revenue receipts for that state fiscal biennium stated in the comptroller's Biennial Revenue Estimate for 2012-2013, as revised on March 13, 2011, and as further revised by any subsequent revision occurring before the effective date of this Act, the following amounts are appropriated to Texas AgriLife Research from General Revenue Fund 0001 for the Vegetable and Fruit Improvement Center:

- (1) \$500,000 for the state fiscal year ending August 31, 2012; and
- (2) \$500,000 for the state fiscal year ending August 31, 2013.

SECTION _____. TRUSTEED PROGRAMS WITHIN THE OFFICE OF THE GOVERNOR. The following appropriations are made to the Trusteed Programs within the Office of the Governor from general revenue dedicated account number 5003, Hotel Occupancy Tax for Economic Development Account, for purposes of economic development and tourism:

- (1) \$15,262,735 for the state fiscal year ending August 31, 2012; and
- (2) \$15,262,735 for the state fiscal year ending August 31, 2013.

SECTION _____. UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON: UNEXPENDED BALANCE AUTHORITY. The unexpended and unencumbered balances of the amounts appropriated by Section 55, Chapter 1409 (**HB 4586**), Acts of the 81st Legislature, Regular Session, 2009, are appropriated for the two-year period beginning on the effective date of this Act to The University of Texas Medical Branch at Galveston for the same purposes as and with the same limitations as prescribed by that Act.

SECTION _____. TEXAS EDUCATION AGENCY: CERTAIN POSITIONS. The amount of \$18,000,000 is appropriated from Permanent School Fund 0044 to the Texas Education Agency for each fiscal year of the state fiscal biennium ending August 31, 2013, for agency operations related to the management and administration of the Permanent School Fund. The agency's cap on full-time equivalent positions is increased by 31.0 in each of those fiscal years.

SECTION _____. TEXAS EDUCATION AGENCY: SUPPLEMENTAL EDUCATION AND ACADEMIC READINESS SERVICES. (a) The amount of \$8,750,000 is appropriated from General Revenue Fund 0001 to the Texas Education Agency for each fiscal year of the state fiscal biennium ending August 31, 2013, for the purposes of:

- (1) providing supplemental education services to students who failed to perform satisfactorily on reading or mathematics assessment instruments administered under Section 39.023, Education Code; and
- (2) funding programs targeting the prevention of academic failure, including algebra readiness programs, literacy academies, mathematics academies, professional development programs, middle grades initiatives, and other assistance initiatives and programs that focus on improving student performance on state assessment instruments.

(b) It is the intent of the legislature that the commissioner of education establish a list of qualified providers to provide remedial and tutorial services for students described by Subsection (a)(1) of this section.

SECTION _____. THE UNIVERSITY OF TEXAS AT ARLINGTON: REGIONAL NURSING EDUCATION CENTER. The amount of \$5,000,000 is appropriated from General Revenue Fund 0001 to The University of Texas at Arlington for the state fiscal biennium ending August 31, 2013, for the Regional Nursing Education Center.

SECTION _____. THE UNIVERSITY OF TEXAS AT DALLAS: MIDDLE SCHOOL BRAIN YEARS. The amount of \$3,000,000 is appropriated from General Revenue Fund 0001 to The University of Texas at Dallas for the state fiscal biennium ending August 31, 2013, for the Middle School Brain Years program.

SECTION _____. THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN: COLLEGE OF ENGINEERING. The amount of \$1,700,000 is appropriated from General Revenue Fund 0001 to The University of Texas of the Permian Basin for the state fiscal biennium ending August 31, 2013, for the College of Engineering.

SECTION _____. TEXAS A&M UNIVERSITY - CORPUS CHRISTI: ENGINEERING PROGRAM. The amount of \$500,000 is appropriated from General Revenue Fund 0001 to Texas A&M University - Corpus Christi for the state fiscal biennium ending August 31, 2013, for the engineering program.

SECTION _____. TEXAS ENGINEERING EXPERIMENT STATION: NUCLEAR POWER INSTITUTE. The amount of \$2,000,000 is appropriated from General Revenue Fund 0001 to the Texas Engineering Experiment Station for the state fiscal biennium ending August 31, 2013, for the Nuclear Power Institute.

SECTION _____. THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO: UMBILICAL CORD BLOOD BANK. The amount of \$2,000,000 is appropriated from General Revenue Fund 0001 to The University of Texas Health Science Center at San Antonio for the state fiscal biennium ending August 31, 2013, for the umbilical cord blood bank.

SECTION _____. SUL ROSS STATE UNIVERSITY: CAMPUS UTILITY INFRASTRUCTURE. The amount of \$7,000,000 is appropriated from General Revenue Fund 0001 to Sul Ross State University for the state fiscal biennium ending August 31, 2013, for the purpose of providing for campus utility infrastructure. The legislature finds there is a demonstrated need for funding this infrastructure.

SECTION _____. LAMAR INSTITUTE OF TECHNOLOGY: TECHNICAL ARTS BUILDING. The amount of \$5,000,000 is appropriated from General Revenue Fund 0001 to the Lamar Institute of Technology for the state fiscal biennium ending August 31, 2013, for the purpose of making repairs to the Technical Arts buildings. The legislature finds there is a demonstrated need for funding this infrastructure.

SECTION _____. UNIVERSITY OF NORTH TEXAS SYSTEM: COLLEGE OF PHARMACY. From amounts appropriated for the state fiscal biennium ending August 31, 2013, to the University of North Texas, the University of North Texas at Dallas, and the University of North Texas Health Science Center at Fort Worth by **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), an amount not to exceed \$300,000 may be spent to establish the College of Pharmacy offering the standard pharmacy curriculum leading to a doctor of Pharmacy (Pharm. D) degree on the campuses of the University of North Texas, the University of North Texas at Dallas, and the University of North Texas Health Science Center at Fort Worth. The appropriated funds may not be spent on costs associated with constructing or maintaining the pharmacy school buildings.

SECTION _____. SAM HOUSTON STATE UNIVERSITY: UNEXPENDED BALANCE AUTHORITY. The unexpended and unencumbered balances of the amounts appropriated by Chapter 1424 (**SB 1**), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), in Riders 3 and 4 to the bill pattern for Sam Houston State University (page III-147) are appropriated to Sam Houston State University for the same purposes for the state fiscal biennium ending August 31, 2013.

SECTION _____. WATER DEVELOPMENT BOARD: LAKE COLUMBIA WATER SUPPLY PROJECT. (a) It is the intent of the legislature that the Water Development Board allocate an amount of general revenue, not to exceed \$1,400,000, out of funds appropriated to the board by **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for purposes of developing a draft environmental impact statement for the Lake Columbia water supply project.

(b) In the event that the amount of \$1,400,000 of general revenue funds is not available from funds appropriated to the Water Development Board by **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), it is the intent of the legislature that the board, to the extent permissible under that chapter, provide for a loan in accordance with Chapter 15, Water Code, for purposes of developing a draft environmental impact statement for the Lake Columbia water supply project.

SECTION _____. THE UNIVERSITY OF TEXAS M.D. ANDERSON CANCER CENTER: INSTITUTIONAL OPERATIONS. The amount of \$17,383,894 is appropriated from General Revenue Fund 0001 to The University of Texas M.D. Anderson Cancer Center for the state fiscal biennium ending August 31, 2013, for institutional operations.

SECTION _____. THE UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL CENTER AT DALLAS: INSTITUTIONAL OPERATIONS. The amount of \$12,587,647 is appropriated from General Revenue Fund 0001 to The University of Texas Southwestern Medical Center at Dallas for the state fiscal biennium ending August 31, 2013, for institutional operations.

SECTION _____. THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT HOUSTON: INSTITUTIONAL OPERATIONS. (a) The amount of \$24,145,091 is appropriated from General Revenue Fund 0001 to The University of Texas Health Science Center at Houston for the state fiscal biennium ending August 31, 2013, for institutional operations.

(b) Out of the funds appropriated in Subsection (a) of this section, the University of Texas Health Science Center at Houston shall allocate:

- (1) \$2,000,000 to the Texas Heart Institute; and
- (2) \$1,000,000 to provide trauma care.

SECTION _____. THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO: INSTITUTIONAL OPERATIONS. (a) The amount of \$16,818,235 is appropriated from General Revenue Fund 0001 to The University of Texas Health Science Center at San Antonio for the state fiscal biennium ending August 31, 2013, for institutional operations.

(b) Money appropriated by this section may be spent only with the prior written approval of the Legislative Budget Board.

SECTION _____. THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT TYLER: INSTITUTIONAL OPERATIONS. The amount of \$8,752,408 is appropriated from General Revenue Fund 0001 to The University of Texas Health Science Center at Tyler for the state fiscal biennium ending August 31, 2013, for institutional operations.

SECTION _____. THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON: TUITION REVENUE BOND DEBT SERVICE AND INSTITUTIONAL OPERATIONS. The amount of \$19,863,510 is appropriated from General Revenue Fund 0001 to The University of Texas Medical Branch at Galveston for the state fiscal biennium ending August 31, 2013, for tuition revenue bond debt service and institutional operations.

SECTION _____. TEXAS A&M UNIVERSITY SYSTEM HEALTH SCIENCE CENTER: INSTITUTIONAL OPERATIONS. The amount of \$13,040,271 is appropriated from General Revenue Fund 0001 to the Texas A&M University System Health Science Center for the state fiscal biennium ending August 31, 2013, for institutional operations.

SECTION _____. UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER AT FORT WORTH: INSTITUTIONAL OPERATIONS. The amount of \$5,273,298 is appropriated from General Revenue Fund 0001 to the University of North Texas Health Science Center at Fort Worth for the state fiscal biennium ending August 31, 2013, for institutional operations.

SECTION _____. TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER: INSTITUTIONAL OPERATIONS. The amount of \$20,078,384 is appropriated from General Revenue Fund 0001 to the Texas Tech University Health Sciences Center for the state fiscal biennium ending August 31, 2013, for institutional operations.

SECTION _____. THE UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL CENTER AT DALLAS: INSTITUTIONAL OPERATIONS. The amount of \$8,000,000 is appropriated from General Revenue Fund 0001 to the University of Texas Southwestern Medical Center at Dallas for the two-year period beginning on the effective date of this Act for institutional operations.

SECTION _____. THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO: INSTITUTIONAL OPERATIONS. The amount of \$8,000,000 is appropriated from General Revenue Fund 0001 to The University of Texas Health Science Center at San Antonio for the two-year period beginning on the effective date of this Act for institutional operations.

SECTION _____. THE UNIVERSITY OF TEXAS M.D. ANDERSON CANCER CENTER: INSTITUTIONAL OPERATIONS. The amount of \$8,000,000 is appropriated from General Revenue Fund 0001 to The University of Texas M.D. Anderson Cancer Center for the two-year period beginning on the effective date of this Act for institutional operations.

SECTION _____. TEXAS A&M UNIVERSITY SYSTEM HEALTH SCIENCE CENTER: INSTITUTIONAL OPERATIONS. The amount of \$8,000,000 is appropriated from General Revenue Fund 0001 to the Texas A&M University System Health Science Center for the two-year period beginning on the effective date of this Act for institutional operations.

SECTION _____. UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER AT FORT WORTH: INSTITUTIONAL OPERATIONS. The amount of \$5,000,000 is appropriated from General Revenue Fund 0001 to the University of North Texas Health Science Center at Fort Worth for the two-year period beginning on the effective date of this Act for institutional operations.

SECTION _____. TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER: INSTITUTIONAL OPERATIONS. The amount \$8,000,000 is appropriated from General Revenue Fund 0001 to Texas Tech University Health Sciences Center for the two-year period beginning on the effective date of this Act for institutional operations.

SECTION _____. DEPARTMENT OF PUBLIC SAFETY: CERTAIN UNEXPENDED BALANCE AUTHORITY. The unexpended and unencumbered balances of the amounts of general revenue appropriated by Chapter 1424 (SB 1), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), are appropriated to the Department of Public Safety for the state fiscal biennium ending August 31, 2013, in a total amount not to exceed \$3,800,000, for the same purposes as prescribed by that Act.

SECTION _____. This Act takes effect immediately.

(21) Renumber the SECTIONS of the bill appropriately.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend Floor Amendment No. 1 to **CSHB 4** as follows:

Add a new Section _____. Office of Court Administration, Texas Judicial Council: Court Collection Improvement Program. The amount of \$337,500 is appropriated from General Revenue Fund 0001 to the Office of Court Administration for each fiscal year of the state fiscal biennium ending August 31,

2013, for the purposes of auditing the Court Collection Improvement Program. The agency's cap on full-time equivalent positions is increased by 8.0 in each of those fiscal years.

Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend Floor Amendment No. 1 as follows:

1) On page 12, line 18 add the following appropriately numbered SECTION to the bill:

SECTION ____ . HIGHER EDUCATION COORDINATING BOARD: Baylor College of Medicine. The amount of \$4,100,000 is appropriated from General Revenue Fund 0001 to the Higher Education Coordinating Board for the state fiscal biennium ending August 31, 2013, for Baylor College of Medicine.

LEAVES OF ABSENCE GRANTED

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

Harper-Brown on motion of Crownover.

C. Howard on motion of W. Smith.

Walle on motion of Farias.

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

Vo on motion of Castro.

**HB 2549 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Crownover called up with senate amendments for consideration at this time,

HB 2549, A bill to be entitled An Act relating to the authority of a state employee to authorize a deduction from the employee's salary or wage payment for a charitable contribution to certain entities.

Representative Crownover moved to discharge the conferees and concur in the senate amendments to **HB 2549**.

The motion to discharge the conferees and concur in the senate amendments to **HB 2549** prevailed by (Record 1628): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; 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; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Harper-Brown; Howard, C.; Miles; Price; Vo; Walle.

Absent — Lyne.

Senate Committee Substitute

CSHB 2549, A bill to be entitled An Act relating to the authority of a state employee to authorize a deduction from the employee's salary or wage payment for a charitable contribution to certain entities.

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

SECTION 1. Subtitle D, Title 4, Government Code, is amended by adding Chapter 450 to read as follows:

CHAPTER 450. EDUCATIONAL PROGRAMS TO ADVANCE THE TEACHING OF TEXAS HISTORY

Sec. 450.001. APPLICABILITY OF CHAPTER. In this chapter "charitable historical organization" means an entity that:

(1) is organized as a nonprofit organization;
(2) has its main office at an institution of higher education, as that term is defined under Section 61.003, Education Code; and

(3) maintains an established educational department that provides:
(A) opportunities for students in this state to study and work to preserve the history, heritage, and symbols of this state; and

(B) training and resources to assist educators in developing effective strategies to teach students about the heritage, history, and symbols of this state.

Sec. 450.002. FUNDING. For the purposes of Subchapter I, Chapter 659:

(1) a charitable historical organization is considered an eligible charitable organization entitled to participate in a state employee charitable campaign; and

(2) a state employee is entitled to authorize a deduction for contributions to a charitable historical organization as a charitable contribution under Section 659.132, and the organization may use the contributions for the purpose of administering and providing educational outreach programs established by the organization.

SECTION 2. Sections 659.140 and 659.134, Government Code, are amended to read as follows:

Sec. 659.140. STATE EMPLOYEE CHARITABLE CAMPAIGN POLICY COMMITTEE. (a) The state employee charitable campaign policy committee shall consist [consists] of 13 [not more than 10] members.

(b) The governor with the advice and consent of the senate shall [may] appoint four members who are state employees at the time of their appointment and three members who are retired state employees receiving benefits under Chapter 814 [not more than four members]. The lieutenant governor and the comptroller may appoint not more than three members each. An appointment to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. The state policy committee shall elect a chairman biennially from its own membership.

(c) A [Each] member of the state policy committee may not receive compensation for serving on the committee and is not entitled to reimbursement from state funds for expenses incurred in performing functions as a member of the committee [must be a state employee]. The membership must represent employees at different levels of employee classification.

(d) A person may not be a member of the committee if the person or the person's spouse is employed by or participates in the management or sits on the board of any entity or organization including any federation or fund that receives money through the state employee charitable campaign [Appointments shall be made to the state policy committee to ensure that the committee reflects the race, ethnicity, and national origin of the residents of this state].

(e) The state policy committee shall:

(1) establish local campaign areas based on recommendations by the state advisory committee;

(2) select as the state campaign manager:

(A) a federated community campaign organization; or

(B) ~~[in the absence of an application by an organization described by Paragraph (A),]~~ a charitable organization determined by the state policy committee to have demonstrated the capacity to conduct a state campaign;

(3) determine the eligibility of a federation or fund and its affiliated agencies for statewide participation in the state employee charitable campaign;

(4) approve the recommended campaign plan, budget, and generic materials to be used by campaign managers;

(5) oversee the state employee charitable campaign to ensure that all campaign activities are conducted fairly and equitably to promote unified solicitation on behalf of all participants; and

(6) perform other duties prescribed by the comptroller's rules.

(f) The state employee charitable campaign policy committee is subject to the open meetings law, Chapter 551, Government Code.

(g) The state employee charitable campaign policy committee is subject to the public information law, Chapter 552, Government Code.

(h) Any contract entered into under Chapter 659, Subchapter I must require the contracting vendor, institution, individual, corporation, or other business or charitable entity to provide all information maintained by the entity related to the expenditure of public funds to the state employee charitable campaign policy committee upon request.

(i) The state employee charitable campaign policy committee is subject to the Texas Sunset Act. Unless continued in existence as provided by that chapter, the committee is abolished and Government Code Chapter 659, Subchapter I, and Sections 814.0095 and 814.0096 expire on September 1, 2013.

Sec. 659.134. DESIGNATION OF AN ELIGIBLE CHARITABLE ORGANIZATION. (a) A state employee or retired state employee receiving benefits under Chapter 814 who chooses to make a deduction must [may] designate in the authorization an eligible charitable organization to receive the deductions.

~~[(b) If a state employee does not designate an eligible charitable organization, the employee's deductions shall be distributed to each participating federation or fund and eligible local charitable organization in the proportion that the deductions designated for that charitable organization bear to the total of designated deductions in the local state employee charitable campaign.]~~

SECTION 3. This Act takes effect September 1, 2011.

SB 408 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Keffer, the house granted the request of the senate for the appointment of a Conference Committee on **SB 408**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 408**: Keffer, chair; Chisum, Hardcastle, Huberty, and Lozano.

SB 542 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Fletcher, the house granted the request of the senate for the appointment of a Conference Committee on **SB 542**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 542**: Fletcher, chair; Deshotel, Driver, P. King, and Lavender.

SB 660 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Keffer, the house granted the request of the senate for the appointment of a Conference Committee on **SB 660**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 660**: Ritter, chair; Hopson, Keffer, T. King, and Lucio.

**SB 1130 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Kleinschmidt, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1130**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1130**: Kleinschmidt, chair; Flynn, Lewis, Quintanilla, and Sheets.

**SB 40 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Keffer, the house granted the request of the senate for the appointment of a Conference Committee on **SB 40**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 40**: Callegari, chair; Frullo, Menendez, S. Miller, and Orr.

**HB 2154 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Eiland called up with senate amendments for consideration at this time,

HB 2154, A bill to be entitled An Act relating to certain continuing education requirements for agents who sell Medicare-related products and annuities.

Representative Eiland moved to discharge the conferees and concur in the senate amendments to **HB 2154**.

The motion to discharge the conferees and concur in the senate amendments to **HB 2154** prevailed by (Record 1629): 136 Yeas, 0 Nays, 3 Present, not voting.

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

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

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

Absent, Excused — Burnam; Christian; Garza; Gonzalez; Harper-Brown; Howard, C.; Miles; Price; Vo; Walle.

Absent — Driver.

Senate Committee Substitute

CSHB 2154, A bill to be entitled An Act relating to certain continuing education requirements for agents who sell annuities.

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

SECTION 1. Section 4004.202(b), Insurance Code, is amended to read as follows:

(b) Each agent described by Subsection (a) must complete eight ~~[four]~~ hours of continuing education ~~[annually]~~ that specifically relates to annuities during the agent's two-year licensing period. ~~[The annual period under this section must be based on the agent's license expiration date or another date specified by the commissioner by rule, and the education requirement under this subsection must be met within that annual period, notwithstanding Section 4004.051(b).]~~

SECTION 2. This Act takes effect September 1, 2011.

HB 242 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Craddick called up with senate amendments for consideration at this time,

HB 242, A bill to be entitled An Act relating to the authority of certain retired peace officers to carry certain firearms.

Representative Craddick moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 242**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 242**: Craddick, chair; Cook, Martinez Fischer, Isaac, and Parker.

PROVIDING FOR ADJOURNMENT

Representative Pickett moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10:30 a.m. tomorrow.

The motion prevailed.

RESOLUTIONS REFERRED TO COMMITTEES

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(R. Anderson in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 9:07 p.m., adjourned until 10:30 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HR 1366 (By Craddick), Congratulating Norris and Peggy Barron of Lamesa on their 60th wedding anniversary.

To Rules and Resolutions.

HR 1367 (By Craddick), Congratulating James and Ruby Bagley of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1759 (By Martinez), Honoring the Progreso Independent School District for its Early College High School program.

To Rules and Resolutions.

HR 2420 (By Lewis), Commending Paige True Farrow for her service as an intern in the office of State Representative Tryon Lewis.

To Rules and Resolutions.

HR 2421 (By Lewis), Commending Armen Hazarian for his service in the office of State Representative Tryon Lewis.

To Rules and Resolutions.

HR 2422 (By Lewis), Commending Derek L. Tanner for his service as an intern in the office of State Representative Tryon Lewis.

To Rules and Resolutions.

HR 2582 (By Sheffield), Paying tribute to the memory of Officer Patrick Sirois, who was posthumously honored with the 2010 State of Texas Law Enforcement Achievement Award for Valor.

To Rules and Resolutions.

HR 2583 (By C. Anderson), In memory of James Stephen Odom of McGregor.

To Rules and Resolutions.

- HR 2584** (By C. Anderson), In memory of Hugh Clark Garland of Waco.
To Rules and Resolutions.
- HR 2585** (By C. Anderson), In memory of Lorenzo "Lorry" Rosas of Speegleville.
To Rules and Resolutions.
- HR 2586** (By C. Anderson), In memory of Betty Ann McWilliams of Waco.
To Rules and Resolutions.
- HR 2587** (By Callegari), Honoring Tom Whatley on his 30 years of service with the House Research Organization.
To Rules and Resolutions.
- HR 2588** (By Callegari), In memory of John Sauter on the occasion of the dedication of John Sauter Memorial Park.
To Rules and Resolutions.
- HR 2589** (By C. Anderson), In memory of Anita Van Cleave Glass of Waco.
To Rules and Resolutions.
- HR 2590** (By C. Anderson), In memory of Diana Marie Woodward of Waco.
To Rules and Resolutions.
- HR 2591** (By C. Anderson), Congratulating Ashley Anne Roberts and Aaron Michael Rieger on their wedding.
To Rules and Resolutions.
- HR 2592** (By C. Anderson), In memory of Joe Alba of Waco.
To Rules and Resolutions.
- HR 2593** (By C. Anderson), In memory of Michael Benavidez of Waco.
To Rules and Resolutions.
- HR 2594** (By C. Anderson), In memory of Doris Kathleen Burch of Waco.
To Rules and Resolutions.
- HR 2595** (By C. Anderson), In memory of Laverne Townsend of Waco.
To Rules and Resolutions.
- HR 2596** (By C. Anderson), In memory of Iris Marie Vonasek of West.
To Rules and Resolutions.
- HR 2597** (By C. Anderson), In memory of Andrew Jackson Wade of Waco.
To Rules and Resolutions.
- HR 2598** (By C. Anderson), Congratulating Michelle Penney and Jack Abel, Jr., on their wedding.
To Rules and Resolutions.
- HR 2599** (By C. Anderson), In memory of Joyce Norsworthy Wailes of Waco.
To Rules and Resolutions.
- HR 2600** (By Martinez), In memory of U.S. Army Sergeant Fernando De La Rosa.
To Rules and Resolutions.

HR 2601 (By McClendon), In memory of Robert Washington, Jr., of San Antonio.

To Rules and Resolutions.

HR 2602 (By Peña), Commending Paul Kamprath for his service as clerk of the House Committee on Technology.

To Rules and Resolutions.

HR 2604 (By Y. Davis), Congratulating J'Nay Washington on her graduation from the Texas School for the Deaf.

To Rules and Resolutions.

HR 2605 (By Y. Davis), Honoring Edna Pemberton for her contributions to her community.

To Rules and Resolutions.

HR 2606 (By Y. Davis), Honoring Iva J. Price for her contributions to her community.

To Rules and Resolutions.

HR 2607 (By Riddle), In memory of Frederick Cordingley "Bud" Hadfield.

To Rules and Resolutions.

HR 2608 (By Strama), Congratulating Owen Whitworth of Austin on his retirement as director of the Audit Office for the Texas Department of Transportation.

To Rules and Resolutions.

HR 2609 (By Strama), Congratulating John and Catherine Howard on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2610 (By Strama), Congratulating Rebecca Powers on her retirement as executive director of Impact Austin.

To Rules and Resolutions.

HR 2615 (By Hernandez Luna), Congratulating Isaiah Tellez of Pasadena on being named a finalist in the Texas Folklife 2011 Big Squeeze accordion contest.

To Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 39

HB 14, HB 25, HB 42, HB 78, HB 174, HB 274, HB 275, HB 289, HB 336, HB 359, HB 360, HB 371, HB 384, HB 398, HB 427, HB 452, HB 554, HB 559, HB 645, HB 673, HB 709, HB 710, HB 718, HB 748, HB 782, HB 788, HB 790, HB 805, HB 807, HB 844, HB 850, HB 896, HB 961, HB 1009, HB 1033, HB 1083, HB 1118, HB 1205, HB 1247, HB 1293, HB 1301, HB 1314, HB 1330, HB 1376, HB 1402, HB 1429, HB 1473, HB 1476, HB 1500, HB 1651, HB 1690, HB 1721, HB 1737, HB 1750, HB 1784, HB 1823, HB 1856, HB 1887, HB 1891, HB 1897, HB 1930, HB 1967, HB 1969, HB 1981, HB 1994, HB 2119, HB 2124, HB 2133, HB 2136, HB 2138, HB 2141, HB 2220, HB 2247, HB 2256, HB 2266, HB 2296, HB 2310, HB 2315, HB 2330, HB 2338, HB 2346,

HB 2363, HB 2396, HB 2460, HB 2492, HB 2496, HB 2541, HB 2575, HB 2577, HB 2584, HB 2636, HB 2651, HB 2678, HB 2722, HB 2869, HB 2960, HB 2966, HB 2996, HB 2997, HB 3003, HB 3030, HB 3076, HB 3079, HB 3096, HB 3125, HB 3197, HB 3208, HB 3216, HB 3369, HB 3384, HB 3399, HB 3462, HB 3474, HB 3475, HB 3580, HB 3597, HB 3674, HB 3724, HB 3730, HB 3746, HB 3813, HB 3831, HB 3834, HB 3837, HB 3840, HB 3842, HB 3843, HB 3844, HB 3856, HB 3866, HCR 129, HCR 142, HCR 162

Senate List No. 35

SB 17, SB 173, SB 201, SB 244, SB 271, SB 327, SB 329, SB 364, SB 365, SB 370, SB 460, SB 475, SB 479, SB 717, SB 738, SB 762, SB 766, SB 768, SB 781, SB 789, SB 801, SB 819, SB 847, SB 937, SB 969, SB 975, SB 1009, SB 1026, SB 1042, SB 1055, SB 1058, SB 1073, SB 1120, SB 1124, SB 1169, SB 1200, SB 1225, SB 1290, SB 1360, SB 1383, SB 1393, SB 1434, SB 1545, SB 1560, SB 1617, SB 1619, SB 1726, SB 1799, SB 1877, SB 1899, SB 1910, SB 1913, SB 1916, SB 1925, SB 1926, SCR 2, SCR 58, SJR 9, SJR 14, SJR 26, SJR 37, SJR 50

Senate List No. 36

SB 20, SB 167, SB 176, SB 181, SB 218, SB 220, SB 229, SB 349, SB 438, SB 548, SB 683, SB 701, SB 761, SB 802, SB 804, SB 810, SB 812, SB 917, SB 1386, SB 1477, SB 1504, SB 1686, SB 1714, SCR 56

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

Friday, May 27, 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:

HCR 115 Smith, Wayne **SPONSOR: Gallegos**
Honoring the Battleship Texas Foundation for its work to preserve the historic battleship.

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 5 (31 Yeas, 0 Nays)

SB 78 (31 Yeas, 0 Nays)

SB 573 (25 Yeas, 6 Nays)

SB 859 (31 Yeas, 0 Nays)

SB 1233 (31 Yeas, 0 Nays)

SB 1271 (31 Yeas, 0 Nays)

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 725

Senate Conferees: Fraser - Chair/Deuell/Eltife/Shapiro/Watson

HB 3275

Senate Conferees: Ellis - Chair/Eltife/Jackson/Watson/West

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Friday, May 27, 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:

HB 3841

Martinez, "Mando"

SPONSOR: Lucio

Relating to the designation of a portion of Farm-to-Market Road 907 in Hidalgo County as Rudy Villarreal Road.

HCR 165

Guillen

SPONSOR: Eltife

Honoring the 2011 and 2012 Texas State Artist appointees.

HCR 167

Otto

SPONSOR: Williams

Instructing the enrolling clerk of the house to make corrections in **HB 2203**.

SCR 59

Hegar

Instructing the enrolling clerk of the senate to make corrections in **SB 1082**.

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 100

Senate Conferees: Van de Putte - Chair/Duncan/Seliger/Shapiro/Williams

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 628

Senate Conferees: Jackson - Chair/Duncan/Fraser/Seliger/Van de Putte

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas
Friday, May 27, 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 CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 49	(30 Yeas, 1 Nay)
SB 303	(31 Yeas, 0 Nays)
SB 322	(31 Yeas, 0 Nays)
SB 332	(30 Yeas, 1 Nay)
SB 407	(31 Yeas, 0 Nays)
SB 425	(31 Yeas, 0 Nays)
SB 480	(31 Yeas, 0 Nays)
SB 502	(31 Yeas, 0 Nays)
SB 594	(31 Yeas, 0 Nays)
SB 629	(31 Yeas, 0 Nays)
SB 731	(31 Yeas, 0 Nays)
SB 736	(31 Yeas, 0 Nays)
SB 809	(31 Yeas, 0 Nays)
SB 924	(31 Yeas, 0 Nays)
SB 942	(31 Yeas, 0 Nays)
SB 978	(31 Yeas, 0 Nays)
SB 988	(30 Yeas, 1 Nay)
SB 993	(31 Yeas, 0 Nays)
SB 1003	(31 Yeas, 0 Nays)
SB 1094	(31 Yeas, 0 Nays)
SB 1196	(31 Yeas, 0 Nays)
SB 1209	(31 Yeas, 0 Nays)

SB 1216	(31 Yeas, 0 Nays)
SB 1416	(31 Yeas, 0 Nays)
SB 1551	(31 Yeas, 0 Nays)
SB 1605	(31 Yeas, 0 Nays)
SB 1620	(30 Yeas, 1 Nay)
SB 1636	(31 Yeas, 0 Nays)
SB 1920	(31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 293

Senate Conferees: Watson - Chair/Harris/Nelson/Uresti/West

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 2608

Senate Conferees: Hinojosa - Chair/Ellis/Eltife/Hegar/Nichols

HB 3109

Senate Conferees: Seliger - Chair/Duncan/Eltife/Hinojosa/Uresti

THE SENATE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 316 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 27, 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 CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 71	(31 Yeas, 0 Nays)
SB 76	(31 Yeas, 0 Nays)
SB 209	(31 Yeas, 0 Nays)

SB 221	(31 Yeas, 0 Nays)
SB 222	(31 Yeas, 0 Nays)
SB 385	(29 Yeas, 2 Nays)
SB 391	(31 Yeas, 0 Nays)
SB 469	(31 Yeas, 0 Nays)
SB 498	(31 Yeas, 0 Nays)
SB 663	(31 Yeas, 0 Nays)
SB 760	(31 Yeas, 0 Nays)
SB 767	(31 Yeas, 0 Nays)
SB 776	(31 Yeas, 0 Nays)
SB 803	(31 Yeas, 0 Nays)
SB 844	(31 Yeas, 0 Nays)
SB 932	(31 Yeas, 0 Nays)
SB 943	(31 Yeas, 0 Nays)
SB 981	(31 Yeas, 0 Nays)
SB 1035	(31 Yeas, 0 Nays)
SB 1048	(30 Yeas, 1 Nay)
SB 1068	(31 Yeas, 0 Nays)
SB 1170	(31 Yeas, 0 Nays)
SB 1178	(31 Yeas, 0 Nays)
SB 1179	(31 Yeas, 0 Nays)
SB 1185	(31 Yeas, 0 Nays)
SB 1234	(30 Yeas, 1 Nay)
SB 1250	(31 Yeas, 0 Nays)
SB 1285	(31 Yeas, 0 Nays)
SB 1286	(31 Yeas, 0 Nays)
SB 1422	(31 Yeas, 0 Nays)
SB 1449	(31 Yeas, 0 Nays)
SB 1546	(30 Yeas, 1 Nay)
SB 1616	(31 Yeas, 0 Nays)
SB 1649	(31 Yeas, 0 Nays)
SB 1732	(31 Yeas, 0 Nays)
SB 1810	(31 Yeas, 0 Nays)
SB 1909	(31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Friday, May 27, 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 CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 197	(29 Yeas, 2 Nays)
SB 462	(26 Yeas, 5 Nays)
SB 1000	(31 Yeas, 0 Nays)
SB 1413	(31 Yeas, 0 Nays)
SB 1733	(31 Yeas, 0 Nays)
SB 1736	(31 Yeas, 0 Nays)
SB 1760	(26 Yeas, 5 Nays)
SB 1796	(31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 8

Senate Conferees: Nelson - Chair/Carona/Huffman/Patrick/Shapiro

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 213

Senate Conferees: Lucio - Chair/Carona/Eltife/Estes/Van de Putte

HB 272

Senate Conferees: Carona - Chair/Fraser/Nelson/Nichols/Watson

HB 300

Senate Conferees: Nelson - Chair/Huffman/Nichols/Shapiro/Uresti

HB 1103

Senate Conferees: Ellis - Chair/Huffman/Lucio/Seliger/Whitmire

HB 2093

Senate Conferees: Van de Putte - Chair/Deuell/Duncan/Jackson/Lucio

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 6MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Friday, May 27, 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:

HCR 172 Hamilton SPONSOR: Watson
Instructing the enrolling clerk of the house to make corrections in **HB 2643**.

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 3246
Senate Conferees: West - Chair/Nichols/Shapiro/Watson/Wentworth

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 7MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Friday, May 27, 2011 - 7

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:

HCR 166 Guillen SPONSOR: Lucio
Commemorating the 10th anniversary of the death of John Austin Pena and the naming of the John Austin Pena Memorial Center in Edinburg.

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 408
Senate Conferees:

SB 542

Senate Conferees: Hegar - Chair/Huffman/Seliger/Whitmire/Williams

SB 660

Senate Conferees: Hinojosa - Chair/Duncan/Fraser/Hegar/Whitmire

SB 1130

Senate Conferees: Hegar - Chair/Birdwell/Deuell/Eltife/Wentworth

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 6

Senate Conferees: Shapiro - Chair/Carona/Duncan/Nelson/Van de Putte

HB 335

Senate Conferees: Birdwell - Chair/Ellis/Huffman/Nelson/Patrick

HB 1000

Senate Conferees: Zaffirini - Chair/Ellis/Shapiro/Wentworth/Williams

HB 1242

Senate Conferees: Harris - Chair/Estes/Jackson/Lucio/Watson

HB 1400

Senate Conferees: West - Chair/Nichols/Shapiro/Watson/Wentworth

HB 1517

Senate Conferees: Hegar - Chair/Ellis/Huffman/Wentworth/Zaffirini

HB 1560

Senate Conferees: Hinojosa - Chair/Birdwell/Jackson/Ogden/Watson

HB 2194

Senate Conferees: Jackson - Chair/Duncan/Huffman/Lucio/Van de Putte

HB 2365

Senate Conferees: Shapiro - Chair/Birdwell/Carona/Huffman/Nelson

HB 2439

Senate Conferees: Watson - Chair/Carona/Ellis/Jackson/Whitmire

HB 2770

Senate Conferees: Williams - Chair/Ellis/Jackson/Nichols/Whitmire

HB 2847

Senate Conferees: Whitmire - Chair/Hegar/Hinojosa/Huffman/Patrick

HB 2910

Senate Conferees: Zaffirini - Chair/Carona/Eltife/Watson/Wentworth

HB 3025

Senate Conferees: Zaffirini - Chair/Carona/Duncan/Watson/Wentworth

HB 3468

Senate Conferees: Shapiro - Chair/Carona/Nelson/Seliger/West

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 3302 (31 Yeas, 0 Nays)

SB 321 (29 Yeas, 2 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

ENROLLED

May 26 - HB 254, HB 336, HB 338, HB 364, HB 371, HB 384, HB 427, HB 447, HB 452, HB 528, HB 534, HB 554, HB 577, HB 645, HB 654, HB 673, HB 692, HB 709, HB 710, HB 718, HB 737, HB 748, HB 782, HB 790, HB 807, HB 844, HB 850, HB 896, HB 961, HB 990, HB 1033, HB 1048, HB 1060, HB 1070, HB 1118, HB 1144, HB 1148, HB 1226, HB 1235, HB 1305, HB 1315, HB 1376, HB 1499, HB 1610, HB 1964, HB 2124, HB 2133, HB 2195, HB 2223, HB 2280, HB 2338, HB 2460, HB 2472, HB 2604, HB 2725, HB 2994, HB 3003, HB 3079, HB 3125, HB 3197, HB 3208, HB 3369, HB 3384, HB 3399, HB 3462, HB 3837, HB 3840, HB 3842, HB 3843, HB 3844, HB 3856, HB 3864, HB 3866, HCR 24, HCR 86, HCR 129, HCR 153

SENT TO THE GOVERNOR

May 26 - HB 33, HB 92, HB 109, HB 257, HB 260, HB 268, HB 378, HB 397, HB 530, HB 592, HB 826, HB 970, HB 1010, HB 1168, HB 1179, HB 1201, HB 1241, HB 1278, HB 1341, HB 1353, HB 1456, HB 1523, HB 1555, HB 1593, HB 1608, HB 1812, HB 1818, HB 1839, HB 1932, HB 1959, HB 2006, HB 2077, HB 2103, HB 2109, HB 2127, HB 2132, HB 2135, HB 2139, HB 2382, HB 2387, HB 2422, HB 2471, HB 2510, HB 2579, HB 2603, HB 2610, HB 2649, HB 2703, HB 2707, HB 2735, HB 2758, HB 2826, HB 2889, HB 2904, HB 2911, HB 2940, HB 2971, HB 3017, HB 3199, HB 3309, HB 3314, HB 3329, HB 3337, HB 3352, HB 3391, HB 3579, HB 3616, HB 3722, HB 3808, HB 3815, HB 3821, HB 3852, HCR 42, HJR 130

SENT TO THE SECRETARY OF THE STATE

May 26 - HCR 163, HJR 63

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-EIGHTH DAY — SATURDAY, MAY 28, 2011

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

The roll of the house was called and a quorum was announced present (Record 1630).

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; 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; Lucio; 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.

The invocation was offered by Reverend Eric Folkerth, pastor, Northaven United Methodist Church, Dallas, as follows:

Holy and Gracious God, we come before you on this day, on the final weekend of the 82nd Legislative Session. And as we pause before you in prayer, Holy God, we give you thanks for each of these esteemed members of our state government, for their families, their communities, and for the life experiences that led them to these honored positions. We know and understand the personal sacrifice that goes into being a public official: the time away from family, the long hours, the stress of the public spotlight. We give you thanks, O God, that these before us today have answered the call of public service, and we ask you to bless them.

In great humility, O God, we recall how you call us to be a holy people. You, O God, call governments to be holy manifestations of your will and desire for the world. Even foreign kings, such as Cyrus of Persia, you have used to

fulfill your holy will for God's people. So, O God, remind these leaders of our state that their decisions matter to you, that you care deeply about what they decide here. God, during their work here, help these servants of the State of Texas to be holy people and to leave partisan politics at the statehouse door.

But also, O God, help them to make Texas into a holy people. For you call us to account and we remember that your parable of the last judgment is a judgment upon the nations of the earth. And so make Texas into a holy people.

Make us into a holy people, O God, like the people of Israel whom God challenged to treat immigrants as if they were native born. Make us into a holy people, O God, like the church of St. Paul, who championed care for widows and orphans, the most marginalized people of his day. Make us into a holy people, O God, as Jesus taught, so that we might care for the sick, for those in prison, for those without clothing and shelter, for the least of these. And let us be reminded, as Jesus taught, that when we so care for others, we are caring for the face of God in the world. Make us into a holy people, O God, for we know when we search the scriptures that these are the kinds of holiness God calls our government to achieve.

And, God, when this session has finished, when the final bill has been passed and the last gavel comes down, when these elected servants are back in the quiet of their homes and praying to you in the privacy of their own hearts, accept their prayers of forgiveness for all the ways in which they will have fallen short of your holy vision. All these things we pray in your most holy and gracious name. Amen.

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

HOUSE AT EASE

At 10:50 a.m., the speaker announced that the house would stand at ease pending the arrival of guests.

FALLEN HEROES MEMORIAL SERVICE (The House of Representatives and Senate in Joint Session)

In accordance with the provisions of **HCR 163**, providing for a joint session of the senate and house of representatives for the purpose of a joint memorial session to honor Texans killed while serving in the Global War on Terrorism, Governor Rick Perry, the Honorable Steve Ogden, president pro tempore of the senate, and the honorable senators were announced at the door of the house and were admitted.

The Honorable Steve Ogden, president pro tempore of the senate, called the senate to order. A quorum of the senate was announced present.

The Honorable Joe Straus, speaker of the house, called the house to order. A quorum of the house of representatives was announced present.

Speaker Straus stated that the two houses were in joint session pursuant to **HCR 163** in honor of Texans killed while serving in the Global War on Terrorism and welcomed Governor Perry, Lieutenant Governor Dewhurst, members of the senate, and other state officials, and addressed the assemblage.

Speaker Straus recognized Representative Pickett who addressed the families of the honored fallen soldiers.

The joint session and assemblage rose for the posting of the colors.

Lieutenant Colonel Deon M. Green sang the national anthem.

Senator Hinojosa led the assemblage in the pledge of allegiance to the United States flag and Representative Sheffield led the assemblage in the pledge of allegiance to the Texas flag.

Speaker Straus recognized Representative Lavender who offered the invocation.

Speaker Straus recognized Representative Pickett to read **HCR 163**, convening a joint memorial session to honor Texans killed while serving in the Global War on Terrorism.

The service medley was played.

Senator Ogden addressed the joint session and assemblage.

Governor Perry addressed the joint session and assemblage, as follows:

Thank you, Senator Ogden, and my thanks also for the hard work put in by yourself and your colleagues in the senate, as well as the house through what has been a challenging session. It's a pleasure, and an honor, to be with you all today.

Every session, members from both chambers and both sides of the aisle take some time to put aside our differences and gather here in memory of those who have fallen in Afghanistan, Iraq, and anywhere our forces have engaged against the minions of global terror. The Global War on Terror began as a response to an unprovoked attack, an attack designed to demoralize us as much as to destroy our way of life. They miscalculated our ability, as a nation, to rise above the ruins, just as they miscalculated our resolve to continue the battle wherever it takes us, and our determination to bring to justice every organization and individual plotting death and destruction against the citizens of this nation.

Earlier this month, the United States scored a major victory in the Global War on Terror, as the main architect behind the September 11 attacks and the global face of the jihad movement, finally met justice at the hands of the U.S. military. This was once again a great credit to the bravery, hard work, and determination of our men and women in the armed forces, along with the unsung heroes in our intelligence community who had spent years of their lives in the line of fire hunting down this man.

However, the death of Bin Laden is not an end to the larger war, and the struggle to protect our homeland is ongoing. So we will continue to call upon the best and brightest to stand between us and those who would do us harm and join the long line that takes up arms to defend others. Many of them, like many I've visited with over the last decade, will come home facing long roads back from

debilitating injuries—some of the injuries visible, and some not. All too many will not come home at all. As we honor these brave Texans who made the ultimate sacrifice, we also continue to offer our heartfelt condolences to those who love them. It can be no easy thing to balance admiration for your fallen warrior with the realities of a life that continues to unfold, one challenging day after another. Please know that the people of Texas genuinely appreciate the service and sacrifice of our military personnel and lift up their survivors in our thoughts and prayers. As President Lincoln so eloquently wrote almost 150 years ago to a mourning mother, "I pray that our Heavenly Father may assuage the anguish of your bereavement and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom."

In the days to come, I encourage you to live your life fully because you know that each day is precious, and be assured that the cause for which your loved ones fought and died is still a just and noble cause. All of us in Texas must endeavor to live our lives in a fashion worthy of the sacrifices of your loved ones. May God bless you and, through you, may he continue to bless the great State of Texas.

Governor Perry presented flags flown over the Capitol to family members as Representatives Berman and Flynn and Senators Birdwell and Estes read the names of the following fallen soldiers:

Staff Sergeant Omar Aceves, Army; Staff Sergeant Jesse Wayne Ainsworth, Army; Private First Class Adriana Alvarez, Army; Private First Class John Edward Andrade, Sr., Army; Second Lieutenant Darryn Deen Andrews, Army; Lance Corporal Travis Thornton Babine, Marine Corps; Lance Corporal Christopher Shawn Baltazar, Jr., Marine Corps; Staff Sergeant Carlos Alonzo Benitez, Army; Private First Class Cody Allen Board, Army; Staff Sergeant Clayton Patrick Bowen, Army; Staff Sergeant Bryan Allan Burgess, Army; Staff Sergeant Scott Hamilton Burgess, Army; Sergeant Brandon Cole Bury, Marine Corps; Sergeant John P. Castro, Army; Specialist Matthew Ryan Catlett, Army; Petty Officer First Class Sean Leach Caughman, Navy; Specialist Joseph Brian Cemper, Army; Private First Class Benjamin Glen Chisholm, Army; Senior Airman Matthew Ryan Courtois, Air Force; Sergeant Zainah Caye Creamer, Army; Private First Class Peter Kyle Cross, Army; Sergeant David Alan Davis, Army; Sergeant Fernando de la Rosa, Army; Staff Sergeant Bradley Espinoza, Army; Specialist Joshua Ray Farris, Army; Technical Sergeant Michael Paul Flores, Air Force; Lance Corporal Garrett William Gamble, Marine; Sergeant Christian Anthony Saracho Garcia, Army; Staff Sergeant Esau Shalem Atanacio Gonzales, Army; Sergeant First Class Alejandro Granado III, U.S. Army National Guard; Specialist Jarrett Pearson Griemel, Army; Airman First Class Devon Jemail Harris, Army; Sergeant First Class Calvin Bernard Harrison, Army; Specialist Joshua Lee Hazlewood, Army Reserve; Lance Corporal Shawn Patrick Hefner, Marine Corps; Lance Corporal Derek Hernandez, Marine Corps;

Captain Jason Ellis Holbrook, Army; Private First Class Kyle Matthew Holder, Army; Sergeant Jay Michael Hoskins, Marine; Major Matthew Philip Housel, Army; Staff Sergeant Quadi Shareem Hudgins, Army; Staff Sergeant Jesse Infante, Army; Corporal Jeffrey Warren Johnson, Marine Corps; Staff Sergeant Richard Joseph Jordan, Army; Lance Corporal Mark David Juarez, Marine Corps; Private First Class Ira Benjamin Laningham IV, Army; Lance Corporal Brandon Tyler Lara, Marine Corps; Corporal Jacob Carl Leicht, Marine Corps; Specialist Joseph Michael Lewis, Army; Staff Sergeant Edwardo Loredo, Army; Specialist Pedro Antonio Maldonado, Army; Lance Corporal Jose Luis Maldonado, Marine Corps; Specialist Alexis Vicente Maldonado, Army; Lance Corporal Shane Robert Martin, Marine Corps; Sergeant Kenneth Blaine May, Jr., Marine Corps; Staff Sergeant Chauncy Ryan Mays, Army; Staff Sergeant Mecolus C. McDaniel, Army; Staff Sergeant Shawn Henry McNabb, Army; Captain Joshua Stewart Meadows, Marine Corps; Staff Sergeant Joshua Micah Mills, Army; Private First Class Diego Miguel Montoya, Army; Staff Sergeant Michael Chance Murphrey, Army; Corporal Tevan Lee Nguyen, Marine Corps; Sergeant James Michael Nolen, Army; Private First Class Matthew Dwight Ogden, Army; Private First Class James Joseph O'Quin, Army; Specialist Jerod Heath Osborne, Army; Airman First Class Corey Charles Owens, Air Force; Sergeant Gregory Owens, Jr., Army; Specialist Bobby Justin Pagan, Army; Captain Paul Wenceslaus Pena, Army; Private First Class Joel A. Ramirez, Army; Lance Corporal Christopher Rangel, Marine Corps; Staff Sergeant Jason Allen Reeves, Army; Lance Corporal Matthew Gregory Reza, Marine Corps; Sergeant Mario Munoz Rodriguez, Jr., Army; Specialist Andrew Jay Roughton, Army; Sergeant Cesar Bocanegra Ruiz, Marine Corps; Private First Class Colton Wesley Rusk, Marine Corps; Sergeant Jose Luis Saenz III, Marine Corps; Senior Airman Daniel Ray Sanchez, Air Force; Sergeant Jorge A. Scatliffe, Army; Staff Sergeant Jeremy Daniel Smith, Marine Corps; Specialist Omar Soltero, Army; Specialist Riley S. Spaulding, Army; Staff Sergeant Chris Neil Staats, Army National Guard; Private First Class Austin Garrett Staggs, Army; Lance Corporal Cody Robert Stanley, Marine Corps; Sergeant Kyle Brandon Stout, Army; Airman Darren Ethan Tate, Navy; Corporal Jorge Villarreal, Jr., Marine Corps; First Lieutenant Robert Forrester Welch III, Army; Staff Sergeant Leston Michael Winters, Army; Hospital Corpsman Third Class Zarian Andre Wood, Navy; Corporal Charles J. Wren, Army; Sergeant Vorasack T. Xaysana, Army.

The joint session and assemblage observed a moment of silence.

Lieutenant Colonel Deon M. Green sang "Amazing Grace."

A cannon salute was offered by the Texas Army National Guard Salute Battery.

"Taps" was played by the Texas Army National Guard Salute Battery.

Representative Lavender offered the benediction.

Speaker Straus and Senator Van de Putte thanked the attendees of today's service.

SENATE ADJOURNMENT

At 12:52 p.m., Senator Ogden stated that the purpose for which the joint session was called had been completed and that the senate would, in accordance with a previous motion, stand adjourned until 2 p.m. today.

HOUSE AT EASE

At 12:52 p.m., the speaker stated that the purpose of the joint session having been concluded, the house would stand at ease pending the departure of guests.

(Darby in the chair)

HR 2572 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2572**, suspending the limitations on the conferees for **HB 2694**.

HR 2571 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2571**, suspending the limitations on the conferees for **HB 2499**.

HR 2659 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2659**, suspending the limitations on the conferees for **SB 660**.

HR 2647 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2647**, suspending the limitations on the conferees for **SB 652**.

HR 2648 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2648**, suspending the limitations on the conferees for **HB 2605**.

HR 2611 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2611**, suspending the limitations on the conferees for **SB 1534**.

HR 2654 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2654**, suspending the limitations on the conferees for **HB 3275**.

RECESS

At 12:59 p.m., the chair 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, House List No. 40).

(Harper-Brown in the chair)

HR 2518 - ADOPTED

(by Hilderbran)

The following privileged resolution was laid before the house:

HR 2518

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1087** (state-issued certificates of franchise authority to provide cable service and video service) to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to change and omit text not in disagreement in proposed SECTION 2 of the bill, in amended Section 66.004(a), Utilities Code, to read as follows:

(a) A cable service provider or a video service provider that currently has or had previously received a franchise to provide cable service or video service with respect to such municipalities is not eligible to seek a state-issued certificate of franchise authority under this chapter as to those municipalities until the expiration date of the existing franchise agreement, except as provided by Subsections (b), (b-1), (b-2), (b-3), and (c).

Explanation: This change is necessary to clarify that a cable service provider or video service provider that received a franchise to provide cable service or video service to a municipality is not eligible to seek a state-issued certificate of franchise authority before the expiration of the franchise except as provided by Section 66.004, Utilities Code.

(2) House Rule 13, Sections 9(a)(1) and (4), are suspended to permit the committee to change text which is not in disagreement and to add text on a matter which is not included in either the house or senate version of the bill in proposed SECTION 2 of the bill, in added Sections 66.004(b-1), (b-2), and (b-3), Utilities Code, to read as follows:

(b-1) Beginning September 1, 2011, a cable service provider or video service provider in a municipality with a population of less than 215,000 that was not allowed to or did not terminate a municipal franchise under Subsection (b) may elect to terminate not less than all unexpired franchises in municipalities

with a population of less than 215,000 and seek a state-issued certificate of franchise authority for each area served under a terminated municipal franchise by providing written notice to the commission and each affected municipality before January 1, 2012. A municipal franchise is terminated on the date the commission issues a state-issued certificate of franchise authority to the provider for the area served under that terminated franchise.

(b-2) A cable service provider or video service provider in a municipality with a population of at least 215,000 may terminate a municipal franchise in that municipality in the manner described by Subsection (b-1) if:

(1) the cable service provider or video service provider is not the incumbent cable service provider in that municipality; and

(2) the incumbent cable service provider received a state-issued certificate of franchise authority from the commission before September 1, 2011.

(b-3) A municipality with a population of at least 215,000 may enter into an agreement with any cable service provider in the municipality to terminate a municipal cable franchise before the expiration of the franchise. To the extent that the mutually agreed on terms and conditions for early termination of the unexpired municipal cable franchise conflict with a provision of this chapter, the agreed on terms and conditions control.

Explanation: This change is necessary to differentiate between termination of franchises by service providers in municipalities with populations of less than 215,000 and by service providers in municipalities with populations of at least 215,000.

(3) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 2 of the bill, in amended Sections 66.004(c) and (f), Utilities Code, to read as follows:

(c) A cable service provider ~~[that serves fewer than 40 percent of the total cable customers in a municipal franchise area and]~~ that elects under Subsection (b), (b-1), or (b-2) to terminate an existing municipal franchise is responsible for remitting to the affected municipality before the 91st day after the date the municipal franchise is terminated any accrued but unpaid franchise fees due under the terminated franchise. If the cable service provider has credit remaining from prepaid franchise fees, the provider may deduct the amount of the remaining credit from any future fees or taxes it must pay to the municipality, either directly or through the comptroller.

(f) Except as provided in this chapter, nothing in this chapter is intended to abrogate, nullify, or adversely affect in any way the contractual rights, duties, and obligations existing and incurred by a cable service provider or a video service provider before the date a franchise expires or the date a provider terminates a franchise under Subsection (b-1) or (b-2), as applicable, ~~[enactment of this chapter,~~ and owed or owing to any private person, firm, partnership, corporation, or other entity including without limitation those obligations measured by and related to the gross revenue hereafter received by the holder of a state-issued certificate of franchise authority for services provided in the geographic area to which such prior franchise or permit applies. All liens, security interests, royalties, and other contracts, rights, and interests in effect on September 1, 2005,

or the date a franchise is terminated under Subsection (b-1) or (b-2) shall continue in full force and effect, without the necessity for renewal, extension, or continuance, and shall be paid and performed by the holder of a state-issued certificate of franchise authority, and shall apply as though the revenue generated by the holder of a state-issued certificate of franchise authority continued to be generated pursuant to the permit or franchise issued by the prior local franchising authority or municipality within the geographic area to which the prior permit or franchise applies. It shall be a condition to the issuance and continuance of a state-issued certificate of franchise authority that the private contractual rights and obligations herein described continue to be honored, paid, or performed to the same extent as though the cable service provider continued to operate under its prior franchise or permit, for the duration of such state-issued certificate of franchise authority and any renewals or extensions thereof, and that the applicant so agrees. Any person, firm, partnership, corporation, or other entity holding or claiming rights herein reserved may enforce same by an action brought in a court of competent jurisdiction.

Explanation: These changes are necessary to add cross-references to Section 66.004(b-2), Utilities Code.

(4) House Rule 13, Sections 9(a)(1), (2), and (4), are suspended to permit the committee to change text not in disagreement, omit text not in disagreement, and add text on a matter which is not included in either the house or senate version of the bill, in proposed SECTION 4 of the bill, in amended Section 66.006(c) and added Section 66.006(c-2), Utilities Code, to read as follows:

(c) All fees paid to municipalities under this section are paid in accordance with 47 U.S.C. Sections 531 and 541(a)(4)(B) and may be used by the municipality as allowed by federal law; further, these payments are not chargeable as a credit against the franchise fee payments authorized under this chapter.

(c-2) A municipality that receives fees under this section:

(1) shall maintain revenue from the fees in a separate account established for that purpose;

(2) may not commingle revenue from the fees with any other money;

(3) shall maintain a record of each deposit to and disbursement from the separate account, including a record of the payee and purpose of each disbursement; and

(4) may not spend revenue from the fees except directly from the separate account.

Explanation: This change is necessary to clarify that all fees paid to municipalities under Section 66.006, Utilities Code, are not chargeable as a credit against franchise fee payments authorized under Chapter 66, Utilities Code, and that municipalities may not spend revenue from fees received under Section 66.006 except by spending the revenue directly from a separate account, to remove language requiring a detailed accounting of deposits, and to reletter Subsection (c-3) as Subsection (c-2).

(5) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to change and omit text not in disagreement in proposed SECTION 4 of the bill, in amended Section 66.006(d), Utilities Code, to read as follows:

(d) The following services shall continue to be provided by the cable provider that was furnishing services pursuant to its municipal cable franchise ~~[until January 1, 2008, or]~~ until the expiration or termination ~~[term]~~ of the franchise ~~[was to expire, whichever is later,]~~ and thereafter as provided in Subdivisions (1) and (2) below:

(1) institutional network capacity, however defined or referred to in the municipal cable franchise but generally referring to a private line data network capacity for use by the municipality for noncommercial purposes, shall continue to be provided at the same capacity as was provided to the municipality prior to the date of expiration or ~~[the]~~ termination, provided that the municipality will compensate the provider for the actual incremental cost of the capacity; and

(2) cable services to community public buildings, such as municipal buildings and public schools, shall continue to be provided to the same extent provided immediately prior to the date of the termination. ~~On~~ ~~[Beginning on January 1, 2008, or]~~ the expiration or termination of the franchise agreement, ~~[whichever is later,]~~ a provider that provides the services may deduct from the franchise fee to be paid to the municipality an amount equal to the actual incremental cost of the services if the municipality requires the services after that date. Such cable service generally refers to the existing cable drop connections to such facilities and the tier of cable service provided pursuant to the franchise at the time of the expiration or termination.

Explanation: This change is necessary to clarify that institutional network capacity and cable services to community public buildings shall continue to be provided in all municipalities as they were provided before the expiration or termination of a franchise.

(6) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 6 of the bill, to read as follows:

SECTION 6. (a) A municipality that received fees described by Section 66.006(c), Utilities Code, before September 1, 2011, shall, on September 1, 2011, transfer any fees that have not been disbursed to a separate account as required by Section 66.006(c-2), Utilities Code, as added by this Act.

(b) The change in law made by this Act in adding Section 66.006(c-2)(3), Utilities Code, applies only to transfers, deposits, and disbursements made on or after the effective date of this Act. A transfer, deposit, or disbursement made before the effective date of this Act is governed by the law in effect on the date the transfer, deposit, or disbursement was made, and the former law is continued in effect for that purpose.

Explanation: These changes are necessary to correct cross-references.

HR 2518 was adopted by (Record 1631): 142 Yeas, 0 Nays, 2 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Garza; Geren; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; 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; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Farias; Gallego; Giddings; Martinez; Turner; Walle.

STATEMENT OF VOTE

When Record No. 1631 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez

SB 1087 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hilderbran submitted the conference committee report on **SB 1087**.

Representative Hilderbran moved to adopt the conference committee report on **SB 1087**.

The motion to adopt the conference committee report on **SB 1087** prevailed by (Record 1632): 146 Yeas, 0 Nays, 2 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; 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; Lucio; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Farias; Walle.

SB 1087 - STATEMENT OF LEGISLATIVE INTENT

Section 66.006 of the Texas Utilities Code requires a holder of a state issued certificate of franchise authority to pay a one percent fee based upon gross revenues to support public, educational, and government ("PEG") access channels. This fee is known as the PEG fee. That section also addresses the purposes for which PEG fee revenue can be spent, and addresses credits against the five percent franchise fee as established in Section 66.005.

It is the intent of this legislation to allow cable service providers and video service providers to credit the one percent PEG fee against the five percent franchise fee, but only for the amounts not spent in accordance with federal law, and for such credit to comply with any applicable federal law, rules, and regulations.

Hilderbran

HR 2668 - ADOPTED (by Craddick)

Representative Craddick moved to suspend all necessary rules to take up and consider at this time **HR 2668**.

The motion prevailed.

The following resolution was laid before the house:

HR 2668, Congratulating the Diocese of San Angelo on the 50th anniversary of its founding.

HR 2668 was adopted.

SB 144 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the conference committee report on **SB 144**.

Representative Thompson moved to adopt the conference committee report on **SB 144**.

The motion to adopt the conference committee report on **SB 144** prevailed by (Record 1633): 145 Yeas, 0 Nays, 2 Present, not voting.

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

Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; 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; Lucio; 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; Harper-Brown(C).

Absent — Christian; Dutton; Farrar.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1633. I intended to vote no.

Parker

HB 2560 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Sheffield submitted the following conference committee report on **HB 2560**:

Austin, Texas, May 27, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2560** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Estes	Sheffield
Hegar	Lavender
Huffman	Lozano
Lucio	Fletcher
Wentworth	Legler
On the part of the senate	On the part of the house

HB 2560, A bill to be entitled An Act relating to transporting a foster child in a vehicle where a handgun is in the possession of a foster parent licensed to carry a concealed handgun.

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

SECTION 1. Section 42.042, Human Resources Code, is amended by adding Subsection (e-2) to read as follows:

(e-2) The department may not prohibit the foster parent of a child who resides in the foster family's home from transporting the child in a vehicle where a handgun is present if the handgun is in the possession and control of the foster parent and the foster parent is licensed to carry the handgun under Subchapter H, Chapter 411, Government Code.

SECTION 2. 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.

Representative Sheffield moved to adopt the conference committee report on **HB 2560**.

The motion to adopt the conference committee report on **HB 2560** prevailed by (Record 1634): 145 Yeas, 0 Nays, 2 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; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; 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; Lucio; 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; Harper-Brown(C).

Absent — Crownover; Dutton; Farrar.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1634. I intended to vote no.

Anchia

When Record No. 1634 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

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. 1).

HB 1732 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Ritter submitted the following conference committee report on **HB 1732**:

Austin, Texas, May 26, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1732** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hinojosa
Nelson
Whitmire
Williams
Seliger

Ritter
Price
Keffer
T. King

On the part of the senate

On the part of the house

HB 1732, A bill to be entitled An Act relating to the provision by the Texas Water Development Board of financial assistance for certain projects.

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

SECTION 1. Section 15.975, Water Code, is amended by adding Subsection (d) to read as follows:

(d) The board may not approve an application if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Section 16.053(q).

SECTION 2. Section 15.912, Water Code, is amended to read as follows:

Sec. 15.912. CONSIDERATIONS IN ACTING ON APPLICATION. (a) In acting on an application for financial assistance, the board shall consider:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the political subdivision or water supply corporation from all sources for any necessary repayment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs; and

(4) any other factors that the board considers relevant.

(b) The board may not accept an application for a loan or grant of financial assistance from the fund for a project recommended through the state and regional water planning processes under Sections 16.051 and 16.053 if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Section 16.053(q).

SECTION 3. Section 16.131, Water Code, is amended to read as follows:

Sec. 16.131. AUTHORIZED PROJECTS. (a) The board may use the state participation account of the development fund to encourage optimum regional development of projects including the design, acquisition, lease, construction, reconstruction, development, or enlargement in whole or part of:

(1) reservoirs and storm water retention basins for water supply, flood protection, and groundwater recharge;

(2) facilities for the transmission and treatment of water; and

(3) treatment works as defined by Section 17.001 [of this code].

(b) The board may not use the state participation account of the development fund to finance a project recommended through the state and regional water planning processes under Sections 16.051 and 16.053 if the applicant has failed to satisfactorily complete a request by the executive administrator or a regional planning group for information relevant to the project, including a water infrastructure financing survey under Section 16.053(q).

SECTION 4. Section 17.003, Water Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

(c) Water financial assistance bonds that have been authorized but have not been issued are not considered to be state debt payable from the general revenue fund for purposes of Section 49-j, Article III, Texas Constitution, until the legislature makes an appropriation from the general revenue fund to the board to pay the debt service on the bonds.

(d) In requesting approval for the issuance of bonds under this chapter, the executive administrator shall certify to the bond review board whether the bonds are reasonably expected to be paid from:

(1) the general revenues of the state; or

(2) revenue sources other than the general revenues of the state.

(e) The bond review board shall verify whether debt service on bonds to be issued by the board under this chapter is state debt payable from the general revenues of the state, in accordance with the findings made by the board in the resolution authorizing the issuance of the bonds and the certification provided by the executive administrator under Subsection (d).

(f) Bonds issued under this chapter that are designed to be paid from the general revenues of the state shall cease to be considered bonds payable from those revenues if:

(1) the bonds are backed by insurance or another form of guarantee that ensures payment from a source other than the general revenues of the state; or

(2) the board demonstrates to the satisfaction of the bond review board that the bonds no longer require payment from the general revenues of the state and the bond review board so certifies to the Legislative Budget Board.

SECTION 5. This Act takes effect September 1, 2011.

Representative Ritter moved to adopt the conference committee report on **HB 1732**.

The motion to adopt the conference committee report on **HB 1732** prevailed by (Record 1635): 144 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; 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; 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; Lucio; 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.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Taylor, V.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Anderson, C.; Crownover; Torres.

STATEMENTS OF VOTE

When Record No. 1635 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1635 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

HB 1616 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Geren called up with senate amendments for consideration at this time,

HB 1616, A bill to be entitled An Act relating to the reporting or providing of information, including information relating to political contributions, political expenditures, and personal financial information, by public servants, political candidates and committees, and persons required to register under the lobby registration law, and to complaints filed with and the functions of the Texas Ethics Commission.

Representative Geren moved to discharge the conferees and concur in the senate amendments to **HB 1616**.

The motion to discharge the conferees and concur in the senate amendments to **HB 1616** prevailed by (Record 1636): 144 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; 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; 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; Lucio; 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; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Carter; Strama; Taylor, V.

Present, not voting — Mr. Speaker; Harper-Brown(C).

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1636. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1636. I intended to vote no.

Marquez

Senate Committee Substitute

CSHB 1616, A bill to be entitled An Act relating to the reporting of political contributions, political expenditures, and personal financial information, and to complaints filed with the Texas Ethics Commission.

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

SECTION 1. Section 254.031(a), Election Code, is amended to read as follows:

(a) Except as otherwise provided by this chapter, each report filed under this chapter must include:

(1) the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions;

(2) the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period;

(3) the amount of political expenditures that in the aggregate exceed \$100 [~~\$50~~] and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures;

(4) the amount of each payment made during the reporting period from a political contribution if the payment is not a political expenditure, the full name and address of the person to whom the payment is made, and the date and purpose of the payment;

(5) the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$100 [~~\$50~~] or less made during the reporting period;

(6) the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period;

(7) the name of each candidate or officeholder who benefits from a direct campaign expenditure made during the reporting period by the person or committee required to file the report, and the office sought or held, excluding a direct campaign expenditure that is made by the principal political committee of a political party on behalf of a slate of two or more nominees of that party; ~~and~~

(8) as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period;

(9) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution received during the reporting period and the amount of which exceeds \$100;

(10) any proceeds of the sale of an asset purchased with a political contribution received during the reporting period and the amount of which exceeds \$100;

(11) any investment purchased with a political contribution received during the reporting period and the amount of which exceeds \$100;

(12) any other gain from a political contribution received during the reporting period and the amount of which exceeds \$100; and

(13) the full name and address of each person from whom an amount described by Subdivision (9), (10), (11), or (12) is received, the date the amount is received, and the purpose for which the amount is received.

SECTION 2. Subchapter B, Chapter 254, Election Code, is amended by adding Section 254.0405 to read as follows:

Sec. 254.0405. AMENDMENT OF FILED REPORT. (a) A person who files a semiannual report under this chapter may amend the report.

(b) A semiannual report that is amended before the eighth day after the date the original report was filed is considered to have been filed on the date on which the original report was filed.

(c) A semiannual report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if:

(1) the amendment is made before any complaint is filed with regard to the subject of the amendment; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION 3. Section 254.041, Election Code, is amended by adding Subsection (d) to read as follows:

(d) It is an exception to the application of Subsection (a)(3) that:

(1) the information was required to be included in a semiannual report; and

(2) the person amended the report within the time prescribed by Section 254.0405(b) or under the circumstances described by Section 254.0405(c).

SECTION 4. Section 571.122, Government Code, is amended by adding Subsection (e) to read as follows:

(e) It is not a valid basis of a complaint to allege that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 5. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1222 to read as follows:

Sec. 571.1222. DISMISSAL OF COMPLAINT CHALLENGING CERTAIN INFORMATION IN POLITICAL REPORT. At any stage of a proceeding under this subchapter, the commission shall dismiss a complaint to the extent the complaint alleges that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION 6. Section 571.123(b), Government Code, is amended to read as follows:

(b) After a complaint is filed, the commission shall immediately attempt to contact and notify the respondent of the complaint by telephone or electronic mail. Not later than the fifth business day after the date a complaint is filed, the commission shall send written notice to the complainant and the respondent. The written notice to the complainant and the respondent must:

(1) state whether the complaint complies with the form requirements of Section 571.122;

(2) if the respondent is a candidate or officeholder, state the procedure by which the respondent may designate an agent with whom commission staff may discuss the complaint; and

(3) ~~(2)~~ if applicable, include the information required by Section 571.124(e).

SECTION 7. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1231 to read as follows:

Sec. 571.1231. DESIGNATION OF AGENT BY CERTAIN RESPONDENTS. (a) This section applies only to a respondent who is a candidate or officeholder.

(b) A respondent to a complaint filed against the respondent may by writing submitted to the commission designate an agent with whom the commission staff may communicate regarding the complaint.

(c) For purposes of this subchapter, including Section 571.140, communications with the respondent's agent designated under this section are considered communications with the respondent.

SECTION 8. Section 159.003(b), Local Government Code, is amended to read as follows:

(b) The statement must:

(1) be filed with the county clerk of the county in which the officer, justice, or candidate resides; and

(2) comply with Sections 572.022 and 572.023, Government Code, and with any order of the commissioners court of the county requiring additional disclosures.

SECTION 9. Section 254.031(a), Election Code, as amended by this Act, applies only to a report under Chapter 254, Election Code, that is required to be filed on or after the effective date of this Act. A report under Chapter 254, Election Code, that is required to be filed before the effective date of this Act is governed by the law in effect on the date the report is required to be filed, and the former law is continued in effect for that purpose.

SECTION 10. Section 254.041, Election Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 11. This Act takes effect September 1, 2011.

Senate Amendment No. 1 (Senate Floor Amendment No. 1 - Third Reading)

Amend **HB 1616** (senate committee printing) on third reading as follows:

(1) In SECTION 6 of the bill, amending Section 571.123(b), Government Code (page 3, line 6), strike "and" and substitute "[~~and~~]".

(2) In SECTION 6 of the bill, amending Section 571.123(b), Government Code (page 3, line 8), between "Section 571.124(e)" and the period, insert the following:

; and

(4) if applicable, state that the respondent has 14 business days to correct the report that is the basis of the complaint, as provided by Section 254.0406, Election Code

(3) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Subchapter B, Chapter 254, Election Code, is amended by adding Section 254.0406 to read as follows:

Sec. 254.0406. CORRECTION OF FILED REPORT. A person who files a report under this chapter may correct the report if:

(1) the correction is made not later than the 14th business day after the person receives written notice of a complaint filed with the commission with regard to the report; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION _____. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1223 to read as follows:

Sec. 571.1223. DISMISSAL OF COMPLAINT AFTER CORRECTION OF POLITICAL REPORT. If, not later than the 14th business day after a person receives written notice of a complaint alleging that the person failed to properly file a report required under Chapter 254, Election Code, the person corrects the report that is the basis of the complaint, the commission shall dismiss the complaint, provided that the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION _____. Section 571.124, Government Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) Except as provided by Subsection (g), the [The] commission staff shall promptly conduct a preliminary review on receipt of a written complaint that is in compliance with the form requirements of Section 571.122.

(g) The commission may not conduct a preliminary review of a complaint alleging that a person failed to properly file a report required under Chapter 254, Election Code, until the period for correcting the report has expired as provided by Section 254.0406, Election Code.

(4) Renumber the subsequent SECTIONS of the bill accordingly.

HR 2571 - ADOPTED

(by Cook)

The following privileged resolution was laid before the house:

HR 2571

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2499** (continuation and functions of the Department of Information Resources and the transfer of certain department functions to the comptroller of public accounts), to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill by adding the following sections to the bill:

SECTION 25. Subchapter A, Chapter 2157, Government Code, is amended by adding Section 2157.0013 to read as follows:

Sec. 2157.0013. SUNSET PROVISION. (a) The transfer of powers and duties to the comptroller under Section 2157.068 and under **HB 2499**, Acts of the 82nd Legislature, Regular Session, 2011, is subject to Chapter 325 (Texas Sunset Act).

(b) The Sunset Advisory Commission shall evaluate the transfer of powers and duties to the comptroller under Section 2157.068 and under **HB 2499**, Acts of the 82nd Legislature, Regular Session, 2011, and present to the 84th Legislature a report on its evaluation and recommendations in relation to the transfer. The comptroller shall perform all duties in relation to the evaluation that a state agency subject to review under Chapter 325 would perform in relation to a review.

(c) This section expires September 1, 2015.

SECTION 39. (a) The comptroller shall submit, on the dates prescribed by Subsection (c) of this section, a report regarding the transfer described by Section 37 of this Act to the following:

- (1) the Legislative Budget Board;
- (2) the speaker of the house of representatives;
- (3) the lieutenant governor; and
- (4) the chairs of the house and senate committees with primary oversight over the comptroller's purchasing functions.

(b) The report must analyze the efficiency and implementation of the transfer described by Section 37 of this Act.

(c) Each report described by this section is due not later than:

- (1) March 1, 2012;
- (2) September 1, 2012;
- (3) September 1, 2013; and
- (4) September 1, 2014.

Explanation: This change is necessary to require sunset review of, and a report on, the transfer of certain purchasing functions to the comptroller.

HR 2571 was adopted by (Record 1637): 143 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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.

Nays — Anchia; Carter.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Creighton; Garza; Kleinschmidt.

HB 2499 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Cook submitted the following conference committee report on **HB 2499**:

Austin, Texas, May 26, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2499** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Nichols
Hegar
Hinojosa
Huffman
Whitmire

On the part of the senate

Cook
Bonnen
Branch
Geren
Menendez

On the part of the house

HB 2499, A bill to be entitled An Act relating to the continuation and functions of the Department of Information Resources and the transfer of certain department functions to the comptroller of public accounts.

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

SECTION 1. Section 572.054, Government Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) For purposes of this section, the Department of Information Resources is a regulatory agency.

SECTION 2. Section 2054.005, Government Code, is amended to read as follows:

Sec. 2054.005. SUNSET PROVISION. The Department of Information Resources is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2017 ~~2014~~.

SECTION 3. Sections 2054.021(a), (c), (g), and (h), Government Code, are amended to read as follows:

(a) The department is governed by a board composed of seven voting members appointed by the governor with the advice and consent of the senate. One member must be employed by an institution of higher education as defined by Section 61.003, Education Code. Each member must have expertise in at least one of the following areas:

- (1) business or financial management;
- (2) information technology;
- (3) telecommunications; or
- (4) any other area necessary for policymaking and oversight of the department.

(c) Three ~~Two~~ groups each composed of three ex officio members serve on the board on a rotating basis. The ex officio members serve as nonvoting members of the board. ~~[Only one group serves at a time.]~~ The first group is composed of the commissioner of insurance, the executive commissioner of the Health and Human Services Commission, and the executive director of a small state agency [the Texas Department of Transportation]. ~~[Members of the first group serve for two-year terms that begin February 1 of every other odd-numbered year and that expire on February 1 of the next odd-numbered year.]~~ The second group is composed of the executive director of the Texas Department of Transportation, the commissioner of education, and the executive director of a small state agency. The third group is composed of the executive director of the Texas Department of Criminal Justice, ~~[and]~~ the executive director of the Parks and Wildlife Department, and the executive director of a small state agency. Members of a ~~[the second]~~ group serve on the board for two-year terms that begin February 1 of ~~[the]~~ odd-numbered years ~~[in which the terms of members of the first group expire]~~ and ~~[that]~~ expire on February 1 of the next odd-numbered year. Only one group serves at a time. The governor shall appoint the small state agency representative for each group. In this subsection, "small state agency" means a state agency with fewer than 100 employees.

(g) The training program must provide information to the person regarding:

- (1) this chapter and the board ~~[the enabling legislation that created the department and its policymaking body]~~ to which the person is appointed to serve;
- (2) the programs operated by the department;
- (3) the role and functions of the department;

- (4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;
- (7) the requirements of the:
 - (A) open meetings law, Chapter 551;
 - (B) open records law, Chapter 552; and
 - (C) administrative procedure law, Chapter 2001;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; ~~and~~
- (9) any applicable ethics policies adopted by the department or the Texas Ethics Commission; and
- (10) contract management training.

(h) A person appointed to the board under Subsection (a) is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

SECTION 4. Section 2054.022(c), Government Code, is amended to read as follows:

(c) An employee of the department, other than the executive director, ^{is}:

~~(1) may not participate in the department's bidding process, including the proposal development related to a contract and the negotiation of a contract, if:~~

~~[(A) the employee receives more than five percent of the employee's income from any likely bidder on the contract; or~~

~~[(B) the employee's spouse is employed by any likely bidder on the contract; and~~

~~[(2)]~~ may not:

(1) [(A)] be a person required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, a substantial interest in the information resources technologies industry; or

(2) [(B)] be employed by a state agency as a consultant on information resources technologies.

SECTION 5. Section 2054.0285(b), Government Code, is amended to read as follows:

(b) The executive director has authority for certain ~~all~~ aspects of information technology for state agencies, including:

(1) the use of technology to support state goals;

(2) functional support to state agencies;

(3) ~~technology purchases;~~

~~[(4)]~~ deployment of new technology;

(4) [(5)] delivery of technology services; and

(5) [(6)] provision of leadership on technology issues.

SECTION 6. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.0331 to read as follows:

Sec. 2054.0331. CUSTOMER ADVISORY COMMITTEE. (a) The board shall appoint a customer advisory committee under Section 2054.033.

(b) The advisory committee is composed of customers who receive services from each of the department's key programs and of members of the public, including at least:

(1) one member representing a state agency with fewer than 100 employees;

(2) one member appointed by the Information Technology Council for Higher Education; and

(3) one public member.

(c) The advisory committee shall report to and advise the board on the status of the department's delivery of critical statewide services.

SECTION 7. Subchapter B, Chapter 2054, Government Code, is amended by adding Sections 2054.0345 and 2054.0346 to read as follows:

Sec. 2054.0345. DETERMINATION OF ADMINISTRATIVE FEES. (a) The department shall adopt a process to determine the amount of the administrative fee the department charges to administer any of its programs, including fees charged for programs under Sections 2054.380 and 2170.057.

(b) The process must require that the amount of a fee directly relate to the amount necessary for the department to recover the cost of its operations, as determined by the department's annual budget process.

(c) The department shall develop clear procedures directing staff for each department program and the department's financial staff to work together to determine the amount of administrative fees. The procedures must require review and approval of all administrative fees by the board, the executive director, and the department's chief financial officer.

Sec. 2054.0346. REPORTING OF ADMINISTRATIVE FEES. (a) The department shall report to the Legislative Budget Board all administrative fees that the department sets under Section 2054.0345 each fiscal year. The report must include:

(1) the underlying analysis and methodology used to determine the fee amounts; and

(2) the cost allocation charged to customers.

(b) The department shall post on the department's website information about each administrative fee the department charges, including a description of how the fee is determined. The department must update this information when a contract amendment or other action results in a major change to the costs incurred or the price paid by the department or a customer of the department.

SECTION 8. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.037 to read as follows:

Sec. 2054.037. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The department shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

SECTION 9. Subchapter B, Chapter 2054, Government Code, is amended by adding Sections 2054.038, 2054.039, and 2054.040 to read as follows:

Sec. 2054.038. INTERNAL AUDITOR; POWERS AND DUTIES. (a) The board shall:

(1) appoint an internal auditor who reports directly to the board and serves at the will of the board; and

(2) provide staff and other resources to the internal auditor as appropriate.

(b) The internal auditor shall prepare an annual audit plan using risk assessment techniques to rank high-risk functions in the department. The internal auditor shall submit the annual audit plan to the board for consideration and approval. The board may change the plan as necessary or advisable.

(c) The internal auditor may bring before the board an issue outside of the annual audit plan that requires the immediate attention of the board.

(d) The internal auditor may not be assigned any operational or management responsibilities that impair the ability of the internal auditor to make an independent examination of the department's operations. The internal auditor may provide guidance or other advice before an operational or management decision is made but may not make the decision, approve the decision, or otherwise violate this subsection.

(e) The department shall give the internal auditor unrestricted access to the activities and records of the department unless restricted by other law.

Sec. 2054.039. OPEN MEETINGS EXCEPTION FOR INTERNAL AUDITOR. A meeting between the board and the department's internal auditor to discuss issues related to fraud, waste, or abuse is not required to be an open meeting under Chapter 551.

Sec. 2054.040. AUDIT SUBCOMMITTEE. (a) The board shall maintain an audit subcommittee of the board. The subcommittee shall oversee the department's internal auditor and any other audit issues that the board considers appropriate.

(b) The subcommittee shall evaluate whether the internal auditor has sufficient resources to perform the auditor's duties and ensure that sufficient resources are available.

SECTION 10. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.041 to read as follows:

Sec. 2054.041. ADDITIONAL BOARD OVERSIGHT. (a) The board shall adopt a policy describing the board's role in setting a strategic direction for the department. The policy must address the board's role in developing new initiatives for and service offerings by the department, including requiring the board to evaluate and approve new initiatives for, or categories of, services offered by the department under the department's various programs.

(b) The board shall regularly evaluate the extent to which the department fulfills the department's information resources technology mission by providing cost-effective services and meeting customer needs.

(c) The board shall regularly evaluate department operations, including an evaluation of analytical data and information regarding trends in department revenue and expenses, as well as performance information.

SECTION 11. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.0525 to read as follows:

Sec. 2054.0525. ASSISTANCE TO STATE AGENCIES. The department on request shall advise and provide technical assistance to a state agency to determine the agency's information resources technology needs and to solve the agency's information resources technology problems.

SECTION 12. Section 2054.0565(a), Government Code, is amended to read as follows:

(a) The ~~comptroller [department]~~ may include terms in a procurement contract entered into by the ~~comptroller [department]~~, including a contract entered into under Section 2157.068, that allow the contract to be used by another state agency, a political subdivision of this state, a governmental entity of another state, or an assistance organization as defined by Section 2175.001.

SECTION 13. Section 2054.057, Government Code, is amended to read as follows:

Sec. 2054.057. TRAINING IN CONTRACT NEGOTIATION. (a) The [~~department, with the cooperation of the~~] comptroller and other appropriate state agencies[-] shall develop and implement a program to train state agency personnel in effectively negotiating contracts for the purchase of information resources technologies.

(b) The ~~comptroller [department]~~ shall make the training available to state agency personnel who are directly or indirectly involved in contract negotiations, such as senior or operational management, purchasers, users of the purchased technologies, and personnel with relevant technical, legal, or financial knowledge.

(c) The ~~comptroller [department]~~ shall include in the training:

(1) information on developing a structured purchasing method that meets an agency's needs;

(2) information drawn from the state's previous procurement experience about what is or is not advantageous for the state;

(3) the perspective of state agencies with oversight responsibilities related to the state's procurement of information resources technologies; and

(4) other information that the comptroller [department] considers to be useful.

(d) The comptroller [department] may use its own staff or contract with private entities or other state agencies to conduct the training.

SECTION 14. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.061 to read as follows:

Sec. 2054.061. USE OF CONSULTANTS AND OUTSIDE STAFF. (a) The department shall develop clear criteria for the appropriate use of consultants and outside staff by the department to temporarily augment the department's existing staff.

(b) The department shall annually analyze:

(1) the department's staffing needs;

(2) the need for and cost-effectiveness of contracting for consultants and outside staff;

(3) whether the department could use department staff to accomplish tasks proposed for the consultants and outside staff; and

(4) whether and what type of training or additional resources are necessary for the department to use the department's own staff to accomplish tasks proposed for the consultants or outside staff.

(c) In conjunction with the budget process, the department shall provide the analysis to the board for approval. The department may not hire or train any consultants or outside staff unless it has been approved during this budget process.

SECTION 15. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.062 to read as follows:

Sec. 2054.062. INFORMATION RESOURCES TECHNOLOGIES CONSOLIDATION. (a) The department shall develop a consistent and clear method of measuring the costs and progress of an information resources technology consolidation initiative, including a consolidation under Subchapter L.

(b) The department shall work with any entity involved in an information resources technology consolidation to develop an agreed on methodology for collecting and validating data to determine a baseline assessment of costs. The department shall use the data both in the department's initial cost projections and in any later cost comparison. The department shall coordinate with the internal auditor for guidance, subject to Section 2054.038(d), on developing a methodology that provides an objective assessment of costs and project status.

(c) Using the methodology agreed on under Subsection (b), the department shall evaluate actual costs and cost savings related to the consolidation. The department shall also evaluate the progress of the department's information resources consolidation projects compared to the initially projected timelines for implementation. The evaluation results must break out the information on both statewide and individual entity levels.

(d) The department shall annually report the evaluation results to:

(1) the board;

(2) the Legislative Budget Board; and

(3) customers involved in the consolidation.

(e) The department shall post on the department's website the report required by this section.

SECTION 16. Sections 2054.1015(b), (c), (d), and (e), Government Code, are amended to read as follows:

(b) The comptroller [department] may require a state agency to provide [~~to the department~~] a planned procurement schedule for commodity items if the comptroller [department] determines that the information in the schedule can be used to provide a benefit to the state. If required by the comptroller [department], a state agency must provide a planned procurement schedule for commodity items to the comptroller and the department before the agency's operating plan may be approved under Section 2054.102.

(c) The comptroller [department] shall use information contained in the schedules to plan future vendor solicitations of commodity items or for any other activity that provides a benefit to the state.

(d) A state agency shall notify the comptroller [department], the Legislative Budget Board, and the state auditor's office if the agency makes a substantive change to a planned procurement schedule for commodity items.

(e) The comptroller [department] shall specify hardware configurations for state commodity items in its instructions for the preparation of planned procurement schedules.

SECTION 17. Section 2054.122, Government Code, is amended to read as follows:

Sec. 2054.122. COORDINATED TECHNOLOGY TRAINING. A state agency each calendar quarter shall coordinate agency training for the use of information resources technologies with training offered or coordinated by the department or comptroller. The agency shall use training offered or coordinated by the department or comptroller if it meets agency requirements and is cost-competitive.

SECTION 18. Section 2054.124, Government Code, is amended to read as follows:

Sec. 2054.124. POWER MANAGEMENT SOFTWARE. (a) After researching the software available, the comptroller [department] shall by competitive bid select power management software to be used, if technically feasible, by state agencies to reduce the amount of energy required to operate state computer networks and networked personal computers.

(b) [~~(c)~~] An institution of higher education shall purchase, lease, or otherwise acquire and use power management software only if the comptroller [department], in consultation with the Information Technology Council for Higher Education, determines that the institution of higher education's use of power management software would provide cost savings to this state. In making a determination under this subsection, the comptroller [department] must perform the analysis described by Section 2054.121(c) in the same manner as the department under that subsection. The analysis must include an assessment of how the use of power management software affects the security of electronic data, including data protected from public disclosure by state or federal law.

SECTION 19. Section 2054.376(b), Government Code, is amended to read as follows:

(b) This subchapter does not apply to:

(1) the Department of Public Safety's use for criminal justice or homeland security purposes of a federal database or network;

(2) a Texas equivalent of a database or network described by Subdivision (1) that is managed by the Department of Public Safety;

(3) the uniform statewide accounting system, as that term is used in Subchapter C, Chapter 2101;

(4) the state treasury cash and treasury management system; ~~or~~

(5) a database or network managed by the comptroller to:

(A) collect and process multiple types of taxes imposed by the state; or

(B) manage or administer fiscal, financial, revenue, and expenditure activities of the state under Chapter 403 and Chapter 404;

(6) a database or network managed by the Department of Agriculture;

(7) a database or network managed by the General Land Office; or

(8) a database or network managed by a state agency in the judicial branch of state government.

SECTION 20. Subchapter L, Chapter 2054, Government Code, is amended by adding Section 2054.392 to read as follows:

Sec. 2054.392. STATEWIDE TECHNOLOGY ACCOUNT. The comptroller shall establish in the state treasury the statewide technology account. The account is a revolving fund account for the administration of this subchapter. The account is the depository for all money received from entities served under this subchapter. Money in the account may be used only for the operation and management of a statewide technology center or for any other purpose specified by the legislature.

SECTION 21. Chapter 2054, Government Code, is amended by adding Subchapters N and O to read as follows:

SUBCHAPTER N. MAJOR OUTSOURCED CONTRACTS

Sec. 2054.501. MAJOR OUTSOURCED CONTRACT DEFINED; RULE. The board by rule shall define what constitutes a major outsourced contract with regard to contracts the department executes with entities other than this state or a political subdivision of this state. The definition must include as a major outsourced contract:

(1) outsourced contracts entered into under Subchapter I and Subchapter L of this chapter or Chapter 2170; and

(2) contracts that exceed a monetary threshold, other than those described by Subdivision (1).

Sec. 2054.502. BOARD APPROVAL AND OVERSIGHT OF MAJOR OUTSOURCED CONTRACTS. (a) The department must receive approval from the board before:

(1) entering into a major outsourced contract; or

(2) amending any major outsourced contract, if the amendment has significant statewide impact.

(b) The board shall establish one or more subcommittees to monitor the department's major outsourced contracts.

Sec. 2054.503. MANAGEMENT PLANS FOR MAJOR OUTSOURCED CONTRACTS. (a) The department shall specify procedures for administering, monitoring, and overseeing each major outsourced contract by creating a management plan for each contract. In each management plan, the department shall specify the department's approach to managing and mitigating the risks inherent in each contract.

(b) Department staff who perform contract administration and program duties shall jointly develop the management plans with input from executive management and the board. Each management plan must be approved by the executive director.

(c) Each management plan must establish clear lines of accountability and coordination of contract activities. The plan must provide details about implementing the program that is the subject of the contract as well as procedures for monitoring contractor performance, identifying and mitigating risks related to the contract, and involving and communicating with customers who will be served by any programs implemented through the contract. As appropriate, the plan must define an approach for transitioning from one major outsourced contract to another major outsourced contract.

(d) The department shall revise each management plan:

(1) as necessary to keep current during the contracting process; and

(2) when the department renews, amends, or resolicits a major outsourced contract to ensure the plan remains updated and incorporates any changes resulting from a new contract.

Sec. 2054.504. CUSTOMER INVOLVEMENT IN MAJOR OUTSOURCED CONTRACTS. The department shall establish formal procedures to ensure customer involvement in decision making regarding each of the department's major outsourced contracts, including initial analysis, solicitation development, and contract award and implementation, that affect those customers.

SUBCHAPTER O. ADDITIONAL PROVISIONS ON CONTRACTING

Sec. 2054.531. DEFINITION. In this subchapter, "contract management guide" means the guide developed under this subchapter.

Sec. 2054.532. RULES. In addition to the rules adopted under Subchapter N for major outsourced contracts, the board by rule shall establish approval requirements for all other contracts, including a monetary threshold above which board approval is required before the contract may be executed.

Sec. 2054.533. CONFLICT OF INTEREST IN CONTRACTING. (a) A department employee may not:

(1) have an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services by the department; or

(2) in any manner, including by rebate or gift, directly or indirectly accept or receive from a person to whom a contract may be awarded anything of value or a promise, obligation, or contract for future reward or compensation.

(b) A department employee who violates Subsection (a)(2) is subject to dismissal.

(c) The board shall adopt rules to implement this section.

(d) The department shall train staff in the requirements of this section and Section 572.054 and incorporate the requirements into the contract management guide and the department's internal policies, including employee manuals.

Sec. 2054.534. CONTRACT MANAGEMENT TRAINING POLICY. (a) The department shall develop a policy for training department staff in contract management.

(b) The policy must establish contract management training requirements for all staff involved in contract management, including contract managers, program staff, and executive management.

(c) The policy must specify the department's overall approach to procuring and managing contracts, as well as contract-specific procedures developed in the contract management guide and under Subchapter N.

Sec. 2054.535. CONTRACT MANAGEMENT GUIDE; RULES. (a) The department shall develop and periodically update a contract management guide to provide an overall, consistent approach on procurement and management of major outsourced contracts under Subchapter N and other contracts. In updating the guide, the department shall make changes based on contract experiences and account for changing conditions to guide the updates.

(b) The department shall coordinate with the department's internal auditor, subject to Section 2054.038(d), as needed for assistance and guidance in developing procedures in the contract management guide for monitoring contracts and individual contractors.

(c) The board may adopt rules necessary to develop or update the contract management guide.

(d) The contract management guide must provide information regarding the department's:

(1) general approach to business case analysis, procurement planning, contract solicitation, contract execution, and contract monitoring and oversight;

(2) ethics standards and policies, including those required by Section 2054.533; and

(3) approach to changing a program's internal structure or model for delivering services to customers.

(e) The contract management guide must:

(1) establish clear lines of accountability, staff roles and responsibilities, and decision-making authority for program staff, contract management staff, executive management, customers, and the board;

(2) include the procedures established under Section 2054.504 regarding customer involvement; and

(3) establish the department's process for evaluating and managing risk during each stage of contract procurement, implementation, and management.

(f) The contract management guide must describe the expectations and standards for obtaining and using customer input during all contract management phases.

SECTION 22. Section 2155.003, Government Code, is amended by amending Subsection (e) and adding Subsections (f) and (g) to read as follows:

(e) The comptroller must report to the Texas Ethics Commission a campaign contribution from a vendor that bids on or receives a contract under the comptroller's purchasing authority, including authority under this subtitle.

(f) In this section, "campaign contribution" and "specific-purpose committee" have the meanings assigned by Section 251.001, Election Code.

(g) For purposes of Subsection (e), a campaign contribution to a specific-purpose committee for the purpose of supporting a candidate for comptroller, opposing the candidate's opponent, or assisting the comptroller is considered to be a campaign contribution to the comptroller.

SECTION 23. Sections 2155.502(a), (b), and (c), Government Code, are amended to read as follows:

(a) The comptroller ~~[commission]~~ shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by:

(1) the federal government, including the federal General Services Administration; or

(2) any other governmental entity in any state.

(b) In developing a schedule under Subsection (a) ~~[or (c)]~~, the comptroller ~~[commission or department, as appropriate,]~~ shall modify any contractual terms, with the agreement of the parties to the contract, as necessary to comply with any federal or state requirements, including rules adopted under this subchapter.

(c) The comptroller ~~[commission]~~ may not list a multiple award contract on a schedule developed under Subsection (a) if the goods or services provided by that contract:

(1) are available from only one vendor; or

(2) are telecommunications services, facilities, or equipment~~[-or~~

~~(3) are commodity items as defined by Section 2157.068(a)].~~

SECTION 24. Section 2155.503, Government Code, is amended to read as follows:

Sec. 2155.503. RULES. (a) The comptroller ~~[and the department]~~ shall adopt rules to implement this subchapter. The rules must:

(1) establish standard terms for contracts listed on a schedule; and

(2) maintain consistency with existing purchasing standards.

(b) The comptroller ~~[and the department]~~ shall consult with the attorney general in developing rules under this section.

SECTION 25. Subchapter A, Chapter 2157, Government Code, is amended by adding Section 2157.0013 to read as follows:

Sec. 2157.0013. SUNSET PROVISION. (a) The transfer of powers and duties to the comptroller under Section 2157.068 and under **HB 2499**, Acts of the 82nd Legislature, Regular Session, 2011, is subject to Chapter 325 (Texas Sunset Act).

(b) The Sunset Advisory Commission shall evaluate the transfer of powers and duties to the comptroller under Section 2157.068 and under **HB 2499**, Acts of the 82nd Legislature, Regular Session, 2011, and present to the 84th

Legislature a report on its evaluation and recommendations in relation to the transfer. The comptroller shall perform all duties in relation to the evaluation that a state agency subject to review under Chapter 325 would perform in relation to a review.

(c) This section expires September 1, 2015.

SECTION 26. Section 2157.004, Government Code, is amended to read as follows:

Sec. 2157.004. TRANSFERS AND LOANS. A state agency that acquires a telecommunications device, system, or service or an automated information system by interagency transfer, contract, or loan, or by public loan, shall comply with the requirements that apply to that acquisition under ~~of~~ Chapter 2054 and this chapter.

SECTION 27. Section 2157.068, Government Code, is amended to read as follows:

Sec. 2157.068. PURCHASE OF INFORMATION TECHNOLOGY COMMODITY ITEMS. (a) In this section, "commodity items" means commercial software, hardware, or technology services, other than telecommunications services, that are generally available to businesses or the public and for which the comptroller [department] determines that a reasonable demand exists in two or more state agencies. The term includes seat management, through which a state agency transfers its personal computer equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop in the state agency, including all necessary hardware, software, and support services.

(b) The comptroller [department] shall negotiate with vendors to attempt to obtain a favorable price for all of state government on licenses for commodity items, based on the aggregate volume of purchases expected to be made by the state. The terms and conditions of a license agreement between a vendor and the comptroller [department] under this section may not be less favorable to the state than the terms of similar license agreements between the vendor and retail distributors.

(c) In contracting for commodity items under this section, the comptroller [department] shall make good faith efforts to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses and persons with disabilities' products and services available under Chapter 122, Human Resources Code.

(d) The comptroller [department] may charge a reasonable administrative fee to a state agency, political subdivision of this state, or governmental entity of another state that purchases commodity items through the comptroller [department] in an amount that is sufficient to recover costs associated with the administration of this section. The comptroller shall develop a clear procedure for calculating the fee under this subsection, including procedures for review and approval of the fee.

(e) The comptroller [department] shall compile and maintain a list of commodity items available for purchase through the comptroller [department] that have a lower price than the prices for commodity items otherwise available to

state agencies under this chapter. The comptroller [department] shall make the list available on the comptroller's website [~~world wide web or on a suitable successor to the world wide web if the technological developments involving the Internet make it advisable to do so~~].

(f) The comptroller [department] may adopt rules regulating a purchase by a state agency of a commodity item under this section, including a requirement that, notwithstanding other provisions of this chapter, the agency must make the purchase in accordance with a contract developed by the comptroller [department] unless the agency obtains:

(1) an exemption from the comptroller [department]; or

(2) express prior approval from the Legislative Budget Board for the expenditure necessary for the purchase.

(g) The Legislative Budget Board's approval of a biennial operating plan under Section 2054.102 is not an express prior approval for purposes of Subsection (f)(2). A state agency must request an exemption from the comptroller [department] under Subsection (f)(1) before seeking prior approval from the Legislative Budget Board under Subsection (f)(2).

(h) The comptroller [department] shall, in cooperation with state agencies, establish guidelines for the classification of commodity items under this section. The comptroller [department] may determine when a statewide vendor solicitation for a commodity item will reduce purchase prices for a state agency.

(i) Unless the agency has express statutory authority to employ a best value purchasing method other than a purchasing method designated by the comptroller [commission] under Section 2157.006(a)(2), a state agency shall use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if:

(1) the agency has obtained an exemption from the comptroller [department] or approval from the Legislative Budget Board under Subsection (f); or

(2) the agency is otherwise exempt from this section.

SECTION 28. Subchapter B, Chapter 2157, Government Code, is amended by adding Section 2157.0685 to read as follows:

Sec. 2157.0685. REPORTING OF ADMINISTRATIVE FEES FOR COMMODITY ITEMS. (a) The comptroller shall report to the Legislative Budget Board any administrative fee the comptroller sets under Section 2157.068 for each fiscal year. The report must include the underlying analysis and methodology used to determine the fee amounts.

(b) The comptroller shall post on the comptroller's website information about the fee, including a description of how the fee is determined. The comptroller must update this information when a contract amendment or other action results in a major change to the costs incurred or the price paid by the comptroller or a customer of the comptroller.

SECTION 29. Subchapter B, Chapter 2157, Government Code, is amended by adding Section 2157.069 to read as follows:

Sec. 2157.069. CLEARING FUND ACCOUNT. The comptroller shall establish in the state treasury the clearing fund account. The account is a revolving fund account for the administration of Section 2157.068. The account

is the depository for all money received from entities served under that section. Money in the account may be used only to administer that section or for any other purpose specified by the legislature.

SECTION 30. Section 2157.121, Government Code, is amended to read as follows:

Sec. 2157.121. ACQUISITION THROUGH COMPETITIVE SEALED PROPOSALS. (a) The comptroller [~~commission~~] or other state agency may acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals if the comptroller [~~commission~~] determines that competitive sealed bidding and informal competitive bidding are not practical or are disadvantageous to the state.

(b) A state agency, other than the department under Subsection (c), shall send its proposal specifications and criteria to the comptroller [~~commission~~] for approval or request the comptroller [~~commission~~] to develop the proposal specifications and criteria.

(c) The department may acquire a telecommunications device, system, or service [~~or an automated information system~~] by using competitive sealed proposals without regard to whether the comptroller [~~commission~~] makes the determination required under Subsection (a) for other state agencies. This subsection applies only to an acquisition under Subchapter H, Chapter 2054, or under Chapter 2170.

SECTION 31. Section 2157.181(a), Government Code, is amended to read as follows:

(a) The comptroller [~~commission, with the concurrence of the department,~~] may negotiate with vendors preapproved terms and conditions to be included in contracts relating to the purchase or lease of [~~a telecommunication device, system, or service or~~] an automated information system awarded to a vendor by a state agency.

SECTION 32. Section 2157.182, Government Code, is amended to read as follows:

Sec. 2157.182. VALIDITY OF PREAPPROVED TERMS AND CONDITIONS; RENEGOTIATION. (a) Preapproved terms and conditions to which a vendor [~~the commission,~~] and the comptroller [~~department~~] agree are valid for two years after the date of the agreement and must provide that the terms and conditions are to be renegotiated before the end of the two years.

(b) The comptroller [~~commission and the department jointly~~] shall establish procedures to ensure that terms and conditions are renegotiated before they expire in a contract between the vendor and a state agency.

SECTION 33. Section 2157.184, Government Code, is amended to read as follows:

Sec. 2157.184. NOTIFICATION OF STATE AGENCIES AND VENDORS. The comptroller [~~commission and the department jointly~~] shall establish procedures to notify state agencies and potential vendors of the provisions of this subchapter regarding preapproved terms and conditions.

SECTION 34. Sections 2054.024(c), 2059.060, 2155.501(1), 2155.502(e), 2157.0611, and 2157.181(b), Government Code, are repealed.

SECTION 35. (a) Not later than September 1, 2011, the governor shall appoint the initial members of the governing board of the Department of Information Resources under Section 2054.021, Government Code, as amended by this Act. The governor shall appoint:

- (1) two members whose terms expire February 1, 2013;
- (2) two members whose terms expire February 1, 2015; and
- (3) three members whose terms expire February 1, 2017.

(b) The terms of the current members of the board expire September 1, 2011.

SECTION 36. (a) Not later than September 1, 2011, the first group of ex officio members shall begin serving or be appointed under Section 2054.021(c), Government Code, as amended by this Act.

(b) The governor shall appoint to the first group an ex officio member from a state agency with fewer than 100 employees under Section 2054.021(c), Government Code, as amended by this Act. When that member is appointed, the term of the executive director of the Texas Department of Transportation expires.

(c) The commissioner of insurance and the executive commissioner of the Health and Human Services Commission shall continue to serve in the first group under Section 2054.021(c), Government Code, as amended by this Act, until February 1, 2013.

SECTION 37. (a) In this section, "department" means the Department of Information Resources.

(b) On the effective date of this Act, the powers and duties of the department under Section 2157.068, Government Code, or other law relating to information and communications technology cooperative contracts are transferred to the comptroller.

(c) The department shall work in cooperation with and at the direction of the comptroller to facilitate the transfer described by this section.

(d) A rule, form, policy, procedure, or decision of the department that is related to a power or duty transferred under Subsection (b) of this section continues in effect as a rule, form, policy, procedure, or decision of the comptroller until superseded by an act of the comptroller.

(e) A court case, administrative proceeding, contract negotiation, or other proceeding involving the department that is related to a power or duty transferred under Subsection (b) of this section is transferred without change in status to the comptroller, and the comptroller assumes, without a change in status, the position of the department in a negotiation or proceeding relating to a power or duty transferred under Subsection (b) of this section to which the department is a party.

(f) All department employees who primarily perform duties related to a power or duty transferred under Subsection (b) of this section, including employees who provide administrative support for those powers or duties, are transferred to the office of the comptroller. A management employee of the department who is transferred to the office of the comptroller under this section does not automatically continue to hold the person's management position. To hold the management position on other than an interim basis, the person must apply for the position with the comptroller.

(g) All personal property, including records, in the custody of the department related to a power or duty transferred under Subsection (b) of this section is transferred to and becomes the property of the comptroller.

(h) All contracts, memoranda of understanding, leases, and rights of the department related to a power or duty transferred under Subsection (b) of this section are transferred to the comptroller.

(i) All money appropriated by the legislature to the department related to a power or duty transferred under Subsection (b) of this section, including money for providing administrative support, is transferred to the comptroller.

SECTION 38. A contract transferred under Section 37 of this Act may not be canceled by the comptroller except as provided by the terms of the contract.

SECTION 39. (a) The comptroller shall submit, on the dates prescribed by Subsection (c) of this section, a report regarding the transfer described by Section 37 of this Act to the following:

(1) the Legislative Budget Board;

(2) the speaker of the house of representatives;

(3) the lieutenant governor; and

(4) the chairs of the house and senate committees with primary oversight over the comptroller's purchasing functions.

(b) The report must analyze the efficiency and implementation of the transfer described by Section 37 of this Act.

(c) Each report described by this section is due not later than:

(1) March 1, 2012;

(2) September 1, 2012;

(3) September 1, 2013; and

(4) September 1, 2014.

SECTION 40. Sections 2054.502 and 2054.533, Government Code, as added by this Act, apply only to a contract for which a solicitation of bids or proposals or similar expressions of interest is published on or after September 1, 2011. A contract for which a solicitation of bids or proposals or similar expressions of interest is published before September 1, 2011, is governed by the law in effect on the date the state agency first publishes the solicitation of bids or proposals or similar expressions of interest, and the former law is continued in effect for that purpose.

SECTION 41. Section 2155.003, Government Code, as amended by this Act, applies only to a campaign contribution made on or after the effective date of this Act. A campaign contribution made before the effective date of this Act is governed by the law in effect when the contribution was made, and the former law is continued in effect for that purpose.

SECTION 42. This Act takes effect September 1, 2011.

Representative Cook moved to adopt the conference committee report on **HB 2499**.

The motion to adopt the conference committee report on **HB 2499** prevailed by (Record 1638): 144 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; 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; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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.

Nays — Anchia; Carter.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Anderson, R.; Kolkhorst.

STATEMENT OF VOTE

When Record No. 1638 was taken, I was in the house but away from my desk. I would have voted yes.

Kolkhorst

HB 2194 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative L. Taylor called up with senate amendments for consideration at this time,

HB 2194, A bill to be entitled An Act relating to the conduct and administration of elections and of state conventions of political parties.

Representative L. Taylor moved to discharge the conferees and concur in the senate amendments to **HB 2194**.

The motion to discharge the conferees and concur in the senate amendments to **HB 2194** prevailed by (Record 1639): 144 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; 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; 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; Lucio; 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; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alonzo; Castro.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent — Callegari; Torres.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1639. I intended to vote no.

Strama

Senate Committee Substitute

CSHB 2194, A bill to be entitled An Act relating to certain election practices and procedures; providing a penalty.

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

SECTION 1. Section 12.006, Election Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The registrar may appoint one or more deputy registrars to assist in the registration of voters, subject to Subsection (c).

(e) To be eligible for appointment as a regular deputy registrar under this section, a person must meet the requirements to be a qualified voter under Section 11.002 except that the person is not required to be a registered voter.

SECTION 2. Subchapter A, Chapter 13, Election Code, is amended by adding Section 13.008 to read as follows:

Sec. 13.008. PERFORMANCE-BASED COMPENSATION FOR REGISTERING VOTERS PROHIBITED. (a) A person commits an offense if the person:

(1) compensates another person based on the number of voter registrations that the other person successfully facilitates;

(2) presents another person with a quota of voter registrations to facilitate as a condition of payment or employment;

(3) engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voter registrations that the other person facilitates; or

(4) accepts compensation for an activity described by Subdivision (1), (2), or (3).

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

(c) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

SECTION 3. Section 13.031(d), Election Code, is amended to read as follows:

(d) To be eligible for appointment as a volunteer deputy registrar, a person must:

(1) be 18 years of age or older; ~~and~~

(2) not have been finally convicted of a felony or, if so convicted, must have:

(A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

(B) been pardoned or otherwise released from the resulting disability to vote; and

(3) meet the requirements to be a qualified voter under Section 11.002 except that the person is not required to be a registered voter.

SECTION 4. Section 13.036(a), Election Code, is amended to read as follows:

(a) An appointment as a volunteer deputy registrar is terminated on:

(1) the expiration of the volunteer deputy's term of appointment; or

(2) the final conviction of the volunteer deputy for an offense prescribed by Section 13.008 or 13.043.

SECTION 5. Section 32.051(a) and (b), Election Code, are amended to read as follows:

(a) Except as provided by Subsection (b) [~~or (e)~~], to be eligible to serve as a judge of an election precinct, a person must:

(1) be a qualified voter of the precinct; and

(2) for a regular county election precinct

for which an appointment is made by the commissioners court, satisfy any additional eligibility requirements prescribed by written order of the commissioners court.

(b) If the authority making an [~~emergency~~] appointment of a presiding judge or alternate presiding judge cannot find an eligible qualified voter of the precinct who is willing to accept the appointment, the eligibility requirement for a clerk prescribed by Subsection (c) applies.

SECTION 6. Section 32.051(e), Election Code, is repealed.

SECTION 7. Effective January 1, 2012, Section 15.022(a), Election Code, is amended to read as follows:

(a) The registrar shall make the appropriate corrections in the registration records, including, if necessary, deleting a voter's name from the suspense list:

(1) after receipt of a notice of a change in registration information under Section 15.021;

(2) after receipt of a voter's reply to a notice of investigation given under Section 16.033;

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

(4) after receipt of a voter's statement of residence executed under Section 63.0011;

(5) before the effective date of the abolishment of a county election precinct or a change in its boundary;

(6) after receipt of United States Postal Service information indicating an address reclassification;

(7) after receipt of a voter's response under Section 15.053; or

(8) after receipt of a registration application or change of address under Chapter 20.

SECTION 8. Section 43.007, Election Code, is amended by amending Subsections (a) and (i) and adding Subsections (k) and (l) to read as follows:

(a) The secretary of state shall implement a program to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

(1) each general election for state and county officers;

(2) each [~~countywide~~] election held on the uniform election date in May;

(3) each election on a proposed constitutional amendment; and

(4) each election of a political subdivision located in the county that is held jointly with an election described by Subdivision (1), (2), or (3).

(i) The secretary of state may only select to participate in the program six [~~three~~] counties with a population of 100,000 or more and four [~~two~~] counties with a population of less than 100,000.

(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 9. Effective January 1, 2012, Section 63.011, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) A person to whom Section 63.009 [~~63.008(b) or 63.009(a)~~] applies may cast a provisional ballot if the person executes an affidavit stating that the person:

(1) is a registered voter in the precinct in which the person seeks to vote; and

(2) is eligible to vote in the election.

(b) A form for an affidavit required by this section must [~~shall~~] be printed on an envelope in which the provisional ballot voted by the person may be placed and must include:

(1) a space for entering the identification number of the provisional ballot voted by the person; and

(2) a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101.

(b-1) The affidavit form may include space for disclosure of any necessary information to enable the person to register to vote under Chapter 13. The secretary of state shall prescribe the form of the affidavit under this section.

SECTION 10. Effective January 1, 2012, Section 66.0241, Election Code, is amended to read as follows:

Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4 must contain:

(1) the precinct list of registered voters;

(2) the registration correction list;

(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.

SECTION 11. Effective January 1, 2012, Section 85.031(b), Election Code, is amended to read as follows:

(b) On accepting a voter, the clerk shall indicate beside the voter's name on the list of registered voters ~~[or registration omissions list, as applicable,]~~ that the voter is accepted to vote by personal appearance unless the form of the ~~[either]~~ list makes it impracticable to do so, and the clerk shall enter the voter's name on the poll list.

SECTION 12. 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 13. 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 14. 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.

SECTION 15. Effective January 1, 2012, Sections 63.005, 63.007, and 63.008, Election Code, are repealed.

SECTION 16. The appointment of a person serving as a regular deputy registrar or volunteer deputy registrar who does not meet the eligibility requirements of Section 12.006 or 13.031, Election Code, as amended by this Act, expires on the effective date of this Act. The secretary of state shall prescribe procedures necessary to implement this section.

SECTION 17. Except as otherwise provided by this Act, this Act takes effect September 1, 2011.

(Speaker in the chair)

HR 2572 - ADOPTED
(by W. Smith)

The following privileged resolution was laid before the house:

HR 2572

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 2694** (continuation and functions of the Texas Commission on Environmental Quality), to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed Section 6.03 of the bill, in amended Section 5.701(n)(1), Water Code, to read as follows:

(1) Each provider of potable water or sewer utility service shall collect a regulatory assessment from each retail customer as follows:

(A) A public utility as defined in Section 13.002 [~~of this code~~] shall collect from each retail customer a regulatory assessment equal to one percent of the charge for retail water or sewer service.

(B) A water supply or sewer service corporation as defined in Section 13.002 [~~of this code~~] shall collect from each retail customer a regulatory assessment equal to one-half of one percent of the charge for retail water or sewer service.

(C) A district as defined in Section 49.001 [~~of this code~~] that provides potable water or sewer utility service to retail customers shall collect from each retail customer a regulatory assessment equal to one-half of one percent of the charge for retail water or sewer service.

Explanation: This change is necessary to remove a change to the regulatory assessment collected by certain water supply or sewer service corporations.

HR 2572 was adopted by (Record 1640): 145 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; 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 — Anchia; Marquez.

Present, not voting — Mr. Speaker(C).

Absent — Callegari; Miller, S.

HB 2694 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative W. Smith submitted the following conference committee report on **HB 2694**:

Austin, Texas, May 24, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2694** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Huffman
Fraser
Hegar
Hinojosa
Nichols

W. Smith
Bonnen
Geren

On the part of the senate

On the part of the house

HB 2694, A bill to be entitled An Act relating to the continuation and functions of the Texas Commission on Environmental Quality and abolishing the On-site Wastewater Treatment Research Council.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. The heading to Chapter 5, Water Code, is amended to read as follows:

CHAPTER 5. TEXAS ~~[NATURAL RESOURCE CONSERVATION]~~
COMMISSION ON ENVIRONMENTAL QUALITY

SECTION 1.02. Section 5.014, Water Code, is amended to read as follows:

Sec. 5.014. SUNSET PROVISION. The Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2023 ~~[2014]~~.

SECTION 1.03. Subchapter C, Chapter 5, Water Code, is amended by adding Section 5.061 to read as follows:

Sec. 5.061. PROHIBITION ON ACCEPTING CAMPAIGN CONTRIBUTIONS. A member of the commission may not accept a contribution to a campaign for election to an elected office. If a member of the commission accepts a campaign contribution, the person is considered to have resigned from the office and the office immediately becomes vacant. The vacancy shall be filled in the manner provided by law.

SECTION 1.04. Subchapter D, Chapter 5, Water Code, is amended by adding Section 5.1031 to read as follows:

Sec. 5.1031. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

SECTION 1.05. Section 5.2291(b), Water Code, is amended to read as follows:

(b) Except as provided by Section 5.2292, the [The] procurement of a contract for scientific and technical environmental services shall be conducted under the procedures for professional services selection provided in Subchapter A, Chapter 2254, Government Code.

SECTION 1.06. Subchapter F, Chapter 5, Water Code, is amended by adding Section 5.2292 to read as follows:

Sec. 5.2292. CONTRACTS FOR SERVICES UNDER PETROLEUM STORAGE TANK STATE-LEAD PROGRAM. (a) The executive director may directly award a contract for scientific and technical environmental services to a person if:

(1) the contract is for the performance of services related to the remediation of a site that has been placed in the state-lead program under Section 26.3573(r-1);

(2) the person has registered to perform corrective action under Section 26.364;

(3) the person is eligible to receive a contract award from the state;

(4) the person was performing related work at the site on or before July 1, 2011; and

(5) the contract includes all contract provisions required for state contracts.

(b) Notwithstanding Section 2254.004, Government Code, the executive director may directly award a contract for engineering services to a person if:

(1) the contract is for the performance of services related to the remediation of a site that has been placed in the state-lead program under Section 26.3573(r-1);

(2) the person is licensed under Chapter 1001, Occupations Code;

(3) the person has registered to perform corrective action under Section 26.364;

(4) the person is eligible to receive a contract award from the state;

(5) the person was performing related work at the site on or before July 1, 2011; and

(6) the contract includes all contract provisions required for state contracts.

(c) Nothing in Subsection (a) or (b) requires the executive director to make an award at a site or prevents the executive director from negotiating additional contract terms, including qualifications.

SECTION 1.07. Section 12.052, Water Code, is amended by amending Subsection (a) and adding Subsections (b-1), (e-1), (e-2), and (e-3) to read as follows:

(a) The commission shall make and enforce rules and orders and shall perform all other acts necessary to provide for the safe construction, maintenance, repair, and removal of dams located in this state. In performing the commission's duties under this subsection, the commission shall identify and focus on the most hazardous dams in the state.

(b-1) The commission may enter into an agreement with an owner of a dam who is required to reevaluate the adequacy of an existing dam or spillway. The agreement may include timelines to achieve compliance with the commission's design criteria and may authorize deferral of compliance with the criteria, as appropriate.

(e-1) The commission shall exempt an owner of a dam located on private property from meeting requirements related to dam safety if the dam:

- (1) at maximum capacity impounds less than 500 acre-feet;
- (2) has a hazard classification of low or significant;
- (3) is located in a county with a population of less than 215,000; and
- (4) is not located inside the corporate limits of a municipality.

(e-2) Notwithstanding Subsection (e-1), an owner of a dam shall comply with operation and maintenance requirements established by commission rule.

(e-3) This subsection and Subsections (e-1) and (e-2) expire August 31, 2015.

ARTICLE 2. TRANSFER OF CERTAIN DUTIES TO THE RAILROAD COMMISSION

SECTION 2.01. Section 91.011, Natural Resources Code, is amended to read as follows:

Sec. 91.011. CASING. (a) Before drilling into the oil or gas bearing rock, the owner or operator of a well being drilled for oil or gas shall encase the well with good and sufficient wrought iron or steel casing or with any other material that meets standards adopted by the commission, particularly where wells could be subjected to corrosive elements or high pressures and temperatures, in a manner and to a depth that will exclude surface or fresh water from the lower part of the well from penetrating the oil or gas bearing rock, and if the well is drilled through the first into the lower oil or gas bearing rock, the well shall be cased in a manner and to a depth that will exclude fresh water above the last oil or gas bearing rock penetrated.

(b) The commission shall adopt rules regarding the depth of well casings necessary to meet the requirements of this section.

SECTION 2.02. Subchapter B, Chapter 91, Natural Resources Code, is amended by adding Section 91.0115 to read as follows:

Sec. 91.0115. CASING; LETTER OF DETERMINATION. (a) The commission shall issue, on request from an applicant for a permit for a well to be drilled into oil or gas bearing rock, a letter of determination stating the total depth of surface casing required for the well by Section 91.011.

(b) The commission may charge a fee in an amount to be determined by the commission for a letter of determination.

(c) The commission shall charge a fee not to exceed \$75, in addition to the fee required by Subsection (b), for processing a request to expedite a letter of determination. Money collected under this subsection may be used to study and evaluate electronic access to geologic data and surface casing depths under Section 91.020.

SECTION 2.03. Subchapter B, Chapter 91, Natural Resources Code, is amended by adding Section 91.020 to read as follows:

Sec. 91.020. ELECTRONIC GEOLOGIC DATA. The commission shall work cooperatively with other appropriate state agencies to study and evaluate electronic access to geologic data and surface casing depths necessary to protect usable groundwater in this state.

SECTION 2.04. Subchapter D, Chapter 91, Natural Resources Code, is amended by adding Section 91.1015 to read as follows:

Sec. 91.1015. GROUNDWATER PROTECTION REQUIREMENTS. The commission shall adopt rules to establish groundwater protection requirements for operations that are within the jurisdiction of the commission, including requirements relating to the depth of surface casing for wells.

SECTION 2.05. Section 27.033, Water Code, is amended to read as follows:

Sec. 27.033. LETTER OF DETERMINATION ~~[FROM EXECUTIVE DIRECTOR]~~. A person making application to the railroad commission for a permit under this chapter shall submit with the application a letter of determination from the railroad commission ~~[from the executive director]~~ stating that drilling and using the disposal well and injecting oil and gas waste into the subsurface stratum will not endanger the freshwater strata in that area and that the formation or stratum to be used for the disposal is not freshwater sand.

SECTION 2.06. Section 27.046, Water Code, is amended to read as follows:

Sec. 27.046. LETTER OF DETERMINATION ~~[FROM EXECUTIVE DIRECTOR]~~. (a) The railroad commission may not issue a permit under rules adopted under this subchapter until the railroad commission issues to the applicant for the permit ~~[provides to the railroad commission]~~ a letter of determination ~~[from the executive director]~~ stating that drilling and operating the anthropogenic carbon dioxide injection well for geologic storage or operating the geologic storage facility will not injure any freshwater strata in that area and that the formation or stratum to be used for the geologic storage facility is not freshwater sand.

(b) To make the determination required by Subsection (a), the railroad commission ~~[executive director]~~ shall review:

- (1) the area of review and corrective action plans;

(2) any subsurface monitoring plans required during injection or post injection;

(3) any postinjection site care plans; and

(4) any other elements of the application reasonably required in order for the railroad commission [~~executive director~~] to make the determination required by Subsection (a).

(c) The railroad commission shall adopt rules to implement and administer this section.

SECTION 2.07. Section 5.701(r), Water Code, is repealed.

SECTION 2.08. (a) The Railroad Commission of Texas shall adopt rules to implement the changes in law made by this article not later than March 1, 2012.

(b) A rule, form, policy, or procedure of the Texas Commission on Environmental Quality related to the changes in law made by this article continues in effect as a rule, form, policy, or procedure of the Railroad Commission of Texas and remains in effect until amended or replaced by that agency.

ARTICLE 3. PUBLIC INTEREST

SECTION 3.01. Subchapter F, Chapter 5, Water Code, is amended by adding Section 5.239 to read as follows:

Sec. 5.239. PUBLIC EDUCATION AND ASSISTANCE. (a) The executive director shall ensure that the agency is responsive to environmental and citizens' concerns, including environmental quality and consumer protection.

(b) The executive director shall develop and implement a program to:

(1) provide a centralized point for the public to access information about the commission and to learn about matters regulated by the commission;

(2) identify and assess the concerns of the public in regard to matters regulated by the commission; and

(3) respond to the concerns identified by the program.

SECTION 3.02. Section 5.271, Water Code, is amended to read as follows:

Sec. 5.271. CREATION AND GENERAL RESPONSIBILITY OF THE OFFICE OF PUBLIC INTEREST COUNSEL. The office of public interest counsel is created to ensure that the commission promotes the public's interest [~~and is responsive to environmental and citizens' concerns including environmental quality and consumer protection~~]. The primary duty of the office is to represent the public interest as a party to matters before the commission.

SECTION 3.03. Subchapter G, Chapter 5, Water Code, is amended by adding Section 5.2725 to read as follows:

Sec. 5.2725. ANNUAL REPORT; PERFORMANCE MEASURES. (a) The office of public interest counsel shall report to the commission each year in a public meeting held on a date determined by the commission to be timely for the commission to include the reported information in the commission's reports under Sections 5.178(a) and (b) and in the commission's biennial legislative appropriations requests as appropriate:

(1) an evaluation of the office's performance in representing the public interest in the preceding year;

(2) an assessment of the budget needs of the office, including the need to contract for outside expertise; and

(3) any legislative or regulatory changes recommended under Section 5.273.

(b) The commission and the office of public interest counsel shall work cooperatively to identify performance measures for the office.

SECTION 3.04. Subchapter G, Chapter 5, Water Code, is amended by adding Section 5.276 to read as follows:

Sec. 5.276. FACTORS FOR PUBLIC INTEREST REPRESENTATION.

(a) The commission by rule, after consideration of recommendations from the office of public interest counsel, shall establish factors the public interest counsel must consider before the public interest counsel decides to represent the public interest as a party to a commission proceeding.

(b) Rules adopted under this section must include:

(1) factors to determine the nature and extent of the public interest; and

(2) factors to consider in prioritizing the workload of the office of public interest counsel.

ARTICLE 4. COMPLIANCE AND ENFORCEMENT

SECTION 4.01. Section 5.751, Water Code, is amended to read as follows:

Sec. 5.751. APPLICABILITY. This subchapter applies to programs under the jurisdiction of the commission under Chapters 26, ~~and~~ 27, and 32 of this code and Chapters 361, 375, 382, and 401, Health and Safety Code. It does not apply to occupational licensing programs under the jurisdiction of the commission.

SECTION 4.02. Section 5.752(1), Water Code, is amended to read as follows:

(1) "Applicable legal requirement" means an environmental law, regulation, permit, order, consent[;] decree, or other requirement.

SECTION 4.03. The heading to Section 5.753, Water Code, is amended to read as follows:

Sec. 5.753. STANDARDS ~~[STANDARD]~~ FOR EVALUATING AND USING COMPLIANCE HISTORY.

SECTION 4.04. Section 5.753, Water Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (d-1) to read as follows:

(a) Consistent with other law and the requirements necessary to maintain federal program authorization, the commission by rule shall develop standards [a uniform standard] for evaluating and using compliance history that ensure consistency. In developing the standards, the commission may account for differences among regulated entities.

(b) The components of compliance history must include:

(1) enforcement orders, court judgments, [consent decrees,] and criminal convictions of this state [and the federal government] relating to compliance with applicable legal requirements under the jurisdiction of the commission [or the United States Environmental Protection Agency];

(2) notwithstanding any other provision of this code, orders issued under Section 7.070;

(3) to the extent readily available to the commission, enforcement orders, court judgments, consent decrees, and criminal convictions relating to violations of environmental rules [laws] of the United States Environmental Protection Agency [other states]; and

(4) changes in ownership.

(d) Except as provided by this subsection, notices of violation must be included as a component of compliance history for a period not to exceed one year from the date of issuance of each notice of violation. The listing of a notice of violation must be preceded by the following statement prominently displayed: "A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action nor proof that a violation has actually occurred." [The set of components shall include notices of violations.] A notice of violation administratively determined to be without merit may [shall] not be included in a compliance history. A notice of violation that is included in a compliance history shall be removed from the compliance history if the commission subsequently determines the notice of violation to be without merit.

(d-1) For purposes of listing compliance history, the commission may not include as a notice of violation information received by the commission as required by Title V of the federal Clean Air Act (42 U.S.C. Section 7661 et seq.) unless the commission issues a written notice of violation. Final enforcement orders or judgments resulting from self-reported Title V deviations or violations may be considered as compliance history components for purposes of determining compliance history.

SECTION 4.05. Section 5.754, Water Code, is amended by amending Subsections (a), (b), (c), (d), (e), (g), and (h) and adding Subsection (e-1) to read as follows:

(a) The commission by rule shall establish a set of standards for the classification of a person's compliance history as a means of evaluating compliance history. The commission may consider the person's classification when using compliance history under Subsection (e).

(b) Rules adopted under Subsection (a):

(1) [this section] must, at a minimum, provide for three classifications of compliance history in a manner adequate to distinguish among:

(A) unsatisfactory [(1) poor] performers, or regulated entities that in the commission's judgment perform below minimal acceptable performance standards established by the commission [average];

(B) satisfactory [(2) average] performers, or regulated entities that generally comply with environmental regulations; and

(C) [(3)] high performers, or regulated entities that have an above-satisfactory [above average] compliance record;

(2) may establish a category of unclassified performers, or regulated entities for which the commission does not have adequate compliance information about the site; and

(3) must take into account both positive and negative factors related to the operation, size, and complexity of the site, including whether the site is subject to Title V of the federal Clean Air Act (42 U.S.C. Section 7661 et seq.).

(c) In classifying a person's compliance history, the commission shall:

(1) determine whether a violation of an applicable legal requirement is of major, moderate, or minor significance;

(2) establish criteria for classifying a repeat violator, giving consideration to the size [number] and complexity of the site at which the violations occurred, and limiting consideration to violations of the same nature and the same environmental media that occurred in the preceding five years [facilities owned or operated by the person]; and

(3) consider:

(A) the significance of the violation and whether the person is a repeat violator;

(B) the size and complexity of the site, including whether the site is subject to Title V of the federal Clean Air Act (42 U.S.C. Section 7661 et seq.); and

(C) the potential for a violation at the site that is attributable to the nature and complexity of the site.

(d) ~~The commission by rule may require [shall establish methods of assessing the compliance history of regulated entities for which it does not have adequate compliance information. The methods may include requiring]~~ a compliance inspection to determine an entity's eligibility for participation in a program that requires a high level of compliance.

(e) The commission by rule shall provide for the use of compliance history ~~[classifications]~~ in commission decisions regarding:

(1) the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit;

(2) enforcement;

(3) the use of announced inspections; and

(4) participation in innovative programs.

(e-1) The amount of the penalty enhancement or escalation attributed to compliance history may not exceed 100 percent of the base penalty for an individual violation as determined by the commission's penalty policy.

(g) Rules adopted under Subsection (e) for the use of compliance history shall provide for additional oversight of, and review of applications regarding, facilities owned or operated by a person whose compliance performance is classified as unsatisfactory according to commission standards ~~[in the lowest classification developed under this section].~~

(h) The commission by rule shall, at a minimum, prohibit a person whose compliance history is classified as unsatisfactory according to commission standards ~~[in the lowest classification developed under this section]~~ from:

~~(1) receiving an announced inspection; and~~

[(2)] obtaining or renewing a flexible permit under the program administered by the commission under Chapter 382, Health and Safety Code, or participating in the regulatory flexibility program administered by the commission under Section 5.758.

SECTION 4.06. Section 5.755(b), Water Code, is amended to read as follows:

(b) The strategically directed regulatory structure shall offer incentives based on:

- (1) a person's compliance history [classification]; and
- (2) any voluntary measures undertaken by the person to improve environmental quality.

SECTION 4.07. Section 5.756, Water Code, is amended by adding Subsection (e) to read as follows:

(e) Before compliance performance information about a site may be placed on the Internet under this subchapter, the information must be evaluated through a quality assurance and control procedure, including a 30-day period for the owner or operator of the site to review and comment on the information.

SECTION 4.08. Sections 5.758(a), (b), (d), and (h), Water Code, are amended to read as follows:

(a) The commission by order may exempt an applicant from a requirement of a statute or commission rule regarding the control or abatement of pollution if the applicant proposes to control or abate pollution by an alternative method or by applying an alternative standard that is:

- (1) as [more] protective of the environment and the public health as [than] the method or standard prescribed by the statute or commission rule that would otherwise apply; and
- (2) not inconsistent with federal law.

(b) The commission may not exempt an applicant under this section unless the applicant can present to the commission [documented] evidence that the alternative the applicant proposes is as protective of the environment and the public health as the method or standard prescribed by the statute or commission rule that would otherwise apply ~~[of benefits to environmental quality that will result from the project the applicant proposes]~~.

(d) The commission's order must provide a [specific] description of the alternative method or standard and condition the exemption on compliance with the method or standard as the order prescribes.

(h) In implementing the program of regulatory flexibility authorized by this section, the commission shall:

(1) promote ~~[market]~~ the program to businesses in the state through all available appropriate media;

(2) endorse alternative methods that will clearly benefit the environment and impose the least onerous restrictions on business;

(3) fix and enforce environmental standards, allowing businesses flexibility in meeting the standards in a manner that clearly enhances environmental outcomes; and

(4) work to achieve consistent and predictable results for the regulated community and shorter waits for permit issuance.

SECTION 4.09. Subchapter A, Chapter 7, Water Code, is amended by adding Section 7.006 to read as follows:

Sec. 7.006. ENFORCEMENT POLICIES. (a) The commission by rule shall adopt a general enforcement policy that describes the commission's approach to enforcement.

(b) The commission shall assess, update, and publicly adopt specific enforcement policies regularly, including policies regarding the calculation of penalties and deterrence to prevent the economic benefit of noncompliance.

(c) The commission shall make the policies available to the public, including by posting the policies on the commission's Internet website.

SECTION 4.10. Sections 7.052(a) and (c), Water Code, are amended to read as follows:

(a) The amount of the penalty for a violation of Chapter 37 of this code, Chapter 366, 371, or 372, Health and Safety Code, or Chapter 1903, Occupations Code, may not exceed \$5,000 [~~\$2,500~~] a day for each violation.

(c) The amount of the penalty for all other violations within the jurisdiction of the commission to enforce may not exceed \$25,000 [~~\$10,000~~] a day for each violation.

SECTION 4.11. Section 7.067, Water Code, is amended to read as follows:

Sec. 7.067. SUPPLEMENTAL ENVIRONMENTAL PROJECTS. (a) The commission may compromise, modify, or remit, with or without conditions, an administrative penalty imposed under this subchapter. In determining the appropriate amount of a penalty for settlement of an administrative enforcement matter, the commission may consider a respondent's willingness to contribute to supplemental environmental projects that are approved by the commission, giving preference to projects that benefit the community in which the alleged violation occurred. The commission may encourage the cleanup of contaminated property through the use of supplemental environmental projects. The commission may approve a supplemental environmental project with activities in territory of the United Mexican States if the project substantially benefits territory in this state in a manner described by Subsection (b). Except as provided by Subsection (a-1), the [The] commission may not approve a project that is necessary to bring a respondent into compliance with environmental laws, that is necessary to remediate environmental harm caused by the respondent's alleged violation, or that the respondent has already agreed to perform under a preexisting agreement with a governmental agency.

(a-1) The commission may approve a supplemental environmental project that is necessary to bring a respondent into compliance with environmental laws or that is necessary to remediate environmental harm caused by the respondent's alleged violation if the respondent is a local government.

(a-2) The commission shall develop a policy to prevent regulated entities from systematically avoiding compliance through the use of supplemental environmental projects under Subsection (a-1), including a requirement for an assessment of:

- (1) the respondent's financial ability to pay administrative penalties;
 (2) the ability of the respondent to remediate the harm or come into compliance; and
 (3) the need for corrective action.

(b) In this section:

(1) "Local government" means a school district, county, municipality, junior college district, river authority, water district or other special district, or other political subdivision created under the constitution or a statute of this state.

(2) "Supplemental [~~,"supplemental~~] environmental project" means a project that prevents pollution, reduces the amount of pollutants reaching the environment, enhances the quality of the environment, or contributes to public awareness of environmental matters.

SECTION 4.12. Section 13.4151(a), Water Code, is amended to read as follows:

(a) If a person, affiliated interest, or entity subject to the jurisdiction of the commission violates this chapter or a rule or order adopted under this chapter, the commission may assess a penalty against that person, affiliated interest, or entity as provided by this section. The penalty may be in an amount not to exceed \$5,000 [~~\$500~~] a day. Each day a violation continues may be considered a separate violation.

SECTION 4.13. Section 26.028(d), Water Code, is amended to read as follows:

(d) Notwithstanding any other provision of this chapter, the commission, at a regular meeting without the necessity of holding a public hearing, may approve an application to renew or amend a permit if:

(1) the applicant is not applying to:

(A) increase significantly the quantity of waste authorized to be discharged; or

(B) change materially the pattern or place of discharge;

(2) the activities to be authorized by the renewed or amended permit will maintain or improve the quality of waste authorized to be discharged;

(3) for NPDES permits, notice and the opportunity to request a public meeting shall be given in compliance with NPDES program requirements, and the commission shall consider and respond to all timely received and significant public comment; and

(4) the commission determines that an applicant's compliance history under the method for using [~~evaluating~~] compliance history developed by the commission under Section 5.754 raises no issues regarding the applicant's ability to comply with a material term of its permit.

SECTION 4.14. Section 26.0281, Water Code, is amended to read as follows:

Sec. 26.0281. CONSIDERATION OF COMPLIANCE HISTORY. In considering the issuance, amendment, or renewal of a permit to discharge effluent comprised primarily of sewage or municipal waste, the commission shall consider the compliance history of the applicant and its operator under the method for using [~~evaluating~~] compliance history developed by the commission

under Section 5.754. In considering an applicant's compliance history under this subsection, the commission shall consider as evidence of compliance information regarding the applicant's implementation of an environmental management system at the facility for which the permit, permit amendment, or permit renewal is sought. In this section, "environmental management system" has the meaning assigned by Section 5.127.

SECTION 4.15. Section 26.040(h), Water Code, is amended to read as follows:

(h) Notwithstanding other provisions of this chapter, the commission, after hearing, shall deny or suspend a discharger's authority to discharge under a general permit if the commission determines that the discharger's compliance history is classified as unsatisfactory according to commission standards [~~in the lowest classification~~] under Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections. A hearing under this subsection is not subject to Chapter 2001, Government Code.

SECTION 4.16. Section 26.3467, Water Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) A person may not deliver any regulated substance into an underground storage tank regulated under this chapter unless the underground storage tank has been issued a valid, current underground storage tank registration and certificate of compliance under Section 26.346. The commission may impose an administrative penalty against a person who violates this subsection. The commission shall adopt rules as necessary to enforce this subsection.

(e) It is an affirmative defense to the imposition of an administrative penalty for a violation of Subsection (d) that the person delivering a regulated substance into an underground storage tank relied on:

(1) a valid paper delivery certificate presented by the owner or operator of the underground storage tank or displayed at the facility associated with the underground storage tank;

(2) a temporary delivery authorization presented by the owner or operator of the underground storage tank or displayed at the facility associated with the underground storage tank; or

(3) registration and self-certification information for the underground storage tank obtained from the commission's Internet website not more than 30 days before the date of delivery.

SECTION 4.17. Section 26.351, Water Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

(c-1) The commission may undertake corrective action to remove an underground or aboveground storage tank that:

(1) is not in compliance with the requirements of this chapter;

(2) is out of service;

(3) presents a contamination risk; and

(4) is owned or operated by a person who is financially unable to remove the tank.

(c-2) The commission shall adopt rules to implement Subsection (c-1), including rules regarding:

(1) the determination of the financial ability of the tank owner or operator to remove the tank; and

(2) the assessment of the potential risk of contamination from the site.

SECTION 4.18. Section 26.3573(d), Water Code, is amended to read as follows:

(d) The commission may use the money in the petroleum storage tank remediation account to pay:

(1) necessary expenses associated with the administration of the petroleum storage tank remediation account and the groundwater protection cleanup program;

(2) expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release from a petroleum storage tank, whether those expenses are incurred by the commission or pursuant to a contract between a contractor and an eligible owner or operator as authorized by this subchapter;

(3) subject to the conditions of Subsection (f), expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release of hydraulic fluid or spent oil from hydraulic lift systems or tanks located at a vehicle service and fueling facility and used as part of the operations of that facility; ~~and~~

(4) expenses associated with assuring compliance with the commission's applicable underground or aboveground storage tank administrative and technical requirements, including technical assistance and support, inspections, enforcement, and the provision of matching funds for grants; and

(5) expenses associated with investigation, cleanup, or corrective action measures performed under Section 26.351(c-1).

SECTION 4.19. Section 26.3574, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A fee is imposed on the delivery of a petroleum product on withdrawal from bulk of that product as provided by this subsection. Each operator of a bulk facility on withdrawal from bulk of a petroleum product shall collect from the person who orders the withdrawal a fee in an amount determined as follows:

(1) not more than \$3.75 for each delivery into a cargo tank having a capacity of less than 2,500 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(2) not more than \$7.50 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(3) not more than \$11.75 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(4) not more than \$15.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~]; and

(5) not more than \$7.50 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~].

(b-1) The commission by rule shall set the amount of the fee in Subsection (b) in an amount not to exceed the amount necessary to cover the agency's costs of administering this subchapter, as indicated by the amount appropriated by the legislature from the petroleum storage tank remediation account for that purpose.

SECTION 4.20. Section 27.025(g), Water Code, is amended to read as follows:

(g) Notwithstanding the other provisions of this chapter, the commission, after hearing, shall deny or suspend authorization for the use of an injection well under a general permit if the commission determines that the owner's compliance history is classified as unsatisfactory according to commission standards [~~in the lowest classification~~] under Sections 5.753 and 5.754 and rules adopted and procedures developed under those sections. A hearing under this subsection is not subject to the requirements relating to a contested case hearing under Chapter 2001, Government Code.

SECTION 4.21. Section 27.051(d), Water Code, is amended to read as follows:

(d) The commission, in determining if the use or installation of an injection well is in the public interest under Subsection (a)(1), shall consider, but shall not be limited to the consideration of:

(1) compliance history of the applicant and related entities under the method for using [evaluating] compliance history developed by the commission under Section 5.754 and in accordance with the provisions of Subsection (e);

(2) whether there is a practical, economic, and feasible alternative to an injection well reasonably available; and

(3) if the injection well will be used for the disposal of hazardous waste, whether the applicant will maintain sufficient public liability insurance for bodily injury and property damage to third parties that is caused by sudden and non-sudden accidents or will otherwise demonstrate financial responsibility in a manner adopted by the commission in lieu of public liability insurance. A liability insurance policy which satisfies the policy limits required by the hazardous waste management regulations of the commission for the applicant's proposed pre-injection facilities shall be deemed "sufficient" under this subdivision if the policy:

(A) covers the injection well; and

(B) is issued by a company that is authorized to do business and to write that kind of insurance in this state and is solvent and not currently under supervision or in conservatorship or receivership in this state or any other state.

SECTION 4.22. Section 32.101(c), Water Code, is amended to read as follows:

(c) The commission, in determining if the use or installation of a subsurface area drip dispersal system is in the public interest under Subsection (a)(1), shall consider:

(1) compliance history of the applicant and related entities under the method for using ~~evaluating~~ compliance history developed by the commission under Section 5.754 and in accordance with the provisions of Subsection (d) of this section;

(2) whether there is a practical, economic, and feasible alternative to a subsurface area drip dispersal system reasonably available; and

(3) any other factor the commission considers relevant.

SECTION 4.23. Section 49.198(a), Water Code, is amended to read as follows:

(a) A district may elect to file annual financial reports with the executive director in lieu of the district's compliance with Section 49.191 provided:

(1) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(2) the district did not have gross receipts from operations, loans, taxes, or contributions in excess of \$250,000 ~~[\$100,000]~~ during the fiscal period; and

(3) the district's cash and temporary investments were not in excess of \$100,000 at any time during the fiscal period.

SECTION 4.24. Sections 361.089(a), (e), and (f), Health and Safety Code, are amended to read as follows:

(a) The commission may, for good cause, deny or amend a permit it issues or has authority to issue for reasons pertaining to public health, air or water pollution, or land use, or for having a compliance history that is classified as unsatisfactory according to commission standards ~~[in the lowest classification]~~ under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections.

(e) The commission may deny an original or renewal permit if it is found, after notice and hearing, that:

(1) the applicant or permit holder has a compliance history that is classified as unsatisfactory according to commission standards ~~[in the lowest classification]~~ under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections;

(2) the permit holder or applicant made a false or misleading statement in connection with an original or renewal application, either in the formal application or in any other written instrument relating to the application submitted to the commission, its officers, or its employees;

(3) the permit holder or applicant is indebted to the state for fees, payment of penalties, or taxes imposed by this title or by a rule of the commission; or

(4) the permit holder or applicant is unable to ensure that the management of the hazardous waste management facility conforms or will conform to this title and the rules of the commission.

(f) Before denying a permit under this section, the commission must find:

(1) that the applicant or permit holder has a compliance history that is classified as unsatisfactory according to commission standards [~~in the lowest classification~~] under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections; or

(2) that the permit holder or applicant is indebted to the state for fees, payment of penalties, or taxes imposed by this title or by a rule of the commission.

SECTION 4.25. Section 382.0518(c), Health and Safety Code, is amended to read as follows:

(c) In considering the issuance, amendment, or renewal of a permit, the commission may consider the applicant's compliance history in accordance with the method for using [~~evaluating~~] compliance history developed by the commission under Section 5.754, Water Code. In considering an applicant's compliance history under this subsection, the commission shall consider as evidence of compliance information regarding the applicant's implementation of an environmental management system at the facility for which the permit, permit amendment, or permit renewal is sought. In this subsection, "environmental management system" has the meaning assigned by Section 5.127, Water Code.

SECTION 4.26. Section 382.056(o), Health and Safety Code, is amended to read as follows:

(o) Notwithstanding other provisions of this chapter, the commission may hold a hearing on a permit amendment, modification, or renewal if the commission determines that the application involves a facility for which the applicant's compliance history is classified as unsatisfactory according to commission standards [~~in the lowest classification~~] under Sections 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections.

SECTION 4.27. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.059 to read as follows:

Sec. 382.059. HEARING AND DECISION ON PERMIT AMENDMENT APPLICATION OF CERTAIN ELECTRIC GENERATING FACILITIES. (a) This section applies to a permit amendment application submitted solely to allow an electric generating facility to reduce emissions and comply with a requirement imposed by Section 112 of the federal Clean Air Act (42 U.S.C. Section 7412) to use applicable maximum achievable control technology. A permit amendment application shall include a condition that the applicant is required to complete the actions needed for compliance by the time allowed under Section 112 of the federal Clean Air Act (42 U.S.C. Section 7412).

(b) The commission shall provide an opportunity for a public hearing and the submission of public comment on the application in the manner provided by Section 382.0561.

(c) Not later than the 45th day after the date the application is received, the executive director shall issue a draft permit.

(d) Not later than the 30th day after the date of issuance of the draft permit under Subsection (c), parties may submit to the commission any legitimate issues of material fact regarding whether the choice of technology approved in the draft permit is the maximum achievable control technology required under Section 112 of the federal Clean Air Act (42 U.S.C. Section 7412) and may request a contested case hearing before the commission. If a party requests a contested case hearing under this subsection, the commission shall conduct a contested case hearing and issue a final order issuing or denying the permit amendment not later than the 120th day after the date of issuance of the draft permit under Subsection (c).

(e) The commission shall send notice of a decision on an application for a permit amendment under this section in the manner provided by Section 382.0562.

(f) A person affected by a decision of the commission to issue or deny a permit amendment may move for rehearing and is entitled to judicial review under Section 382.032.

(g) This section expires on the sixth anniversary of the date the administrator adopts standards for existing electric generating facilities under Section 112 of the federal Clean Air Act (42 U.S.C. Section 7412), unless a stay of the rules is granted.

(h) The commission shall adopt rules to implement this section.

SECTION 4.28. Section 401.110(a), Health and Safety Code, is amended to read as follows:

(a) In making a determination whether to grant, deny, amend, renew, revoke, suspend, or restrict a license or registration, the commission may consider an applicant's or license holder's technical competence, financial qualifications, and compliance history under the method for using ~~[evaluation of]~~ compliance history developed by the commission under Section 5.754, Water Code.

SECTION 4.29. Section 401.112(a), Health and Safety Code, is amended to read as follows:

(a) The commission, in making a licensing decision on a specific license application to process or dispose of low-level radioactive waste from other persons, shall consider:

(1) site suitability, geological, hydrological, and meteorological factors, and natural hazards;

(2) compatibility with present uses of land near the site;

(3) socioeconomic effects on surrounding communities of operation of the licensed activity and of associated transportation of low-level radioactive waste;

(4) the need for and alternatives to the proposed activity, including an alternative siting analysis prepared by the applicant;

(5) the applicant's qualifications, including:

(A) financial and technical qualifications and compliance history under the method for using ~~[evaluation of]~~ compliance history developed by the commission under Section 5.754, Water Code, for an application to the commission; and

- (B) the demonstration of financial qualifications under Section 401.108;
- (6) background monitoring plans for the proposed site;
 - (7) suitability of facilities associated with the proposed activities;
 - (8) chemical, radiological, and biological characteristics of the low-level radioactive waste and waste classification under Section 401.053;
 - (9) adequate insurance of the applicant to cover potential injury to any property or person, including potential injury from risks relating to transportation;
 - (10) training programs for the applicant's employees;
 - (11) a monitoring, record-keeping, and reporting program;
 - (12) spill detection and cleanup plans for the licensed site and related to associated transportation of low-level radioactive waste;
 - (13) decommissioning and postclosure care plans;
 - (14) security plans;
 - (15) worker monitoring and protection plans;
 - (16) emergency plans; and
 - (17) a monitoring program for applicants that includes prelicense and postlicense monitoring of background radioactive and chemical characteristics of the soils, groundwater, and vegetation.

SECTION 4.30. Not later than the 180th day after the effective date of this Act, the Texas Commission on Environmental Quality shall adopt rules to implement Section 382.059, Health and Safety Code, as added by this article.

SECTION 4.31. (a) Not later than September 1, 2012, the Texas Commission on Environmental Quality by rule shall establish the method for evaluating compliance history as required by Section 5.753(a), Water Code, as amended by this article. Until the commission adopts that method, the commission shall continue in effect its current standard for evaluating compliance history.

(b) The changes in law made by Sections 7.052 and 13.4151, Water Code, as amended by this article, apply only to a violation that occurs on or after the effective date of this Act. For purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date. A violation that occurs before the effective date of this Act is covered by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

(c) The change in law made by Section 26.3467(d), Water Code, as added by this article, applies only to a delivery of a regulated substance to an underground storage tank made on or after the effective date of this Act.

(d) The fee applicable to a delivery in Section 26.3574(b), Water Code, as that subsection existed immediately before the effective date of this Act, remains in effect until the Texas Commission on Environmental Quality adopts and implements a fee applicable to that delivery under Section 26.3574(b-1), Water Code, as added by this article.

SECTION 4.32. Section 49.198(a), Water Code, as amended by this article, applies to a district that files its annual financial report on or after the effective date of this Act. A district that files its annual financial report before the effective date of this Act is governed by the law in effect on the date the report is filed, and that law is continued in effect for that purpose.

ARTICLE 5. WATER RIGHTS

SECTION 5.01. Section 11.002(12), Water Code, is amended to read as follows:

(12) "Agriculture" means any of the following activities:

(A) cultivating the soil to produce crops for human food, animal feed, or planting seed or for the production of fibers;

(B) the practice of floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media, by a nursery grower;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(D) raising or keeping equine animals;

(E) wildlife management; ~~and~~

(F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure; and

(G) aquaculture, as defined by Section 134.001, Agriculture Code.

SECTION 5.02. Section 11.031, Water Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) Each person who has a water right issued by the commission or who impounds, diverts, or otherwise uses state water shall maintain water use information required under Subsection (a) on a monthly basis during the months a water rights holder uses permitted water. The person shall make the information available to the commission on the commission's request.

(e) Except as provided by Subsection (a), the commission may request information maintained under Subsection (d) only during a drought or other emergency shortage of water or in response to a complaint.

(f) Subsection (e) does not affect the authority of a watermaster to obtain water use information under other law.

SECTION 5.03. Subchapter B, Chapter 11, Water Code, is amended by adding Section 11.053 to read as follows:

Sec. 11.053. EMERGENCY ORDER CONCERNING WATER RIGHTS.

(a) During a period of drought or other emergency shortage of water, as defined by commission rule, the executive director by order may, in accordance with the priority of water rights established by Section 11.027:

(1) temporarily suspend the right of any person who holds a water right to use the water; and

(2) temporarily adjust the diversions of water by water rights holders.

(b) The executive director in ordering a suspension or adjustment under this section shall ensure that an action taken:

(1) maximizes the beneficial use of water;
(2) minimizes the impact on water rights holders;
(3) prevents the waste of water;
(4) takes into consideration the efforts of the affected water rights holders to develop and implement the water conservation plans and drought contingency plans required by this chapter;
(5) to the greatest extent practicable, conforms to the order of preferences established by Section 11.024; and
(6) does not require the release of water that, at the time the order is issued, is lawfully stored in a reservoir under water rights associated with that reservoir.

(c) The commission shall adopt rules to implement this section, including rules:

(1) defining a drought or other emergency shortage of water for purposes of this section; and

(2) specifying the:

(A) conditions under which the executive director may issue an order under this section;

(B) terms of an order issued under this section, including the maximum duration of a temporary suspension or adjustment under this section; and

(C) procedures for notice of, an opportunity for a hearing on, and the appeal to the commission of an order issued under this section.

SECTION 5.04. Subchapter D, Chapter 11, Water Code, is amended by adding Section 11.1273 to read as follows:

Sec. 11.1273. ADDITIONAL REQUIREMENT: REVIEW OF AMENDMENTS TO CERTAIN WATER MANAGEMENT PLANS. (a) This section applies only to a water management plan consisting of a reservoir operation plan for the operation of two water supply reservoirs that was originally required by a court order adjudicating the water rights for those reservoirs.

(b) Not later than the first anniversary of the date the executive director determines that an application to amend a water management plan is administratively complete, the executive director shall complete a technical review of the plan.

(c) If the executive director submits a written request for additional information to the applicant, the applicant shall submit the requested information to the executive director not later than the 30th day after the date the applicant receives the request or not later than the deadline agreed to by the executive director and the applicant, if applicable. The review period required by Subsection (b) for completing the technical review is tolled until the date the executive director receives the requested information from the applicant.

(d) The commission shall provide an opportunity for public comment and a public hearing on the application, consistent with the process for other water rights applications.

(e) If the commission receives a request for a hearing before the period for submitting public comments and requesting a hearing expires, the commission shall act on the request for a hearing and, if the request is denied, act on the application not later than the 60th day after the date the period expires. If a request for a hearing is not submitted before the period expires, the executive director may act on the application.

SECTION 5.05. Section 11.326, Water Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) For a water basin in which a watermaster is not appointed, the executive director shall:

(1) evaluate the water basin at least once every five years to determine whether a watermaster should be appointed; and

(2) report the findings and make recommendations to the commission.

(h) The commission shall:

(1) determine the criteria or risk factors to be considered in an evaluation under Subsection (g); and

(2) include the findings and recommendations under Subsection (g) in the commission's biennial report to the legislature.

ARTICLE 6. FUNDING

SECTION 6.01. Section 401.246(a), Health and Safety Code, is amended to read as follows:

(a) Compact waste disposal fees adopted by the commission must be sufficient to:

(1) allow the compact waste facility license holder to recover costs of operating and maintaining the compact waste disposal facility and a reasonable profit on the operation of that facility;

(2) provide an amount necessary to meet future costs of decommissioning, closing, and postclosure maintenance and surveillance of the compact waste disposal facility and the compact waste disposal facility portion of the disposal facility site;

(3) provide an amount to fund local public projects under Section 401.244;

(4) provide a reasonable rate of return on capital investment in the facilities used for management or disposal of compact waste at the compact waste disposal facility; ~~and~~

(5) provide an amount necessary to pay compact waste disposal facility licensing fees, to pay compact waste disposal facility fees set by rule or statute, and to provide security for the compact waste disposal facility as required by the commission under law and commission rules; and

(6) provide an amount necessary to support the activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission.

SECTION 6.02. Subchapter F, Chapter 401, Health and Safety Code, is amended by adding Section 401.251 to read as follows:

Sec. 401.251. LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION ACCOUNT. (a) The low-level radioactive waste disposal compact commission account is an account in the general revenue fund.

(b) The commission shall deposit in the account the portion of the fee collected under Section 401.245 that is calculated to support the activities of the Texas Low-Level Radioactive Waste Disposal Compact Commission as required by Section 4.04(4), Texas Low-Level Radioactive Waste Disposal Compact (Section 403.006 of this code).

(c) Money in the account may be appropriated only to support the operations of the Texas Low-Level Radioactive Waste Disposal Compact Commission.

SECTION 6.03. Sections 5.701(n) and (p), Water Code, are amended to read as follows:

(n)(1) Each provider of potable water or sewer utility service shall collect a regulatory assessment from each retail customer as follows:

(A) A public utility as defined in Section 13.002 [~~of this code~~] shall collect from each retail customer a regulatory assessment equal to one percent of the charge for retail water or sewer service.

(B) A water supply or sewer service corporation as defined in Section 13.002 [~~of this code~~] shall collect from each retail customer a regulatory assessment equal to one-half of one percent of the charge for retail water or sewer service.

(C) A district as defined in Section 49.001 [~~of this code~~] that provides potable water or sewer utility service to retail customers shall collect from each retail customer a regulatory assessment equal to one-half of one percent of the charge for retail water or sewer service.

(2) The regulatory assessment may be listed on the customer's bill as a separate item and shall be collected in addition to other charges for utility services.

(3) The [~~commission shall use the~~] assessments collected under this subsection may be appropriated by a rider to the General Appropriations Act to an agency with duties related to water and sewer utility regulation or representation of residential and small commercial consumers of water and sewer utility services solely to pay costs and expenses incurred by the agency [~~commission~~] in the regulation of districts, water supply or sewer service corporations, and public utilities under Chapter 13[~~, Water Code~~].

(4) The commission shall annually use a portion of the assessments to provide on-site technical assistance and training to public utilities, water supply or sewer service corporations, and districts. The commission shall contract with others to provide the services.

(5) The commission by rule may establish due dates, collection procedures, and penalties for late payment related to regulatory assessments under this subsection. The executive director shall collect all assessments from the utility service providers.

(6) The commission shall assess a penalty against a municipality with a population of more than 1.5 million that does not provide municipal water and sewer services in an annexed area in accordance with Section 43.0565, Local Government Code. A penalty assessed under this paragraph shall be not more than \$1,000 for each day the services are not provided after March 1, 1998, for

areas annexed before January 1, 1993, or not provided within 4-1/2 years after the effective date of the annexation for areas annexed on or after January 1, 1993. A penalty collected under this paragraph shall be deposited to the credit of the water resource management account to be used to provide water and sewer service to residents of the city.

(7) The regulatory assessment does not apply to water that has not been treated for the purpose of human consumption.

(p) Notwithstanding any other law, fees collected for deposit to the water resource management account under the following statutes may be appropriated and used to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under:

(1) Subsection (b), to the extent those fees are paid by water districts, and Subsections (e), (f), and (n);

(2) ~~Sections 13.4521 and 13.4522; or~~
~~[(3)]~~ Section 54.037(c); or

(3) Section 367.010, Health and Safety Code.

SECTION 6.04. Subchapter L, Chapter 13, Water Code, is repealed.

SECTION 6.05. The changes in law made by Section 5.701, Water Code, as amended by this article, apply only to a fee assessed on or after January 1, 2012. A fee assessed before January 1, 2012, is governed by the law in effect at the time the fee was assessed, and the former law is continued in effect for that purpose.

ARTICLE 7. WATER AND SEWER UTILITIES

SECTION 7.01. Subchapter E, Chapter 13, Water Code, is amended by adding Section 13.1325 to read as follows:

Sec. 13.1325. ELECTRONIC COPIES OF RATE INFORMATION. On request, the state agency with jurisdiction over rates charged by water and sewer utilities shall provide, at a reasonable cost, electronic copies of all information provided to the agency under Sections 13.016, 13.043, and 13.187 to the extent that the information is available and is not confidential. Copies of all information provided to the agency shall be provided to the Office of Public Utility Counsel, on request, at no cost to the office.

ARTICLE 8. ABOLITION OF THE ON-SITE WASTEWATER TREATMENT RESEARCH COUNCIL

SECTION 8.01. The heading to Chapter 367, Health and Safety Code, is amended to read as follows:

CHAPTER 367. ON-SITE WASTEWATER TREATMENT RESEARCH [COUNCIL]

SECTION 8.02. Section 367.001, Health and Safety Code, is amended to read as follows:

Sec. 367.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission on Environmental Quality [~~Natural Resource Conservation Commission~~].

(2) [~~"Council"~~] means the ~~On site Wastewater Treatment Research Council~~.

[~~(3)~~] "On-site wastewater treatment system" means a system of treatment devices or disposal facilities that:

(A) is used for the disposal of domestic sewage, excluding liquid waste resulting from the processes used in industrial and commercial establishments;

(B) is located on the site where the sewage is produced; and

(C) produces not more than 5,000 gallons of waste a day.

SECTION 8.03. Section 367.007, Health and Safety Code, is amended to read as follows:

Sec. 367.007. ADMINISTRATION. (a) ~~[The council is not an advisory body to the commission. The commission, at the direction of the council, shall implement council decisions.]~~

~~[(b) The council may enter into an interagency contract with the commission to provide staff and other administrative support as required to improve the quality of wastewater treatment and reduce the cost of providing wastewater treatment to consumers.]~~

~~[(e) The commission [council] may accept grants and donations from other sources to supplement the fees collected under Section 367.010. Grants and donations shall be deposited to the credit of the water resource management [on-site wastewater treatment research] account and may be disbursed as the commission [council] directs and in accordance with Section 367.008.]~~

~~(b) [(d)] Administrative and facilities support costs are payable from the water resources management [on-site wastewater treatment research] account.~~

~~[(e) The council may award grants and enter into contracts in its own name and on its own behalf.]~~

SECTION 8.04. Section 367.008, Health and Safety Code, is amended to read as follows:

Sec. 367.008. AWARD OF COMPETITIVE GRANTS. (a) The commission [council] shall establish procedures for awarding competitive grants and disbursing grant money.

(b) The commission [council] may award competitive grants to:

(1) support applied research and demonstration projects by accredited colleges and universities in this state, by other governmental entities, or by acceptable public or private research centers regarding on-site wastewater treatment technology and systems applicable to this state that are directed toward improving the quality of wastewater treatment and reducing the cost of providing wastewater treatment to consumers; and

(2) enhance technology transfer regarding on-site wastewater treatment by using educational courses, seminars, symposia, publications, and other forms of information dissemination.

(c) The commission shall seek the advice of relevant experts when choosing research topics, awarding grants, and holding educational conferences associated with activities under this chapter. [The council may award grants or make other expenditures authorized under this chapter only after the comptroller certifies that the on-site wastewater treatment research account contains enough money to pay for those expenditures.]

SECTION 8.05. Section 367.009, Health and Safety Code, is amended to read as follows:

Sec. 367.009. APPROPRIATIONS. Money collected and appropriated for the purposes of this chapter shall be disbursed as the commission [~~ouncil~~] directs and in accordance with Section 367.008.

SECTION 8.06. Section 367.010(d), Health and Safety Code, is amended to read as follows:

(d) The fee proceeds shall be deposited to the credit of the water resources management [~~on-site wastewater treatment research~~] account.

SECTION 8.07. Sections 367.002, 367.003, 367.004, 367.005, 367.006, and 367.011, Health and Safety Code, are repealed.

SECTION 8.08. (a) On the effective date of this Act, the Texas Commission on Environmental Quality shall assume the administration of all grants of the On-site Wastewater Treatment Research Council in existence on that date.

(b) The Texas Commission on Environmental Quality shall assume all contracts held by the On-site Wastewater Treatment Research Council on the effective date of this Act, including all rights and obligations associated with the contracts.

ARTICLE 9. RATE NOTIFICATION

SECTION 9.01. Section 13.043(i), Water Code, is amended to read as follows:

(i) The governing body of a municipally owned utility or a political subdivision, within 60 [~~30~~] days after the date of a final decision on a rate change, shall provide individual written notice to each ratepayer eligible to appeal who resides outside the boundaries of the municipality or the political subdivision. The notice must include, at a minimum, the effective date of the new rates, the new rates, and the location where additional information on rates can be obtained. The governing body of a municipally owned utility or a political subdivision may provide the notice electronically if the utility or political subdivision has access to a ratepayer's e-mail address.

SECTION 9.02. Section 13.187(b), Water Code, is amended to read as follows:

(b) A copy of the statement of intent shall be mailed, sent by e-mail, or delivered to the appropriate offices of each affected municipality, and to any other affected persons as required by the regulatory authority's rules.

ARTICLE 10. CONTESTED CASE HEARINGS

SECTION 10.01. Section 5.115(b), Water Code, is amended to read as follows:

(b) At the time an application for a permit or license under this code is filed with the executive director and is administratively complete, the commission shall give notice of the application to any person who may be affected by the granting of the permit or license. A state agency that receives notice under this subsection may submit comments to the commission in response to the notice but may not contest the issuance of a permit or license by the commission. For the purposes of this subsection, "state agency" does not include a river authority.

SECTION 10.02. Sections 5.228(c) and (d), Water Code, are amended to read as follows:

(c) The executive director shall ~~may~~ participate as a party in contested case permit hearings before the commission or the State Office of Administrative Hearings to:

~~(1) provide information [for the sole purpose of providing information] to complete the administrative record; and~~

~~(2) support the executive director's position developed in the underlying proceeding. [The commission by rule shall specify the factors the executive director must consider in determining, case by case, whether to participate as a party in a contested case permit hearing. In developing the rules under this subsection the commission shall consider, among other factors:~~

~~(1) the technical, legal, and financial capacity of the parties to the proceeding;~~

~~(2) whether the parties to the proceeding have participated in a previous contested case hearing;~~

~~(3) the complexity of the issues presented; and~~

~~(4) the available resources of commission staff.]~~

(d) In a contested case hearing relating to a permit application, the executive director or the executive director's designated representative may not rehabilitate the testimony of a witness unless the witness is a commission employee ~~[testifying for the sole purpose of providing information to complete the administrative record].~~

SECTION 10.03. Subchapter H, Chapter 5, Water Code, is amended by adding Section 5.315 to read as follows:

Sec. 5.315. DISCOVERY IN CASES USING PREFILED WRITTEN TESTIMONY. In a contested case hearing delegated by the commission to the State Office of Administrative Hearings that uses prefiled written testimony, all discovery must be completed before the deadline for the submission of that testimony, except for water and sewer ratemaking proceedings.

SECTION 10.04. Section 5.228(e), Water Code, is repealed.

SECTION 10.05. (a) Section 5.115(b), Water Code, as amended by this article, applies only to an application for the issuance, amendment, extension, or renewal of a permit or license that is received by the Texas Commission on Environmental Quality on or after the effective date of this Act. An application that is received before that date is governed by the law in effect at the time the application is received, and the former law is continued in effect for that purpose.

(b) The changes in law made by this article apply to a proceeding before the State Office of Administrative Hearings that is pending or filed on or after September 1, 2011.

ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. This Act takes effect September 1, 2011.

Representative W. Smith moved to adopt the conference committee report on **HB 2694**.

The motion to adopt the conference committee report on **HB 2694** prevailed by (Record 1641): 147 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; 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 — Callegari; Miller, S.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1641. I intended to vote no.

Anchia

I was shown voting yes on Record No. 1641. I intended to vote no.

Burnam

I was shown voting yes on Record No. 1641. I intended to vote no.

Gutierrez

I was shown voting yes on Record No. 1641. I intended to vote no.

Martinez Fischer

HB 200 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Parker submitted the following conference committee report on **HB 200**:

Austin, Texas, May 26, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 200** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Whitmire
Ellis
Hegar
Huffman
Patrick

Parker
White
Marquez
Madden
Perry

On the part of the senate

On the part of the house

HB 200, A bill to be entitled An Act relating to the notification of the release of certain inmates given to certain courts, law enforcement agencies, and the United States Social Security Administration.

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

SECTION 1. Section 493.025, Government Code, is amended to read as follows:

Sec. 493.025. NOTIFICATION OF COURT OF RELEASE. On release of an inmate who discharges the inmate's sentence or on release of an inmate on parole or mandatory supervision, the department promptly shall notify the clerk of the court in which the inmate was convicted of that fact. The notice must be provided by e-mail or other electronic communication.

SECTION 2. Chapter 493, Government Code, is amended by adding Section 493.030 to read as follows:

Sec. 493.030. NOTICE TO SOCIAL SECURITY ADMINISTRATION. (a) The department shall notify the United States Social Security Administration of the release or discharge of a prisoner who:

(1) immediately before the prisoner's confinement in a state correctional facility, was receiving:

(A) Supplemental Security Income (SSI) benefits under 42 U.S.C. Section 1381 et seq.; or

(B) Social Security Disability Insurance (SSDI) benefits under 42 U.S.C. Section 401 et seq.; and

(2) before the release or discharge, was confined in the facility for a period of less than 12 consecutive months.

(b) The department shall provide the notice described by Subsection (a) to the United States Social Security Administration by mail and electronically immediately on the prisoner's release or discharge from custody. The department shall provide a copy of the notice to the prisoner at the time of the prisoner's release or discharge.

SECTION 3. Section 499.026(d), Government Code, is amended to read as follows:

(d) Not later than the 10th day before the date on which a parole panel proposes to release an inmate under this subchapter, the department shall give notice of the proposed release to the sheriff, the attorney representing the state, and the district judge of the county in which the defendant was convicted. If there was a change of venue in the case, the department shall also notify the sheriff, the

attorney representing the state, and the district judge of the county in which the prosecution was originated. Any notice required by this subsection must be provided by e-mail or other electronic communication.

SECTION 4. Section 499.051(a), Government Code, is amended to read as follows:

(a) On the release of an inmate determined by the department to be a member of a security threat group, the department shall notify the sheriff of the county to which the inmate is released and, if the inmate is released to a municipality, the chief of police for that municipality. The notice must state the date on which the inmate was released and state that the inmate has been determined by the department to be a member of a security threat group. The notice must be provided by e-mail or other electronic communication.

SECTION 5. Section 508.115, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The notice must be provided by e-mail or other electronic communication.

SECTION 6. Section 508.181(g), Government Code, is amended to read as follows:

(g) The division shall, on the first working day of each month, notify the sheriff of any county in which the total number of sex offenders under the supervision and control of the division residing in the county exceeds 10 percent of the total number of sex offenders in the state under the supervision and control of the division. The notice must be provided by e-mail or other electronic communication. If the total number of sex offenders under the supervision and control of the division residing in a county exceeds 22 percent of the total number of sex offenders in the state under the supervision and control of the division, a parole panel may require a sex offender to reside in that county only as required by Subsection (a) or for the reason stated in Subsection (b)(2)(B). In this subsection, "sex offender" means a person who is released on parole or to mandatory supervision after serving a sentence for an offense described by Section 508.187(a).

SECTION 7. Section 493.030, Government Code, as added by this Act, applies to the release or discharge of a prisoner from a state correctional facility that occurs on or after the effective date of this Act, regardless of the date the prisoner was initially confined in the state correctional facility.

SECTION 8. This Act takes effect September 1, 2011.

Representative Parker moved to adopt the conference committee report on **HB 200**.

The motion to adopt the conference committee report on **HB 200** prevailed by (Record 1642): 149 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycocck; 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; Lucio; 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).

SB 156 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative V. Gonzales submitted the conference committee report on **SB 156**.

Representative V. Gonzales moved to adopt the conference committee report on **SB 156**.

The motion to adopt the conference committee report on **SB 156** prevailed by (Record 1643): 97 Yeas, 45 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Berman; Branch; Brown; Burnam; Carter; Castro; Chisum; Christian; Coleman; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eissler; Farias; Farrar; Fletcher; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; King, S.; King, T.; Kuempel; Lewis; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Scott; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Workman; Zerwas.

Nays — Anderson, R.; Beck; Bohac; Bonnen; Burkett; Button; Cain; Callegari; Cook; Creighton; Davis, S.; Driver; Flynn; Frullo; Garza; Gooden; Hancock; Hilderbran; Hughes; King, P.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Legler; Lyne; Madden; Miller, D.; Miller, S.; Morrison; Parker; Paxton; Perry; Phillips; Price; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; White; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent — Eiland; Elkins; Harper-Brown; Keffer; Larson; Ritter; Torres.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1643. I intended to vote no.

Branch

I was shown voting yes on Record No. 1643. I intended to vote no.

Christian

I was shown voting yes on Record No. 1643. I intended to vote no.

Craddick

I was shown voting yes on Record No. 1643. I intended to vote no.

Huberty

I was shown voting yes on Record No. 1643. I intended to vote no.

Murphy

I was shown voting yes on Record No. 1643. I intended to vote no.

Smithee

I was shown voting yes on Record No. 1643. I intended to vote no.

Solomons

When Record No. 1643 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

I was shown voting yes on Record No. 1643. I intended to vote no.

Weber

I was shown voting yes on Record No. 1643. I intended to vote no.

Workman

HB 871 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Y. Davis submitted the following conference committee report on **HB 871**:

Austin, Texas, May 26, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 871** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Zaffirini
Carona
Deuell

Y. Davis
Coleman
Gooden

Eltife
Rodriguez
On the part of the senate

Naishtat
Reynolds
On the part of the house

HB 871, A bill to be entitled An Act relating to indigent health care services that may be provided by a county.

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

SECTION 1. Section 61.0285(a), Health and Safety Code, is amended to read as follows:

(a) In addition to basic health care services provided under Section 61.028, a county may, in accordance with department rules adopted under Section 61.006, provide other medically necessary services or supplies that the county determines to be cost-effective, including:

- (1) ambulatory surgical center services;
- (2) diabetic and colostomy medical supplies and equipment;
- (3) durable medical equipment;
- (4) home and community health care services;
- (5) social work services;
- (6) psychological counseling services;
- (7) services provided by physician assistants, nurse practitioners,

certified nurse midwives, clinical nurse specialists, and certified registered nurse anesthetists;

- (8) dental care;
- (9) vision care, including eyeglasses;
- (10) services provided by federally qualified health centers, as defined by 42 U.S.C. Section 1396d(1)(2)(B);
- (11) emergency medical services; ~~and~~
- (12) physical and occupational therapy services; and
- (13) any other appropriate health care service identified by department

~~board~~ rule that may be determined to be cost-effective.

SECTION 2. The executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Section 61.0285, Health and Safety Code, as amended by this Act, as soon as practicable after the effective date of this Act.

SECTION 3. 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.

Representative Y. Davis moved to adopt the conference committee report on **HB 871**.

The motion to adopt the conference committee report on **HB 871** prevailed by (Record 1644): 79 Yeas, 68 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Berman; Burkett; Burnam; Button; Callegari; Carter; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Gallego; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hancock; Hardcastle; Hartnett;

Hernandez Luna; Hochberg; Hopson; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, T.; Kuempel; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Naishtat; Oliveira; Orr; Otto; Patrick; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Scott; Sheets; Smithee; Strama; Taylor, V.; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Workman.

Nays — Anderson, C.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Cain; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Harless; Harper-Brown; Hilderbran; Howard, C.; Huberty; Hughes; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Miller, S.; Morrison; Murphy; Nash; Parker; Paxton; Peña; Perry; Phillips; Price; Riddle; Schwertner; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, L.; Truitt; Weber; White; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Giddings; Torres.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1644. I intended to vote no.

Carter

I was shown voting yes on Record No. 1644. I intended to vote no.

Isaac

When Record No. 1644 was taken, I was temporarily out of the house chamber. I would have voted no.

Torres

I was shown voting yes on Record No. 1644. I intended to vote no.

Workman

HB 3268 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Lyne called up with senate amendments for consideration at this time,

HB 3268, A bill to be entitled An Act relating to permits for air contaminant emissions of stationary natural gas engines used in combined heating and power systems.

Representative Lyne moved to discharge the conferees and concur in the senate amendments to **HB 3268**.

The motion to discharge the conferees and concur in the senate amendments to **HB 3268** prevailed by (Record 1645): 147 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; 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; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Hughes; Torres.

STATEMENT OF VOTE

When Record No. 1645 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3268** as follows:

On page 1, line 18, after "vehicle" insert "as defined by Section 382.003(9-a), Health and Safety Code."

SB 377 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Riddle submitted the conference committee report on **SB 377**.

Representative Riddle moved to adopt the conference committee report on **SB 377**.

The motion to adopt the conference committee report on **SB 377** prevailed by (Record 1646): 132 Yeas, 14 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; 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; Lucio; 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; Quintanilla; Raymond; Reynolds; Riddle; Ritter; 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 — Burnam; Dutton; Farrar; Gonzalez; Gutierrez; Howard, D.; Johnson; Marquez; Miles; Muñoz; Naishtat; Oliveira; Rodriguez; Veasey.

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

Absent — Anderson, C.; Giddings.

STATEMENTS OF VOTE

When Record No. 1646 was taken, I was in the house but away from my desk. I would have voted yes.

C. Anderson

I was shown voting no on Record No. 1646. I intended to vote yes.

Gutierrez

I was shown voting no on Record No. 1646. I intended to vote yes.

Muñoz

I was shown voting no on Record No. 1646. I intended to vote yes.

Oliveira

I was shown voting no on Record No. 1646. I intended to vote yes.

Rodriguez

REASON FOR VOTE

I voted present, not voting on **SB 377** because I cannot support a measure that would expand the death penalty in Texas prior to a thorough examination of our current conviction and exoneration processes.

Castro

SB 647 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative L. Taylor submitted the conference committee report on **SB 647**.

Representative L. Taylor moved to adopt the conference committee report on **SB 647**.

The motion to adopt the conference committee report on **SB 647** prevailed by (Record 1647): 146 Yeas, 2 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; 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; 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; Keffler; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; 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; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Simpson; Taylor, V.

Present, not voting — Mr. Speaker(C).

Absent — Geren.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1647. I intended to vote no.

S. Davis

When Record No. 1647 was taken, I was in the house but away from my desk. I would have voted yes.

Geren

SB 1489 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Madden submitted the conference committee report on **SB 1489**.

Representative Madden moved to adopt the conference committee report on **SB 1489**.

The motion to adopt the conference committee report on **SB 1489** prevailed by (Record 1648): 146 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; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; 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; Lucio; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Button; Driver; Villarreal.

HB 2048 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Lyne submitted the following conference committee report on **HB 2048**:

Austin, Texas, May 26, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2048** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell	Lyne
Nelson	Thompson
Seliger	Murphy
Hinojosa	Flynn
Whitmire	Gonzalez
On the part of the senate	On the part of the house

HB 2048, A bill to be entitled An Act relating to the collection and enforcement of state and local hotel occupancy taxes.

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

SECTION 1. Subchapter F, Chapter 156, Tax Code, is amended by adding Section 156.2513 to read as follows:

Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN MUNICIPALITIES AND COUNTIES. Not later than the last day of the month following a calendar quarter, the comptroller shall:

(1) compute the amount of revenue, excluding penalties and interest and amounts paid under protest, derived from the collection of taxes imposed by this chapter that resulted from documentation or other information described by Section 351.008 or 352.008; and

(2) issue a warrant drawn on the general revenue fund in the amount of 20 percent of the revenue computed under Subdivision (1) to the municipality or county that provided the documentation or other information.

SECTION 2. Sections 351.004(a), (a-1), (a-2), and (a-3), Tax Code, are amended to read as follows:

(a) The ~~[municipal attorney or other attorney acting for the]~~ municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality, and who has failed to file a tax report or pay the tax when due, to collect the tax not paid or to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order. In addition to the amount of any tax owed under this chapter, the person is liable to the municipality for:

(1) the municipality's reasonable attorney's fees;

(2) the costs of an audit conducted under Subsection (a-1)(1), as determined by the municipality using a reasonable rate, but only if:

(A) the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and

(B) the municipality has not received a disbursement from the comptroller as provided by Section 156.2513 related to the person's concurrent state tax delinquency described by Section 351.008; and

(3) a penalty equal to 15 percent of the total amount of the tax owed if the tax has been delinquent for at least one complete municipal fiscal quarter.

(a-1) If a person required to file a tax report under this chapter does not file the report as required by the municipality, the ~~[municipal attorney or other attorney acting for the]~~ municipality may determine the amount of tax due under this chapter by:

(1) conducting an audit of each hotel in relation to which the person did not file the report as required by the municipality; or

(2) using the tax report filed for the appropriate reporting period under Section 156.151 in relation to that hotel.

(a-2) If the person did not file a tax report under Section 156.151 for that reporting period in relation to that hotel, the ~~[municipal attorney or other attorney acting for the]~~ municipality may estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year under this chapter or Section 156.151. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.

(a-3) The authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or ordinance. A municipality may directly perform an audit authorized by this section or contract with another person to perform the audit on an hourly rate or fixed-fee basis. A municipality shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this section.

SECTION 3. Subchapter A, Chapter 351, Tax Code, is amended by adding Section 351.008 to read as follows:

Sec. 351.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 351.004, a municipality obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the municipality shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a municipality under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the municipality as provided by Section 156.2513 to defray the cost of the municipal audit.

SECTION 4. Section 352.004, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) If a person required to file a tax report under this chapter does not file the report as required by the county, the county may determine the amount of tax due under this chapter by conducting an audit of each hotel in relation to which the person did not file the report as required by the county. A county may directly perform an audit authorized under this subsection or contract with another person to perform the audit on an hourly rate or fixed-fee basis. A county shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this subsection.

SECTION 5. Subchapter A, Chapter 352, Tax Code, is amended by adding Section 352.008 to read as follows:

Sec. 352.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 352.004, a county obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the county shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a county under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the county as provided by Section 156.2513 to defray the cost of the county audit.

SECTION 6. The change in law made by this Act applies only to an audit performed by a municipality or county on or after the effective date of this Act. An audit performed by a municipality or county before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2011.

Representative Lyne moved to adopt the conference committee report on **HB 2048**.

The motion to adopt the conference committee report on **HB 2048** prevailed by (Record 1649): 143 Yeas, 1 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; 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; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Cain.

Present, not voting — Mr. Speaker(C).

Absent — Martinez Fischer; Riddle; Smith, W.; Strama; Veasey.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1649. I intended to vote yes.

Cain

When Record No. 1649 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

HB 2729 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Callegari submitted the following conference committee report on **HB 2729**:

Austin, Texas, May 26, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2729** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Watson	Callegari
Ellis	Cain
Eltife	Lozano
Jackson	Hunter
Zaffirini	Parker
On the part of the senate	On the part of the house

HB 2729, A bill to be entitled An Act relating to local government contracts with private entities for civil works projects and improvements to real property.

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

SECTION 1. Subchapter Z, Chapter 271, Local Government Code, is amended by adding Section 271.908 to read as follows:

Sec. 271.908. LOCAL GOVERNMENT CONTRACTS WITH PRIVATE ENTITIES FOR CIVIL WORKS PROJECTS AND IMPROVEMENTS TO REAL PROPERTY. (a) In this section, "civil works project" and "local governmental entity" have the meanings assigned by Section 271.181.

(b) A local governmental entity may contract with a private entity to act as the local governmental entity's agent in the design, development, financing, maintenance, operation, or construction, including oversight and inspection, of:

- (1) a civil works project; or
- (2) an improvement to real property.

(c) A local governmental entity contracting under this section shall:

(1) select the private entity based on the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) The selected private entity shall comply with:

(1) Chapters 1001 and 1051, Occupations Code;
(2) all laws relating to procurement of professional services under Chapter 2254, Government Code; and

(3) all laws relating to procurement under this chapter that apply to the local governmental entity that selected the private entity.

SECTION 2. This Act applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 3. 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.

Representative Callegari moved to adopt the conference committee report on **HB 2729**.

The motion to adopt the conference committee report on **HB 2729** prevailed by (Record 1650): 147 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; 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; Lucio; 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 — Eiland; Flynn.

STATEMENT OF VOTE

When Record No. 1650 was taken, I was temporarily out of the house chamber. I would have voted yes.

Eiland

HB 2226 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Truitt submitted the following conference committee report on **HB 2226**:

Austin, Texas, May 27, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2226** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona
Eltime
Gallegos
Nichols

Truitt
C. Anderson
Hernandez Luna
Legler

Zaffirini
On the part of the senate

Veasey
On the part of the house

HB 2226, A bill to be entitled An Act relating to authorized investments for governmental entities.

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

SECTION 1. Section 2256.005(b), Government Code, is amended to read as follows:

(b) The investment policies must:

- (1) be written;
- (2) primarily emphasize safety of principal and liquidity;
- (3) address investment diversification, yield, and maturity and the quality and capability of investment management; and
- (4) include:

(A) a list of the types of authorized investments in which the investing entity's funds may be invested;

(B) the maximum allowable stated maturity of any individual investment owned by the entity;

(C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds; ~~and~~

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

(F) procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Section 2256.021.

SECTION 2. Section 2256.007(d), Government Code, is amended to read as follows:

(d) An investment officer shall attend a training session not less than once each state fiscal biennium ~~[in a two-year period]~~ and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

SECTION 3. Sections 2256.008(a) and (b), Government Code, are amended to read as follows:

(a) Except as provided by Subsections (b) and (e), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

- (1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) except as provided by Subsections (b) and (c), attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

SECTION 4. Section 2256.009(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and

(6) bonds issued, assumed, or guaranteed by the State of Israel.

SECTION 5. Section 2256.010(b), Government Code, is amended to read as follows:

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through:

(A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or

(B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

(4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) [acts] as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity[; and

~~[(5) at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution selected by the investing entity under Subdivision (1) receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution selected under Subdivision (1)].~~

SECTION 6. Section 2256.011(a), Government Code, is amended to read as follows:

(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by a combination of cash and obligations described by Section 2256.009(a)(1); and

(3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

SECTION 7. Section 2256.016, Government Code, is amended by amending Subsections (a), (c), and (f) and adding Subsections (i), (j), and (k) to read as follows:

(a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in

authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005. In addition to the requirements of its investment policy and any other forms of reporting, a public funds investment pool created to function as a money market mutual fund shall report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.

(i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.

(j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.

(k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

SECTION 8. Section 2256.019, Government Code, is amended to read as follows:

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service ~~or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days~~.

SECTION 9. Section 2256.023(b), Government Code, is amended to read as follows:

(b) The report must:

(1) describe in detail the investment position of the entity on the date of the report;

(2) be prepared jointly by all investment officers of the entity;

(3) be signed by each investment officer of the entity;

(4) contain a summary statement ~~[, prepared in compliance with generally accepted accounting principles,]~~ of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) ~~[additions and changes to the market value during the period;~~

~~[(C)]~~ ending market value for the period; and

~~(C)~~ ~~[(D)]~~ fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the ~~[beginning and]~~ end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

SECTION 10. 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.

Representative Truitt moved to adopt the conference committee report on **HB 2226**.

The motion to adopt the conference committee report on **HB 2226** prevailed by (Record 1651): 148 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; 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; Lewis; Lozano; Lucio; 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 — Legler.

SB 875 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hancock submitted the conference committee report on **SB 875**.

Representative Hancock moved to adopt the conference committee report on **SB 875**.

The motion to adopt the conference committee report on **SB 875** prevailed by (Record 1652): 135 Yeas, 7 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burnam; Button; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; 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, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Martinez; 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 — Alonzo; Anchia; Burkett; Castro; Gonzalez; King, S.; Marquez.

Present, not voting — Mr. Speaker(C).

Absent — Cain; Dutton; Farrar; Giddings; Harper-Brown; Mallory Caraway; Martinez Fischer.

STATEMENTS OF VOTE

When Record No. 1652 was taken, I was in the house but away from my desk. I would have voted yes.

Cain

I was shown voting yes on Record No. 1652. I intended to vote no.

Dukes

I was shown voting yes on Record No. 1652. I intended to vote no.

D. Howard

When Record No. 1652 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

I was shown voting yes on Record No. 1652. I intended to vote no.

McClendon

I was shown voting yes on Record No. 1652. I intended to vote no.

Naishtat

I was shown voting yes on Record No. 1652. I intended to vote no.

Rodriguez

I was shown voting yes on Record No. 1652. I intended to vote no.

Simpson

I was shown voting yes on Record No. 1652. I intended to vote no.

Thompson

SB 1338 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Geren submitted the conference committee report on **SB 1338**.

Representative Geren moved to adopt the conference committee report on **SB 1338**.

The motion to adopt the conference committee report on **SB 1338** prevailed by (Record 1653): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; 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; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquer; 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); Cain.

Absent — Lewis.

STATEMENT OF VOTE

I was shown voting present, not voting on Record No. 1653. I intended to vote yes.

Cain

HB 2734 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Madden submitted the following conference committee report on **HB 2734**:

Austin, Texas, May 27, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2734** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Williams	Madden
Hinojosa	Allen
Nichols	Cain
Shapiro	Hunter
Wentworth	Parker

On the part of the senate

On the part of the house

HB 2734, A bill to be entitled An Act relating to certain mandatory conditions of parole or mandatory supervision for illegal criminal aliens and the revocation of parole or mandatory supervision as a result of violating those conditions.

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

SECTION 1. Subchapter F, Chapter 508, Government Code, is amended by adding Section 508.192 to read as follows:

Sec. 508.192. REENTRY INTO THE UNITED STATES PROHIBITED.

(a) In this section, "illegal criminal alien" has the meaning assigned by Section 493.015.

(b) A parole panel shall require as a condition of parole or mandatory supervision that an illegal criminal alien released to the custody of United States Immigration and Customs Enforcement:

(1) regardless of whether a final order of deportation is issued with reference to the illegal criminal alien, leave the United States as soon as possible after release; and

(2) not unlawfully return to or unlawfully reenter the United States in violation of the Immigration Reform and Control Act of 1986 (8 U.S.C. Section 1101 et seq.).

SECTION 2. Section 508.281, Government Code, is amended by adding Subsection (d) to read as follows:

(d) If a parole panel or designated agent of the board determines that a releasee has violated a condition of release required under Section 508.192 and confirms the violation with a peace officer or other law enforcement officer of this state who is authorized under federal law to verify a person's immigration status or, in accordance with 8 U.S.C. Section 1373(c), with a federal law enforcement officer, the determination is considered to be a sufficient hearing to revoke the parole or mandatory supervision without further hearing or determination, except that the parole panel or designated agent shall conduct a hearing to consider mitigating circumstances, if requested by the releasee.

SECTION 3. Section 508.192, Government Code, as added by this Act, applies only to a person who is released on parole or to mandatory supervision on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2011.

Representative Madden moved to adopt the conference committee report on **HB 2734**.

The motion to adopt the conference committee report on **HB 2734** prevailed by (Record 1654): 146 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; 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; 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; Lucio; 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; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent — Hochberg; Rodriguez; Villarreal.

HB 1178 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Flynn submitted the following conference committee report on **HB 1178**:

Austin, Texas, May 26, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1178** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Birdwell

Estes

Harris

Van de Putte

Seliger

On the part of the senate

Flynn

Berman

Guillen

Peña

Zedler

On the part of the house

HB 1178, A bill to be entitled An Act relating to employment protection for members of the state military forces and specialty license plates for female members of the armed forces.

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

SECTION 1. Section 431.001, Government Code, is amended by adding Subdivisions (5), (6), and (7) to read as follows:

(5) "Employee" has the meaning assigned by Section 21.002, Labor

Code.

(6) "Employer" has the meaning assigned by Section 21.002, Labor

Code.

(7) "Political subdivision" has the meaning assigned by Section 21.002, Labor Code.

SECTION 2. Section 431.006, Government Code, is amended to read as follows:

Sec. 431.006. REEMPLOYMENT OF PERSON CALLED TO TRAINING OR DUTY. (a) An [A-private] employer may not terminate the employment of an [a-permanent] employee who is a member of the state military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment.

(b) A violation of this section is an unlawful employment practice. A person injured by a violation of this section may file a complaint with the Texas Workforce Commission civil rights division under Subchapter K [is entitled to:

~~(1) damages in an amount not exceeding six months' compensation at the rate at which the person was compensated when ordered to training or duty; and~~

~~(2) reasonable attorney's fees approved by the court].~~

~~(c) It is a defense to an action under this section that the employer's circumstances changed while the employee was in training or on duty to an extent that makes reemployment impossible or unreasonable. The employer has the burden of proving the impossibility or unreasonableness of reemploying the employee under the employer's changed circumstances.~~

~~(d) An employer may not delay or attempt to defeat a reemployment obligation under this section by demanding documentation that does not exist or is not readily available at the time notice is given under Subsection (a-).]~~

SECTION 3. Chapter 431, Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ADMINISTRATIVE REVIEW AND JUDICIAL ENFORCEMENT

Sec. 431.151. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Workforce Commission civil rights division.

(2) "Complainant" means an individual who brings an action or proceeding under this subchapter.

(3) "Respondent" means the person charged in a complaint filed under this subchapter.

Sec. 431.152. FILING OF COMPLAINT; FORM AND CONTENT; SERVICE. (a) A person claiming to be aggrieved by an unlawful employment practice under Section 431.006 or the person's agent may file a complaint with the commission.

(b) The complaint must be in writing and made under oath.

(c) The complaint must state:

(1) that an unlawful employment practice under Section 431.006 has been committed;

(2) the facts on which the complaint is based, including the date, place, and circumstances of the alleged unlawful employment practice; and

(3) facts sufficient to enable the commission to identify the respondent.

(d) The commission shall serve the respondent with a copy of the perfected complaint not later than the 10th day after the date the complaint is filed.

(e) A complaint may be amended to cure technical defects or omissions, including a failure to verify the complaint or to clarify and amplify an allegation made in the complaint.

(f) An amendment to a complaint alleging additional facts that constitute an unlawful employment practice under Section 431.006 relating to or arising from the subject matter of the original complaint relates back to the date the complaint was first received by the commission.

Sec. 431.153. ALTERNATIVE DISPUTE RESOLUTION. The use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration, is encouraged to resolve disputes arising under Section 431.006. The settlement of a disputed claim under this subchapter that results from the use of traditional or alternative means of dispute resolution is binding on the parties to the claim.

Sec. 431.154. INVESTIGATION BY COMMISSION. The commission shall investigate a complaint arising under Section 431.006 and determine if there is reasonable cause to believe that the respondent engaged in an unlawful employment practice as alleged in the complaint.

Sec. 431.155. LACK OF REASONABLE CAUSE; DISMISSAL OF COMPLAINT. (a) If, after investigation, the commission determines that reasonable cause does not exist to believe that the respondent engaged in an unlawful employment practice under Section 431.006 as alleged in a complaint, the commission shall issue a written determination incorporating the finding that the evidence does not support the complaint and dismissing the complaint.

(b) The commission shall serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

Sec. 431.156. DETERMINATION OF REASONABLE CAUSE; REVIEW BY PANEL. If, after investigation, the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice under Section 431.006 as alleged in a complaint, the commission shall:

(1) issue a written determination incorporating the finding that the evidence supports the complaint; and

(2) serve a copy of the determination on the complainant, the respondent, and other agencies as required by law.

Sec. 431.157. RESOLUTION BY INFORMAL METHODS. (a) If a determination of reasonable cause is made, the commission shall endeavor to eliminate the alleged unlawful employment practice arising under Section 431.006 by informal methods of conference, conciliation, and persuasion.

(b) Without the written consent of the complainant and respondent, the commission, its executive director, or its other officers or employees may not disclose to the public information about the efforts in a particular case to resolve an alleged unlawful employment practice by conference, conciliation, or persuasion, regardless of whether there is a determination of reasonable cause.

Sec. 431.158. NOTICE OF DISMISSAL OR UNRESOLVED COMPLAINT. If the commission dismisses a complaint or does not resolve the complaint, the commission shall inform the complainant of the dismissal or failure to resolve the complaint in writing by certified mail.

Sec. 431.159. TEMPORARY INJUNCTIVE RELIEF. (a) If the commission concludes from a preliminary investigation of an unlawful employment practice arising under Section 431.006 alleged in a complaint that prompt judicial action is necessary, the commission shall file a petition seeking appropriate temporary relief against the respondent pending final determination of a proceeding under this subchapter.

(b) The petition shall be filed in a district court in a county in which:

(1) the alleged unlawful employment practice that is the subject of the complaint occurred; or

(2) the respondent resides.

(c) A court may not issue temporary injunctive relief unless the commission shows:

(1) a substantial likelihood of success on the merits; and

(2) irreparable harm to the complainant in the absence of the preliminary relief pending final determination on the merits.

Sec. 431.160. CIVIL ACTION BY COMMISSION. (a) The commission may bring a civil action against a respondent if:

(1) the commission determines that there is reasonable cause to believe that the respondent engaged in an unlawful employment practice under Section 431.006; and

(2) the commission's efforts to resolve the discriminatory practice to the satisfaction of the complainant and respondent through informal methods have been unsuccessful.

(b) The complainant may intervene in a civil action brought by the commission.

Sec. 431.161. NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION. (a) A complainant who receives notice under Section 431.158 that the complaint is dismissed or not resolved is entitled to request from the commission a written notice of the complainant's right to file a civil action.

(b) The complainant must request the notice in writing.

(c) The executive director of the commission may issue the notice.

(d) Failure of the executive director of the commission to issue the notice of a complainant's right to file a civil action does not affect the complainant's right under this subchapter to bring a civil action against the respondent.

Sec. 431.162. CIVIL ACTION BY COMPLAINANT. Within 60 days after the date a notice of the right to file a civil action is received, the complainant may bring a civil action against the respondent.

Sec. 431.163. COMMISSION'S INTERVENTION IN CIVIL ACTION BY COMPLAINANT. After receipt of a timely application, a court may permit the commission to intervene in a civil action filed under Section 431.162 if:

(1) the commission certifies that the case is of general public importance; and

(2) before commencement of the action, the commission issued a determination of reasonable cause to believe that Section 431.006 was violated.

Sec. 431.164. ASSIGNMENT TO EARLY HEARING. The court shall set an action brought under this subchapter for hearing at the earliest practicable date to expedite the action.

Sec. 431.165. INJUNCTION; EQUITABLE RELIEF. (a) On finding that a respondent engaged in an unlawful employment practice under Section 431.006 as alleged in a complaint, a court may:

(1) prohibit by injunction the respondent from engaging in an unlawful employment practice under Section 431.006; and

(2) order additional equitable relief as may be appropriate.

(b) Additional equitable relief may include:

(1) hiring or reinstating with or without back pay;

(2) upgrading an employee with or without pay; and

(3) paying court costs.

(c) Liability under a back pay award may not accrue for a date more than two years before the date a complaint is filed with the commission. Interim earnings, workers' compensation benefits, and unemployment compensation benefits received operate to reduce the back pay otherwise allowable.

Sec. 431.166. COMPENSATORY AND PUNITIVE DAMAGES. (a) On finding that a respondent engaged in an intentional unlawful employment practice under Section 431.006 as alleged in a complaint, a court may, as provided by this section, award:

(1) compensatory damages; and

(2) punitive damages.

(b) A complainant may recover punitive damages against a respondent, other than a respondent that is a governmental entity, if the complainant demonstrates that the respondent engaged in an unlawful employment practice under Section 431.006 with malice or with reckless indifference to the state-protected rights of an aggrieved individual.

(c) Compensatory damages awarded under this section may not include:

(1) back pay;

(2) interest on back pay; or

(3) other relief authorized under Section 431.165(b).

(d) The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed, for each complainant:

(1) \$50,000 in the case of a respondent that has fewer than 101 employees;

(2) \$100,000 in the case of a respondent that has more than 100 and fewer than 201 employees;

(3) \$200,000 in the case of a respondent that has more than 200 and fewer than 501 employees; and

(4) \$300,000 in the case of a respondent that has more than 500 employees.

(e) For the purposes of Subsection (d), in determining the number of employees of a respondent, the requisite number of employees must be employed by the respondent for each of 20 or more calendar weeks in the current or preceding calendar year.

Sec. 431.167. ATTORNEY'S FEES; COSTS. (a) In a proceeding under this subchapter, a court may allow the prevailing party, other than the commission, a reasonable attorney's fee as part of the costs.

(b) The state, a state agency, or a political subdivision is liable for costs, including attorney's fees, to the same extent as a private person.

(c) In awarding costs and attorney's fees in an action or a proceeding under this subchapter, the court, in its discretion, may include reasonable expert fees.

Sec. 431.168. COMPELLED COMPLIANCE. If an employer fails to comply with a court order issued under this subchapter, a party to the action or the commission, on the written request of a person aggrieved by the failure, may commence proceedings to compel compliance with the order.

Sec. 431.169. TRIAL DE NOVO. (a) A judicial proceeding under this subchapter is by trial de novo.

(b) A commission finding, recommendation, determination, or other action is not binding on a court.

SECTION 4. Subchapter D, Chapter 504, Transportation Code, is amended by adding Section 504.317 to read as follows:

Sec. 504.317. WOMEN VETERANS. The department shall issue specialty license plates for female active or former members of the United States armed forces, Texas National Guard, or Texas State Guard. The license plates must include the words "Woman Veteran" in red.

SECTION 5. The changes in law made by this Act apply only to a violation of Section 431.006, Government Code, as amended by this Act, that is based on conduct occurring on or after the effective date of this Act. A violation of Section 431.006, Government Code, that is based on conduct occurring before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 6. 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.

Representative Flynn moved to adopt the conference committee report on **HB 1178**.

The motion to adopt the conference committee report on **HB 1178** prevailed by (Record 1655): 146 Yeas, 0 Nays, 2 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; 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; 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; Lucio; 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); Harper-Brown.

Absent — Eiland; Hochberg.

STATEMENT OF VOTE

When Record No. 1655 was taken, I was temporarily out of the house chamber. I would have voted yes.

Eiland

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. 2).

HB 2490 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Solomons submitted the following conference committee report on **HB 2490**:

Austin, Texas, May 27, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2490** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona
Eltife

Solomons
Aliseda

Lucio
 Van de Putte
 Zaffirini
 On the part of the senate

Chisum
 Legler
 W. Smith
 On the part of the house

HB 2490, A bill to be entitled An Act relating to the regulation of crafted precious metal dealers; providing criminal and administrative penalties.

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

SECTION 1. Section 1956.051, Occupations Code, is amended to read as follows:

Sec. 1956.051. DEFINITIONS. In this subchapter:

(1) "Commission" means the Finance Commission of Texas.

(2) "Commissioner" means the consumer credit commissioner.

(3) "Crafted precious metal" means jewelry, silverware, an art object, or another object, made wholly or partly from precious metal, other than a coin, a bar, a ~~or~~ commemorative medallion, or scrap or a broken item selling at five percent or more than the scrap value of the item ~~[made in whole or in part from precious metal]~~.

(4) ~~(2)~~ "Dealer" means a person registered to engage ~~[who engages]~~ in the business of purchasing and selling crafted precious metal, including purchases or sales made through the mail.

(5) ~~(3)~~ "Department" means the Texas Department of Public Safety.

(6) ~~(4)~~ "Precious metal" means gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium, or an alloy of those metals.

SECTION 2. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Section 1956.0511 to read as follows:

Sec. 1956.0511. ADMINISTRATION BY COMMISSION. (a) Notwithstanding any other provision of this chapter, the commission shall administer and enforce this subchapter, unless the context clearly requires another state agency to perform a specific duty.

(b) To the extent of any conflict between this subchapter and other provisions of this chapter, this subchapter prevails.

SECTION 3. Section 1956.060, Occupations Code, is amended to read as follows:

Sec. 1956.060. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED BY PERSON LICENSED UNDER TEXAS PAWNSHOP ACT. This subchapter does not apply to crafted precious metal acquired by:

(1) a person licensed under Chapter 371, Finance Code; or

(2) an entity affiliated with a person licensed under Chapter 371, Finance Code, if the entity's recordkeeping practices satisfy the requirements of that chapter.

SECTION 4. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Sections 1956.0611, 1956.0612, 1956.0613, 1956.0614, and 1956.0615 to read as follows:

Sec. 1956.0611. RULEMAKING. The commission may adopt rules necessary to implement and enforce this subchapter.

Sec. 1956.0612. REGISTRATION AS DEALER. (a) A person may not engage in the business of purchasing and selling crafted precious metal unless the person is registered with the commissioner as a dealer under this section.

(b) To register as a dealer, a person must provide to the commissioner, on or before December 31 preceding each calendar year in which the person seeks to act as a dealer:

(1) a list of each location in this state at which the person will conduct business as a dealer; and

(2) a processing fee for each location included on the list furnished under Subdivision (1).

(c) The commissioner shall prescribe the processing fee in an amount necessary to cover the costs of administering this section.

(d) After the December 31 deadline, a dealer may amend the registration required under Subsection (a) to reflect any change in the information provided by the registration.

(e) The commissioner shall make available to the public a list of dealers registered under this section.

(f) The commissioner may prescribe the registration form.

(g) A reference to a registration in another subchapter of this chapter does not apply to a person to the extent the person is registered under this subchapter.

Sec. 1956.0613. INVESTIGATION BY COMMISSIONER. The commissioner shall:

(1) monitor the operations of a dealer to ensure compliance with this chapter; and

(2) receive and investigate complaints against a dealer or a person acting as a dealer.

Sec. 1956.0614. REVOCATION OF REGISTRATION. (a) The commissioner may revoke the registration of a dealer if the commissioner concludes that the dealer has violated this chapter. The commissioner shall recite the basis of the decision in an order revoking the registration.

(b) If the commissioner proposes to revoke a registration, the dealer is entitled to a hearing before the commissioner or a hearings officer, who shall propose a decision to the commissioner. The commissioner or hearings officer shall prescribe the time and place of the hearing. The hearing is governed by Chapter 2001, Government Code.

(c) A dealer aggrieved by a ruling, order, or decision of the commissioner is entitled to appeal to a district court in the county in which the hearing was held. An appeal under this subsection is governed by Chapter 2001, Government Code.

Sec. 1956.0615. ADMINISTRATIVE PENALTY. The commissioner may assess an administrative penalty not to exceed \$500 against a person for each knowing and wilful violation of this chapter.

SECTION 5. Section 1956.063(c), Occupations Code, is amended to read as follows:

(c) For each transaction regulated by this subchapter, the ~~[The]~~ dealer shall submit a ~~[the]~~ report on a preprinted and prenumbered form prescribed by the commissioner ~~[district attorney or person performing the duties of district attorney of the county in which the transaction occurs]~~. The form must include the following:

- (1) the date of the transaction;
- (2) a description of the crafted precious metal purchased by the dealer;
- (3) the name and physical address of the dealer; and
- (4) the name, physical description, and physical address of the seller or transferor.

SECTION 6. Section 1956.064, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A peace officer who has reasonable suspicion to believe that an item of crafted precious metal in the possession of a dealer is stolen may place the item on hold for a period not to exceed 60 days by issuing to the dealer a written notice that:

- (1) specifically identifies the item alleged to be stolen and subject to the hold; and
- (2) informs the dealer of the requirements of Subsection (c).

(c) On receiving the notice, the dealer may not melt, deface, alter, or dispose of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or a court order. ~~[A dealer who retains information under Subsection (a)(2) shall make that information available for inspection by any peace officer.]~~

SECTION 7. Section 1956.067(a), Occupations Code, is amended to read as follows:

(a) A dealer who conducts business at a temporary location for a period of less than one year ~~[90 days]~~ may not engage in the business of buying precious metal or used items made of precious metal unless, within a 12-month period at least 30 days before the date on which each purchase is made, the dealer ~~[person]~~ has filed:

- (1) a registration statement with the department; ~~and~~
- (2) a copy of the registration statement and a copy of the dealer's certificate of registration issued under this subchapter with the local law enforcement agency of:

- (A) the municipality in which the temporary location is located; or
- (B) if the temporary location is not located in a municipality, the county in which the temporary location is located; and

(3) a copy of the dealer's certificate of registration issued under this subchapter with the county and, if applicable, the municipality in which the temporary location is located.

SECTION 8. Section 1956.069(a), Occupations Code, is amended to read as follows:

(a) A person ~~[dealer]~~ commits an offense if the person ~~[dealer]~~:

- (1) fails to make or permit inspection of a report as required by Section 1956.062 or 1956.063;

(2) violates [~~disposes of crafted precious metal or fails to make a record available for inspection by a peace officer as required by~~] Section 1956.0612 or 1956.064;

(3) fails to obtain or retain a statement as required by Section 1956.066;

(4) fails to file a registration statement as required by Section 1956.067;

or

(5) purchases an object in violation of Section 1956.068.

SECTION 9. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 10. Not later than December 1, 2011, the Finance Commission of Texas shall adopt rules to implement Subchapter B, Chapter 1956, Occupations Code, as amended by this Act.

SECTION 11. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Section 1956.0612, Occupations Code, as added by this Act, and Sections 1956.067(a) and 1956.069(a), Occupations Code, as amended by this Act, take effect January 1, 2012.

HB 2490 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE DESHOTEL: Mr. Solomons, one of the things we were trying to accomplish, I think, with this bill, was protection of consumers from fly-by-night operations that go to hotel rooms and say they're buying precious metals, is that correct?

REPRESENTATIVE SOLOMONS: Yes, sir. It's very much a law enforcement type of issue with that—fly-by-night operators.

DESHOTEL: One of the things, we're giving the authority to—rulemaking authority—to the Finance Commission, and we'd like to see in those rules a requirement that a receipt be maintained that includes all the pertinent information of the transaction, is that correct?

SOLOMONS: Yes, sir. We're trying to make sure there are copies of receipts and there's a prescribed form for that.

DESHOTEL: And that those receipts be maintained by the vendor as well as given to the consumer?

SOLOMONS: Right—well, it will be given to the—they'll keep one, they'll give one to the finance—to the OCCC, and then basically what happens is a person would have more of an opportunity to get a receipt, and in that rulemaking authority they may require a receipt as well. And that's certainly the intent, to make sure everybody has a copy of what transacted.

(Phillips in the chair)

REMARKS ORDERED PRINTED

Representative Deshotel moved to print remarks between Representative Solomons and Representative Deshotel.

The motion prevailed.

Representative Solomons moved to adopt the conference committee report on **HB 2490**.

The motion to adopt the conference committee report on **HB 2490** prevailed by (Record 1656): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — 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; Cook; Craddick; Creighton; Crownover; Darby; 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; Lucio; 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; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent — Aliseda; Davis, J.

STATEMENTS OF VOTE

When Record No. 1656 was taken, my vote failed to register. I would have voted yes.

Aliseda

I was shown voting yes on Record No. 1656. I intended to vote no.

Creighton

HB 1951 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative L. Taylor submitted the following conference committee report on **HB 1951**:

Austin, Texas, May 26, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
 Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1951** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Hegar	L. Taylor
Nelson	Smith
Williams	Bonnen
Uresti	Vo
Huffman	Hancock
On the part of the senate	On the part of the house

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.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 ARTICLE 1. GENERAL PROVISIONS

SECTION 1.001. Section 31.002, Insurance Code, is amended to read as follows:

Sec. 31.002. DUTIES OF DEPARTMENT. In addition to the other duties required of the Texas Department of Insurance, the department shall:

- (1) regulate the business of insurance in this state;
- (2) administer the workers' compensation system of this state as provided by Title 5, Labor Code; ~~and~~
- (3) ensure that this code and other laws regarding insurance and insurance companies are executed;
- (4) protect and ensure the fair treatment of consumers; and
- (5) ensure fair competition in the insurance industry in order to foster a competitive market.

SECTION 1.002. Section 31.004(a), Insurance Code, is amended to read as follows:

(a) The Texas Department of Insurance is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2023 ~~[2011]~~.

SECTION 1.003. Subchapter B, Chapter 36, Insurance Code, is amended by adding Section 36.110 to read as follows:

Sec. 36.110. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) The commissioner shall develop and implement a policy to encourage the use of:

- (1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and
- (2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commissioner shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

ARTICLE 2. CERTAIN ADVISORY BOARDS, COMMITTEES, AND COUNCILS AND RELATED TECHNICAL CORRECTIONS

SECTION 2.001. Chapter 32, Insurance Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RULES REGARDING USE OF ADVISORY COMMITTEES

Sec. 32.151. RULEMAKING AUTHORITY. (a) The commissioner shall adopt rules, in compliance with Section 39.003 of this code and Chapter 2110, Government Code, regarding the purpose, structure, and use of advisory committees by the commissioner, the state fire marshal, or department staff, including rules governing an advisory committee's:

(1) purpose, role, responsibility, and goals;

(2) size and quorum requirements;

(3) qualifications for membership, including experience requirements and geographic representation;

(4) appointment procedures;

(5) terms of service;

(6) training requirements; and

(7) duration.

(b) An advisory committee must be structured and used to advise the commissioner, the state fire marshal, or department staff. An advisory committee may not be responsible for rulemaking or policymaking.

Sec. 32.152. PERIODIC EVALUATION. The commissioner shall by rule establish a process by which the department shall periodically evaluate an advisory committee to ensure its continued necessity. The department may retain or develop committees as appropriate to meet changing needs.

Sec. 32.153. COMPLIANCE WITH OPEN MEETINGS ACT. A department advisory committee must comply with Chapter 551, Government Code.

SECTION 2.002. Section 843.441, Insurance Code, is transferred to Subchapter L, Chapter 843, Insurance Code, redesignated as Section 843.410, Insurance Code, and amended to read as follows:

Sec. 843.410 [843.441]. ASSESSMENTS. (a) To provide funds for the administrative expenses of the commissioner regarding rehabilitation, liquidation, supervision, conservatorship, or seizure [conservation] of a [an-impaired] health maintenance organization in this state that is placed under supervision or in

conservatorship under Chapter 441 or against which a delinquency proceeding is commenced under Chapter 443 and that is found by the commissioner to have insufficient funds to pay the total amount of health care claims and the administrative~~[-including]~~ expenses incurred by the commissioner regarding the rehabilitation, liquidation, supervision, conservatorship, or seizure, the commissioner ~~[acting as receiver or by a special deputy receiver, the committee, at the commissioner's direction,]~~ shall assess each health maintenance organization in the proportion that the gross premiums of the health maintenance organization that were written in this state during the preceding calendar year bear to the aggregate gross premiums that were written in this state by all health maintenance organizations, as found ~~[provided to the committee by the commissioner]~~ after review of annual statements and other reports the commissioner considers necessary.

(b) ~~[(e)]~~ The commissioner may abate or defer an assessment in whole or in part if, in the opinion of the commissioner, payment of the assessment would endanger the ability of a health maintenance organization to fulfill its contractual obligations. If an assessment is abated or deferred in whole or in part, the amount of the abatement or deferral may be assessed against the remaining health maintenance organizations in a manner consistent with the calculations made by the commissioner under Subsection (a) ~~[basis for assessments provided by the approved plan of operation].~~

(c) ~~[(d)]~~ The total of all assessments on a health maintenance organization may not exceed one-fourth of one percent of the health maintenance organization's gross premiums in any one calendar year.

(d) ~~[(e)]~~ Notwithstanding any other provision of this subchapter, funds derived from an assessment made under this section may not be used for more than 180 consecutive days for the expenses of administering the affairs of a ~~[an impaired]~~ health maintenance organization the surplus of which is impaired and that is ~~[while]~~ in supervision~~[-rehabilitation,]~~ or conservatorship ~~[conservation for more than 150 days]~~. The commissioner ~~[committee]~~ may extend the period during which the commissioner ~~[it]~~ makes assessments for the administrative expenses ~~[of an impaired health maintenance organization as it considers appropriate].~~

SECTION 2.003. Section 1660.004, Insurance Code, is amended to read as follows:

Sec. 1660.004. GENERAL RULEMAKING. The commissioner may adopt rules as necessary to implement this chapter~~[-including rules requiring the implementation and provision of the technology recommended by the advisory committee].~~

SECTION 2.004. Section 1660.102(b), Insurance Code, is amended to read as follows:

(b) The commissioner may consider ~~[the]~~ recommendations ~~[of the advisory committee]~~ or any other information provided in response to a department-issued request for information relating to electronic data exchange, including identification card programs, before adopting rules regarding:

- (1) information to be included on the identification cards;

(2) technology to be used to implement the identification card pilot program; and

(3) confidentiality and accuracy of the information required to be included on the identification cards.

SECTION 2.005. Section 4001.009(a), Insurance Code, is amended to read as follows:

(a) As referenced in Section 4001.003(9), a reference to an agent in the following laws includes a subagent without regard to whether a subagent is specifically mentioned:

(1) Chapters 281, 402, 421-423, 441, 444, 461-463, ~~[523,]~~ 541-556, 558, 559, ~~[702,]~~ 703, 705, 821, 823-825, 827, 828, 844, 963, 1108, 1205-1208 ~~[1205-1209]~~, 1211, 1213, 1214 ~~[1211-1214]~~, 1352, 1353, 1357, 1358, 1360-1363, 1369, 1453-1455, 1503, 1550, 1801, 1803, 2151-2154, 2201-2203, 2205-2213, 3501, 3502, 4007, 4102, and 4201-4203;

(2) Chapter 403, excluding Section 403.002;

(3) Subchapter A, Chapter 491;

(4) Subchapter C, Chapter 521;

(5) Subchapter A, Chapter 557;

(6) Subchapter B, Chapter 805;

(7) Subchapters D, E, and F, Chapter 982;

(8) Subchapter D, Chapter 1103;

(9) Subchapters B, C, D, and E, Chapter 1204, excluding Sections 1204.153 and 1204.154;

(10) Subchapter B, Chapter 1366;

(11) Subchapters B, C, and D, Chapter 1367, excluding Section 1367.053(c);

(12) Subchapters A, C, D, E, F, H, and I, Chapter 1451;

(13) Subchapter B, Chapter 1452;

(14) Sections 551.004, 841.303, 982.001, 982.002, 982.004, 982.052, 982.102, 982.103, 982.104, 982.106, 982.107, 982.108, 982.110, 982.111, 982.112, and 1802.001; and

(15) Chapter 107, Occupations Code.

SECTION 2.006. Section 4102.005, Insurance Code, is amended to read as follows:

Sec. 4102.005. CODE OF ETHICS. The commissioner~~[, with guidance from the public insurance adjusters examination advisory committee,]~~ by rule shall adopt:

(1) a code of ethics for public insurance adjusters that fosters the education of public insurance adjusters concerning the ethical, legal, and business principles that should govern their conduct;

(2) recommendations regarding the solicitation of the adjustment of losses by public insurance adjusters; and

(3) any other principles of conduct or procedures that the commissioner considers necessary and reasonable.

SECTION 2.007. Section 2154.052(a), Occupations Code, is amended to read as follows:

(a) The commissioner:

(1) shall administer this chapter through the state fire marshal; and

(2) may issue rules to administer this chapter [~~in compliance with Section 2154.054~~].

SECTION 2.008. The following laws are repealed:

(1) Article 3.70-3D(d), Insurance Code, as effective on appropriation in accordance with Section 5, Chapter 1457 (H.B. 3021), Acts of the 76th Legislature, Regular Session, 1999;

(2) Chapter 523, Insurance Code;

(3) Section 524.061, Insurance Code;

(4) the heading to Subchapter M, Chapter 843, Insurance Code;

(5) Sections 843.435, 843.436, 843.437, 843.438, 843.439, and 843.440, Insurance Code;

(6) Chapter 1212, Insurance Code;

(7) Section 1660.002(2), Insurance Code;

(8) Subchapter B, Chapter 1660, Insurance Code;

(9) Section 1660.101(c), Insurance Code;

(10) Sections 4002.004, 4004.002, 4101.006, and 4102.059, Insurance Code;

(11) Sections 4201.003(c) and (d), Insurance Code;

(12) Subchapter C, Chapter 6001, Insurance Code;

(13) Subchapter C, Chapter 6002, Insurance Code;

(14) Subchapter C, Chapter 6003, Insurance Code;

(15) Section 2154.054, Occupations Code; and

(16) Section 2154.055(c), Occupations Code.

SECTION 2.009. (a) The following boards, committees, councils, and task forces are abolished on the effective date of this Act:

(1) the consumer assistance program for health maintenance organizations advisory committee;

(2) the executive committee of the market assistance program for residential property insurance;

(3) the TexLink to Health Coverage Program task force;

(4) the health maintenance organization solvency surveillance committee;

(5) the technical advisory committee on claims processing;

(6) the technical advisory committee on electronic data exchange;

(7) the examination of license applicants advisory board;

(8) the advisory council on continuing education for insurance agents;

(9) the insurance adjusters examination advisory board;

(10) the public insurance adjusters examination advisory committee;

(11) the utilization review agents advisory committee;

(12) the fire extinguisher advisory council;

(13) the fire detection and alarm devices advisory council;

(14) the fire protection advisory council; and

(15) the fireworks advisory council.

(b) All powers, duties, obligations, rights, contracts, funds, records, and real or personal property of a board, committee, council, or task force listed under Subsection (a) of this section shall be transferred to the Texas Department of Insurance not later than February 28, 2012.

SECTION 2.010. The changes in law made by this Act by repealing Sections 523.003 and 843.439, Insurance Code, apply only to a cause of action that accrues 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 immediately before that date, and that law is continued in effect for that purpose.

ARTICLE 3. RATE REGULATION

SECTION 3.001. 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 3.002. 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 3.003. 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 3.004. 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 3.005. Section 2251.101, Insurance Code, is amended to read as follows:

Sec. 2251.101. RATE FILINGS AND SUPPORTING INFORMATION.

(a) 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. An insurer may use a rate filed under this subchapter on and after the date the rate is filed.

(b) The commissioner by rule shall:

(1) determine the information required to be included in the filing, including:

(A) ~~(+)~~ categories of supporting information and supplementary rating information;

(B) ~~(=)~~ statistics or other information to support the rates to be used by the insurer, including information necessary to evidence that the computation of the rate does not include disallowed expenses; and

(C) [(3)] information concerning policy fees, service fees, and other fees that are charged or collected by the insurer under Section 550.001 or 4005.003; and

(2) prescribe the process through which the department requests supplementary rating information and supporting information under this section, including:

(A) the number of times the department may make a request for information; and

(B) the types of information the department may request when reviewing a rate filing.

SECTION 3.006. Section 2251.103, Insurance Code, is amended to read as follows:

Sec. 2251.103. COMMISSIONER ACTION CONCERNING ~~DISAPPROVAL OF RATE IN~~ RATE FILING NOT YET IN EFFECT; HEARING AND ANALYSIS. (a) Not later than the earlier of the date the rate takes effect or the 30th day after the date a rate is filed with the department under Section 2251.101, the [The] commissioner shall disapprove the [a] rate if the commissioner determines that the rate [filing made under this chapter] does not comply with the requirements of this chapter [meet the standards established under Subchapter B].

(b) Except as provided by Subsection (c), if a rate has not been disapproved by the commissioner before the expiration of the 30-day period described by Subsection (a), the rate is not considered disapproved under this section.

(c) For good cause, the commissioner may, on the expiration of the 30-day period described by Subsection (a), extend the period for disapproval of a rate for one additional 30-day period. The commissioner and the insurer may not by agreement extend the 30-day period described by Subsection (a) or this subsection.

(d) If the commissioner disapproves a rate under this section [filing], the commissioner shall issue an order specifying in what respects the rate [filing] fails to meet the requirements of this chapter.

(e) An insurer that files a rate that is disapproved under this section [(e) The filer] 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.

(f) The department shall track, compile, and routinely analyze the factors that contribute to the disapproval of rates under this section.

SECTION 3.007. Subchapter C, Chapter 2251, Insurance Code, is amended by adding Section 2251.1031 to read as follows:

Sec. 2251.1031. REQUESTS FOR ADDITIONAL INFORMATION. (a) If the department determines that the information filed by an insurer under this subchapter or Subchapter D is incomplete or otherwise deficient, the department may request additional information from the insurer.

(b) If the department requests additional information from the insurer during the 30-day period described by Section 2251.103(a) or 2251.153(a) or under a second 30-day period described by Section 2251.103(c) or 2251.153(c),

as applicable, the time between the date the department submits the request to the insurer and the date the department receives the information requested is not included in the computation of the first 30-day period or the second 30-day period, as applicable.

(c) For purposes of this section, the date of the department's submission of a request for additional information is the earlier of:

(1) the date of the department's electronic mailing or documented telephone call relating to the request for additional information; or

(2) the postmarked date on the department's letter relating to the request for additional information.

(d) The department shall track, compile, and routinely analyze the volume and content of requests for additional information made under this section to ensure that all requests for additional information are fair and reasonable.

SECTION 3.008. The heading to Section 2251.104, Insurance Code, is amended to read as follows:

Sec. 2251.104. COMMISSIONER DISAPPROVAL OF RATE IN EFFECT; HEARING.

SECTION 3.009. Section 2251.107, Insurance Code, is amended to read as follows:

Sec. 2251.107. PUBLIC ~~INSPECTION OF~~ INFORMATION. (a) 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].~~

(b) Each year the department shall make available to the public information concerning the department's general process and methodology for rate review under this chapter, including factors that contribute to the disapproval of a rate. Information provided under this subsection must be general in nature and may not reveal proprietary or trade secret information of any insurer.

SECTION 3.010. Section 2251.151, Insurance Code, is amended by adding Subsections (c-1) and (f) and amending Subsection (e) to read as follows:

(c-1) If the commissioner requires an insurer to file the insurer's rates under this section, the commissioner shall periodically assess whether the conditions described by Subsection (a) continue to exist. If the commissioner determines that the conditions no longer exist, the commissioner shall issue an order excusing the insurer from filing the insurer's rates under this section.

(e) If the commissioner requires an insurer to file the insurer's rates under this section, the commissioner shall issue an order specifying the commissioner's reasons for requiring the rate filing and explaining any steps the insurer must take and any conditions the insurer must meet in order to be excused from filing the insurer's rates under this section. 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.

(f) The commissioner by rule shall define:

(1) the financial conditions and rating practices that may subject an insurer to this section under Subsection (a)(1); and

(2) the process by which the commissioner determines that a statewide insurance emergency exists under Subsection (a)(2).

SECTION 3.011. Section 2251.156, Insurance Code, is amended to read as follows:

Sec. 2251.156. RATE FILING DISAPPROVAL BY COMMISSIONER; HEARING. (a) If the commissioner disapproves a rate filing under Section 2251.153(a)(2), the commissioner shall issue an order disapproving the filing in accordance with Section 2251.103(d) [~~2251.103(b)~~].

(b) An insurer whose rate filing is disapproved is entitled to a hearing in accordance with Section 2251.103(e) [~~2251.103(e)~~].

(c) The department shall track precedents related to disapprovals of rates under this subchapter to ensure uniform application of rate standards by the department.

SECTION 3.012. Section 2254.003(a), Insurance Code, is amended to read as follows:

(a) This section applies to a rate for personal automobile insurance or residential property insurance filed on or after the effective date of Chapter 206, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 3.013. Section 2251.154, Insurance Code, is repealed.

SECTION 3.014. 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.

SECTION 3.015. Section 2251.103, Insurance Code, as amended by this Act, and Section 2251.1031, Insurance Code, as added by this Act, apply only to a rate filing made on or after the effective date of this Act. A rate filing made before the effective date of this Act is governed by the law in effect at the time the filing was made, and that law is continued in effect for that purpose.

SECTION 3.016. Section 2251.151(c-1), Insurance Code, as added by this Act, applies to an insurer that is required to file the insurer's rates for approval under Section 2251.151, Insurance Code, on or after the effective date of this Act, regardless of when the order requiring the insurer to file the insurer's rates for approval under that section is first issued.

SECTION 3.017. Section 2251.151(e), Insurance Code, as amended by this Act, applies only to an order issued by the commissioner of insurance on or after the effective date of this Act. An order of the commissioner issued before the effective date of this Act is governed by the law in effect on the date the order was issued, and that law is continued in effect for that purpose.

ARTICLE 4. STATE FIRE MARSHAL'S OFFICE

SECTION 4.001. Section 417.008, Government Code, is amended by adding Subsection (f) to read as follows:

(f) The commissioner by rule shall prescribe a reasonable fee for an inspection performed by the state fire marshal that may be charged to a property owner or occupant who requests the inspection, as the commissioner considers

appropriate. In prescribing the fee, the commissioner shall consider the overall cost to the state fire marshal to perform the inspections, including the approximate amount of time the staff of the state fire marshal needs to perform an inspection, travel costs, and other expenses.

SECTION 4.002. Section 417.0081, Government Code, is amended to read as follows:

Sec. 417.0081. INSPECTION OF CERTAIN STATE-OWNED OR STATE-LEASED BUILDINGS. (a) The state fire marshal, at the commissioner's direction, shall periodically inspect public buildings under the charge and control of the Texas Facilities [~~General Services~~] Commission and buildings leased for the use of a state agency by the Texas Facilities Commission.

(b) For the purpose of determining a schedule for conducting inspections under this section, the commissioner by rule shall adopt guidelines for assigning potential fire safety risk to state-owned and state-leased buildings. Rules adopted under this subsection must provide for the inspection of each state-owned and state-leased building to which this section applies, regardless of how low the potential fire safety risk of the building may be.

(c) On or before January 1 of each year, the state fire marshal shall report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature regarding the state fire marshal's findings in conducting inspections under this section.

SECTION 4.003. Section 417.0082, Government Code, is amended to read as follows:

Sec. 417.0082. PROTECTION OF CERTAIN STATE-OWNED OR STATE-LEASED BUILDINGS AGAINST FIRE HAZARDS. (a) The state fire marshal, under the direction of the commissioner, shall take any action necessary to protect a public building under the charge and control of the Texas Facilities [~~Building and Procurement~~] Commission, and the building's occupants, and the occupants of a building leased for the use of a state agency by the Texas Facilities Commission, against an existing or threatened fire hazard. The state fire marshal and the Texas Facilities [~~Building and Procurement~~] Commission shall include the State Office of Risk Management in all communication concerning fire hazards.

(b) The commissioner, the Texas Facilities [~~Building and Procurement~~] Commission, and the risk management board shall make and each adopt by rule a memorandum of understanding that coordinates the agency's duties under this section.

SECTION 4.004. Section 417.010, Government Code, is amended to read as follows:

Sec. 417.010. DISCIPLINARY AND ENFORCEMENT ACTIONS; ADMINISTRATIVE PENALTIES [~~ALTERNATE REMEDIES~~]. (a) This section applies to each person and firm licensed, registered, or otherwise regulated by the department through the state fire marshal, including:

- (1) a person regulated under Title 20, Insurance Code; and
- (2) a person licensed under Chapter 2154, Occupations Code.

(b) The commissioner by rule shall delegate to the state fire marshal the authority to take disciplinary and enforcement actions, including the imposition of administrative penalties in accordance with this section on a person regulated under a law listed under Subsection (a) who violates that law or a rule or order adopted under that law. In the rules adopted under this subsection, the commissioner shall:

(1) specify which types of disciplinary and enforcement actions are delegated to the state fire marshal; and

(2) outline the process through which the state fire marshal may, subject to Subsection (c), impose administrative penalties or take other disciplinary and enforcement actions.

(c) The commissioner by rule shall adopt a schedule of administrative penalties for violations subject to a penalty under this section to ensure that the amount of an administrative penalty imposed is appropriate to the violation. The department shall provide the administrative penalty schedule to the public on request. The amount of an administrative penalty imposed under this section must be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of the violation;

and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to the public interest or public confidence caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation;

(6) whether the violation was intentional; and

(7) any other matter that justice may require.

(d) In ~~[The state fire marshal, in]~~ the enforcement of a law that is enforced by or through the state fire marshal, the state fire marshal may, in lieu of cancelling, revoking, or suspending a license or certificate of registration, impose on the holder of the license or certificate of registration an order directing the holder to do one or more of the following:

(1) cease and desist from a specified activity;

(2) ~~pay an administrative penalty imposed under this section [remit to the commissioner within a specified time a monetary forfeiture not to exceed \$10,000 for each violation of an applicable law or rule]; or [and]~~

(3) make restitution to a person harmed by the holder's violation of an applicable law or rule.

(e) The state fire marshal shall impose an administrative penalty under this section in the manner prescribed for imposition of an administrative penalty under Subchapter B, Chapter 84, Insurance Code. The state fire marshal may impose an administrative penalty under this section without referring the violation to the department for commissioner action.

(f) An affected person may dispute the imposition of the penalty or the amount of the penalty imposed in the manner prescribed by Subchapter C, Chapter 84, Insurance Code. Failure to pay an administrative penalty imposed under this section is subject to enforcement by the department.

ARTICLE 5. TITLE INSURANCE

SECTION 5.001. Section 2703.153(c), Insurance Code, is amended to read as follows:

(c) Not less frequently than once every five years, the commissioner shall evaluate the information required under this section to determine whether the department needs additional or different information or no longer needs certain information to promulgate rates. If the department requires a title insurance company or title insurance agent to include new or different information in the statistical report, that information may be considered by the commissioner in fixing premium rates if the information collected is reasonably credible for the purposes for which the information is to be used.

ARTICLE 6. ELECTRONIC TRANSACTIONS

SECTION 6.001. Subtitle A, Title 2, Insurance Code, is amended by adding Chapter 35 to read as follows:

CHAPTER 35. ELECTRONIC TRANSACTIONS

Sec. 35.001. DEFINITIONS. In this chapter:

(1) "Conduct business" includes engaging in or transacting any business in which a regulated entity is authorized to engage or is authorized to transact under the law of this state.

(2) "Regulated entity" means each insurer or other organization regulated by the department, including:

(A) a domestic or foreign, stock or mutual, life, health, or accident insurance company;

(B) a domestic or foreign, stock or mutual, fire or casualty insurance company;

(C) a Mexican casualty company;

(D) a domestic or foreign Lloyd's plan;

(E) a domestic or foreign reciprocal or interinsurance exchange;

(F) a domestic or foreign fraternal benefit society;

(G) a domestic or foreign title insurance company;

(H) an attorney's title insurance company;

(I) a stipulated premium company;

(J) a nonprofit legal service corporation;

(K) a health maintenance organization;

(L) a statewide mutual assessment company;

(M) a local mutual aid association;

(N) a local mutual burial association;

(O) an association exempt under Section 887.102;

(P) a nonprofit hospital, medical, or dental service corporation, including a company subject to Chapter 842;

(Q) a county mutual insurance company; and

(R) a farm mutual insurance company.

Sec. 35.002. CONSTRUCTION WITH OTHER LAW.

(a) Notwithstanding any other provision of this code, a regulated entity may conduct business electronically in accordance with this chapter and the rules adopted under Section 35.004.

(b) To the extent of any conflict between another provision of this code and a provision of this chapter, the provision of this chapter controls.

Sec. 35.003. ELECTRONIC TRANSACTIONS AUTHORIZED. A regulated entity may conduct business electronically to the same extent that the entity is authorized to conduct business otherwise if before the conduct of business each party to the business agrees to conduct the business electronically.

Sec. 35.004. RULES. (a) The commissioner shall adopt rules necessary to implement and enforce this chapter.

(b) The rules adopted by the commissioner under this section must include rules that establish minimum standards with which a regulated entity must comply in the entity's electronic conduct of business with other regulated entities and consumers.

SECTION 6.002. Chapter 35, Insurance Code, as added by this Act, applies only to business conducted on or after the effective date of this Act. Business conducted before the effective date of this Act is governed by the law in effect on the date the business was conducted, and that law is continued in effect for that purpose.

ARTICLE 7. DATA COLLECTION

SECTION 7.001. Chapter 38, Insurance Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. DATA COLLECTION RELATING TO CERTAIN PERSONAL LINES OF INSURANCE

Sec. 38.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to an insurer who writes personal automobile insurance or residential property insurance in this state.

Sec. 38.402. FILING OF CERTAIN CLAIMS INFORMATION. (a) The commissioner shall require each insurer described by Section 38.401 to file with the commissioner aggregate personal automobile insurance and residential property insurance claims information for the period covered by the filing, including the number of claims:

(1) filed during the reporting period;

(2) pending on the last day of the reporting period, including pending litigation;

(3) closed with payment during the reporting period;

(4) closed without payment during the reporting period; and

(5) carrying over from the reporting period immediately preceding the current reporting period.

(b) An insurer described by Section 38.401 must file the information described by Subsection (a) on an annual basis. The information filed must be broken down by quarter.

Sec. 38.403. PUBLIC INFORMATION. (a) The department shall post the data contained in claims information filings under Section 38.402 on the department's Internet website. The commissioner by rule may establish a procedure for posting data under this subsection that includes a description of the data that must be posted and the manner in which the data must be posted.

(b) Information provided under this section must be aggregate data by line of insurance for each insurer and may not reveal proprietary or trade secret information of any insurer.

Sec. 38.404. RULES. The commissioner may adopt rules necessary to implement this subchapter.

ARTICLE 8. STUDY ON RATE FILING AND APPROVAL

REQUIREMENTS FOR CERTAIN INSURERS WRITING IN

UNDERSERVED AREAS; UNDERSERVED AREA DESIGNATION

SECTION 8.001. Section 2004.002, Insurance Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) In determining which areas to designate as underserved, the commissioner shall consider:

(1) whether residential property insurance is not reasonably available to a substantial number of owners of insurable property in the area; ~~and~~

(2) whether access to the full range of coverages and policy forms for residential property insurance does not reasonably exist; and

(3) any other relevant factor as determined by the commissioner.

(c) The commissioner shall determine which areas to designate as underserved under this section not less than once every six years.

(d) The commissioner shall conduct a study concerning the accuracy of current designations of underserved areas under this section for the purpose of increasing and improving access to insurance in those areas not less than once every six years.

SECTION 8.002. Subchapter F, Chapter 2251, Insurance Code, is amended by adding Section 2251.253 to read as follows:

Sec. 2251.253. REPORT. (a) The commissioner shall conduct a study concerning the impact of increasing the percentage of the total amount of premiums collected by insurers for residential property insurance under Section 2251.252.

(b) The commissioner shall report the results of the study in the biennial report required under Section 32.022.

(c) This section expires September 1, 2013.

ARTICLE 9. INDIVIDUAL HEALTH COVERAGE FOR CHILDREN

SECTION 9.001. Section 1502.002, Insurance Code, is amended to read as follows:

Sec. 1502.002. RULES. (a) The commissioner may adopt rules to implement this chapter, including rules necessary to:

(1) increase the availability of coverage to children younger than 19 years of age;

(2) establish an open enrollment period; and

(3) establish qualifying events as exceptions to the open enrollment period, including loss of coverage when a child becomes ineligible for coverage under the state child health plan.

(b) The commissioner may adopt rules on an emergency basis using the procedures established under Section 2001.034, Government Code.

(c) Notwithstanding Subsection (b), the commissioner is not required to make a finding under Section 2001.034(a), Government Code, before adopting rules on an emergency basis.

ARTICLE 10. ADJUSTER ADVISORY BOARD

SECTION 10.001. (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.

ARTICLE 11. LIMITED PROPERTY AND CASUALTY INSURANCE
LICENSES

SECTION 11.001. Section 4051.101(c), Insurance Code, is amended to read as follows:

(c) This section does not apply to a person who wrote for the previous calendar year:

(1) policies authorized by Chapter 911 for a farm mutual insurance company that generated, in the aggregate, less than \$50,000 in direct premium; ~~[or]~~

(2) industrial fire insurance policies that generated, in the aggregate, less than \$20,000 in direct premium; or

(3) policies authorized by Chapter 962 for an insurer that generated, in the aggregate, less than \$40,000 in direct premium.

ARTICLE 12. PROHIBITION OF COERCION OF PRACTITIONERS BY
MANAGED CARE PLANS

SECTION 12.001. 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; ~~[or]~~

(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 12.002. The change in law made by Section 12.001 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.

ARTICLE 13. CLAIMS REPORTING BY INSURERS

SECTION 13.001. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 563 to read as follows:

CHAPTER 563. PRACTICES RELATING TO CLAIMS REPORTING

Sec. 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.

ARTICLE 14. SURETY BONDS AND RELATED INSTRUMENTS

SECTION 14.001. 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 14.002. Section 3503.004(b), Insurance Code, is repealed.

ARTICLE 15. RESIDENTIAL FIRE ALARM TECHNICIANS

SECTION 15.001. Section 6002.158(e), Insurance Code, is amended to read as follows:

(e) The curriculum for a residential fire alarm technician course must consist of at least seven [~~eight~~] hours of instruction on installing, servicing, and maintaining single-family and two-family residential fire alarm systems as defined by National Fire Protection Standard No. 72 and an examination on National Fire Protection Standard No. 72 for which at least one hour is allocated for completion. The examination must consist of at least 25 questions, and an applicant must accurately answer at least 80 percent of the questions to pass the examination.

SECTION 15.002. The changes in law made by this Act to Section 6002.158, Insurance Code, apply only to an application for approval or renewal of approval of a training school submitted to the state fire marshal on or after the

effective date of this Act. An application submitted 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.

ARTICLE 16. TRANSITION; EFFECTIVE DATE

SECTION 16.001. Except as otherwise provided by this Act, this Act applies only to an insurance policy, contract, or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 2012. A policy, contract, or evidence of coverage 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.

SECTION 16.002. This Act takes effect September 1, 2011.

Representative L. Taylor moved to adopt the conference committee report on **HB 1951**.

The motion to adopt the conference committee report on **HB 1951** prevailed by (Record 1657): 143 Yeas, 5 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anderson, C.; Anderson, R.; Aycock; 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; 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; Lucio; 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; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Anchia; Deshotel; Eiland; Marquez; Taylor, V.

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

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1657. I intended to vote no.

Castro

I was shown voting yes on Record No. 1657. I intended to vote no.

Hunter

SB 563 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Torres submitted the conference committee report on **SB 563**.

Representative Torres moved to adopt the conference committee report on **SB 563**.

The motion to adopt the conference committee report on **SB 563** prevailed by (Record 1658): 148 Yeas, 0 Nays, 2 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; 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; Lucio; 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; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

SB 773 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the conference committee report on **SB 773**.

Representative Gallego moved to adopt the conference committee report on **SB 773**.

The motion to adopt the conference committee report on **SB 773** prevailed by (Record 1659): 109 Yeas, 37 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Aycock; Beck; Bohac; Branch; Brown; Burnam; Callegari; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hardcastle; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Lavender; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon;

Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley.

Nays — Anderson, C.; Anderson, R.; Berman; Bonnen; Burkett; Button; Cain; Carter; Darby; Elkins; Flynn; Geren; Hamilton; Hancock; Harless; Harper-Brown; Howard, C.; Hughes; King, P.; Kolkhorst; Laubenberg; Legler; Lewis; Madden; Parker; Paxton; Peña; Riddle; Ritter; Schwertner; Sheets; Simpson; Solomons; Taylor, V.; Workman; Zedler; Zerwas.

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

Absent — Driver; Menendez.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1659. I intended to vote yes.

Bonnen

I was shown voting yes on Record No. 1659. I intended to vote no.

Creighton

I was shown voting no on Record No. 1659. I intended to vote yes.

Darby

I was shown voting no on Record No. 1659. I intended to vote yes.

Harless

I was shown voting no on Record No. 1659. I intended to vote yes.

Zedler

HB 1711 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Davis submitted the following conference committee report on **HB 1711**:

Austin, Texas, May 27, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1711** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Jackson
Eltife
Huffman
Lucio

J. Davis
R. Anderson
Hardcastle

Williams

On the part of the senate

On the part of the house

HB 1711, A bill to be entitled An Act relating to disaster remediation contracts.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 57 to read as follows:

CHAPTER 57. DISASTER REMEDIATION CONTRACTS

Sec. 57.001. DEFINITIONS. In this chapter:

(1) "Disaster remediation" means the removal, cleaning, sanitizing, demolition, reconstruction, or other treatment of improvements to real property performed because of damage or destruction to that property caused by a natural disaster.

(2) "Disaster remediation contractor" means a person who engages in disaster remediation for compensation, other than a person who has a permit, license, registration, or other authorization from the Texas Commission on Environmental Quality for the collection, transportation, treatment, storage, processing, or disposal of solid waste.

(3) "Natural disaster" means the occurrence of widespread or severe damage, injury, or loss of life or property related to any natural cause, including fire, flood, earthquake, wind, storm, or wave action, that results in a disaster declaration by the governor under Chapter 418, Government Code.

(4) "Person" means an individual, corporation, trust, partnership, association, or other private legal entity.

Sec. 57.002. APPLICABILITY OF CHAPTER. (a) Except as provided by Subsection (b), this chapter applies to a contract between a person and a disaster remediation contractor for the performance of disaster remediation services on property owned or leased by the person.

(b) This chapter does not apply to a contract between a person and a disaster remediation contractor for the performance of disaster remediation services on property owned or leased by the person if the contractor maintains for at least one year preceding the date of the contract a physical business address in:

(1) the county in which the property is located; or

(2) a county adjacent to the county in which the property is located.

Sec. 57.003. DISASTER REMEDIATION CONTRACT REQUIREMENTS; CERTAIN CONDUCT PROHIBITED. (a) A contract subject to this chapter must be in writing.

(b) A disaster remediation contractor:

(1) may not require a person to make a full or partial payment under a contract before the contractor begins work;

(2) may not require that the amount of any partial payment under the contract exceed an amount reasonably proportionate to the work performed, including any materials delivered; and

(3) shall include in any contract for disaster remediation services the following statement in conspicuous, boldfaced type of at least 10 points in size: "This contract is subject to Chapter 57, Business & Commerce Code. A

contractor may not require a full or partial payment before the contractor begins work and may not require partial payments in an amount that exceeds an amount reasonably proportionate to the work performed, including any materials delivered."

Sec. 57.004. DECEPTIVE TRADE PRACTICE. A violation of this chapter by a disaster remediation contractor is a false, misleading, or deceptive act or practice as defined by Section 17.46(b), and any remedy under Subchapter E, Chapter 17, is available for a violation of this chapter.

Sec. 57.005. WAIVER OF CHAPTER PROHIBITED. A person may not waive this chapter by contract or other means. A purported waiver of this chapter is void.

SECTION 2. The change in law made by this Act applies only to a contract for the performance of disaster remediation services that is entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.

Representative J. Davis moved to adopt the conference committee report on **HB 1711**.

The motion to adopt the conference committee report on **HB 1711** prevailed by (Record 1660): 146 Yeas, 1 Nays, 2 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; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; 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; Lucio; 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; 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 — Davis, S.

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

Absent — Rodriguez.

SB 747 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hamilton submitted the conference committee report on **SB 747**.

Representative Hamilton moved to adopt the conference committee report on **SB 747**.

The motion to adopt the conference committee report on **SB 747** prevailed by (Record 1661): 148 Yeas, 0 Nays, 2 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; 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; Lucio; 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; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

SB 1534 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Davis submitted the conference committee report on **SB 1534**.

Representative J. Davis moved to adopt the conference committee report on **SB 1534**.

The motion to adopt the conference committee report on **SB 1534** prevailed by (Record 1662): 147 Yeas, 0 Nays, 2 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; 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.; 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; Lucio; 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; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent — Gonzalez.

**HR 2558 - ADOPTED
(by Pitts)**

The following privileged resolution was laid before the house:

HR 2558, suspending limitations on conference committee jurisdiction
HB 1.

HR 2558 - POINT OF ORDER

Representative Y. Davis raised a point of order against further consideration of **HR 2558** under Rule 13, Section 9 of the House Rules on the grounds that text of the bill that was not in disagreement between the two houses was changed.

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. 3 and 4).

(Speaker in the chair)

HR 2558 - (consideration continued)

The speaker overruled the point of order.

PARLIAMENTARY INQUIRY

REPRESENTATIVE Y. DAVIS: And I appreciate your ruling on this. I don't necessarily agree, but I need to ask a question about it. In the rule book it says that in this section it should be "exact words," and now what you're saying is that it's not required to have the exact language in it? If you look at—it says, "This rule shall be strictly construed by the presiding officer in each house to achieve these purposes." So, over on Section G, number 1, it says "the exact language of the matter or matters proposed to be considered" needs to be in the resolution. And so, the parliamentarian acknowledges that this is different. And it says that the chair is supposed to rule with strict—construed strictly. I'm just trying to understand how we make this determination, as that's not a good point, when, in fact, we realize it's not exact language. And, if you acknowledge that it's not the

correct language, then the question is, are you making this ruling without considering the rules where it says it should be strictly construed? Are you just ignoring that part of the rule?

SPEAKER: Ms. Davis, the chair has reviewed your point of order, the resolution, and the bill and finds that it's in compliance with Rule 13, Section 9.

Y. DAVIS: And I was just speaking specifically about—I get that you've overruled me, and I appreciate that you are reiterating that—I just wanted to understand about the limitations on jurisdiction. It says that this rule should be strictly construed. My question is, based on this determination and your ruling, are you acknowledging, or would you acknowledge that you're not construing—using strict compliance with this rule?

SPEAKER: No, ma'am.

Y. DAVIS: No, ma'am, sir? No, ma'am, you're not? I don't even understand what no ma'am meant, I'm sorry.

SPEAKER: We are construing it according to Rule 13, Section 9.

Y. DAVIS: And the last question that I'd like to ask is it says "the exact language" of the matter or matter supposed to be considered. We know that was not in the resolution exactly. So are you not recognizing or acknowledging that rule that says the exact language has to be in the resolution?

SPEAKER: No, ma'am. We are not acknowledging that.

Y. DAVIS: Parliamentary inquiry—your lack of acknowledgement does not necessarily mean it's not that way though, is that correct?

SPEAKER: Ms. Davis, the chair has ruled, and the chair would be happy to move that your comments be place in the journal.

REMARKS ORDERED PRINTED

The speaker ordered printed remarks between Representative Y. Davis and the speaker.

The motion prevailed.

HR 2558 was adopted by (Record 1663): 100 Yeas, 46 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; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; McClendon; 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.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Present, not voting — Mr. Speaker(C).

Absent — Guillen; Menendez; Pickett.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1663. I intended to vote no.

McClendon

HB 1 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the following conference committee report on **HB 1**:

Austin, Texas, May 26, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ogden
Duncan
Hinojosa
Nelson
Williams

Pitts
Crownover
Otto
Zerwas

On the part of the senate

On the part of the house

HB 1, General Appropriations Bill.

HB 1 - REMARKS

REPRESENTATIVE REYNOLDS: Members, before I go any further, I want to first of all say that we should all commend Chairman Pitts and the conference committee for the hard work, the sacrifice, the diligence, the hours they expended on **HB 1**. So, Chairman Pitts, and the conference committee, thank you very much.

Now, I also know that as a freshman member, it's often said that it's better to be seen than heard. And while I may partially agree with that, when I saw **HB 1** there was no way I could remain in my seat and remain silent with the type of budget cuts that we were about to undertake. Our constituents elected us to represent our district by setting priorities, and by doing what is in the best interest of our state. We aren't here to cater to any special interest groups, and yes, that does include the Tea Party. We are here to govern and be statesmen. The 82nd Legislative Session has been a challenging one due to the budget crisis we find ourselves in. The challenge of working through problems, however, has been compounded by the refusal by some members to step up to the plate and make tough decisions that are in the best interest of our state. We have had all session to deal with the crippling multibillion dollar shortfall. But instead of dealing head on with the real financial problems of the state, we have chosen to shift the attention to divisive, hot-button, partisan issues—like voter ID, sanctuary cities, the sonogram bill, and yes, the so-called tort reform—issues that have no bearing upon what Texans care about the most.

As this session approaches an end—we have two days left—we are finally talking about school finance. Why wasn't this declared an emergency item? Rather than taking a hard look at the long-term solutions for our fiscal crisis, we chose instead to look at short-term solutions and gimmicks using band-aids and chewing gum, along with Enron-style accounting, to get us through the session. We are in essence kicking the can down the road. The house version of the budget, **HB 1**, passed earlier in this session, was held as a victory by many conservatives and Tea Party advocates. However, those cries of victory came to a screeching halt when the senate adopted a version of the bill that spent \$4 billion more on education over the next biennium.

One important issue to keep in mind is how we ended up in this situation in the first place. An ill-designed tax swap in 2006, which reduced property taxes by replacing the franchise tax on businesses, has fallen far short on projections creating a structural deficit that accounts for about a third of the deficit within our budget. The Legislative Budget Board, an independent nonpartisan arm of the state, predicts that the proposed house budget would result in a projected job loss of thousands of Texas jobs, including teachers and state employees. The practical reality of the house's \$4 billion cut to public education is a reduction of approximately \$450 per pupil in funding, which equates roughly a \$10,000 cut to each public school classroom. It ignores the 160,000 new kids who will enroll in Texas schools over the next two years, and I believe that's what Chairman Gallego was trying to make a point of. While the compromise with the senate helps provide additional funds for our schools, it still does not help the state meet its obligation to adequately fund public education. The leadership continues to reiterate that we cannot use the rainy day fund, the state's savings account created by a constitutional amendment in 1988, for financial situations like the present one. This is despite the fact that the same legislature appropriated all of the rainy day fund in 1991 and 2005. As of today, the fund contains upwards to \$6 billion in reserve.

Extreme cuts to public education pose a great threat to the future prosperity of our state. We need to make Texas schoolchildren a priority, and it is economically shortsighted to increase class sizes, fire teachers, and under-fund classrooms. Education is the key to innovation, and the technology jobs of tomorrow require students with strong backgrounds in math and science to compete in the 21st century global economy. The result of drastic budget cuts here will be closing of neighborhood schools, the elimination of art and vocational programs, and the elimination of access to prekindergarten programs for thousands of children. Currently, Texas ranks 44th out of 50 states in per-pupil spending—44 out of 50. And with this budget, we are likely to be dead last. As of today, we are currently ranked near the bottom in graduation rate, and at the top in dropout rates. We are last in our nation in the percent of our population over the age of 25 with a high school diploma. And we have an ever widening teacher gap. The cuts to education stands to further put our kids at risk, accelerate the path to failure, and will drive industry out of the state in the absence of an educated workforce. Any attempt to move forward imbalances the state budget without using the rainy day fund creates a doomsday scenario; it's unrealistic and it's not representative of a government that places value on securing the future of our children. It is incumbent upon us, the state legislators, to move forth by tapping the state's savings account and make more resources available to fund public education. The most recent revenue estimates by the comptroller predict an additional \$1.2 billion will be available to the state over the next biennium, and forecasts an additional \$300 million will be available for the rainy day fund for appropriation. If we're going to do what's just and right, we must close corporate tax loopholes and make sure businesses pay their share. We have to uphold our statutory obligations to properly fund our state's programs and not shortchange our future opportunities for development and business growth. Finally, we must implement limited responsible cuts to the budget, protect important priorities like public education and jobs, and avoid a deepening economic recession by expending more of the rainy day fund.

Members, we're all here to represent our districts, and I totally, wholeheartedly agree with Chairman Pitts that this is not a partisan issue. Public education is a fundamental issue. It doesn't matter if you're a democrat or if you're a republican, if you come from an urban school district or a rural school district, or you live in a suburban area. Public education is, and should be, our number one priority. And this budget doesn't do that, because we have available funds in the rainy day to appropriate to minimize the cuts we make to public education. One of the reasons why we're gaining four congressional seats is because of the explosive growth the State of Texas has had over the last 10 years, and we are not accounting for that growth in this budget. And that is the reason why I urge you to vote no.

REPRESENTATIVE OTTO: Members, this is my fourth session in the Texas House, so about half of you have been here longer than I have, witnessed more things on this floor than I have, and about half of you haven't. But I recall when I first came here in 2005, this legislature two years prior had come through a \$10 billion shortfall, and they were notified about it, I think, about the week they

showed up. In 2005, when we came back, the economy in Texas was doing well and we were actually able to reverse some of the deferrals that had been used—not all of them, but a great majority of them. In 2007, we came back to record revenues in this state. Sales tax were growing at double-digit rates year over year. Times were good. In 2009, just last session, we were in the beginnings of what has become the worst recession since the Great Depression, as everyone has said. We also received about \$12 billion, roughly, in federal stimulus money that was spread throughout the budget and allowed us not to have to make the hard decisions that now face us today. If you look at what's being reduced, there's an \$18 billion drop in federal funds in this budget. About \$12 billion of that obviously is probably the stimulus money that's not here this time. The other part is, not only have we lost the higher FMAP on Article II, Dr. Zerwas tells me we're even now below where we were because we're cross-bearing at a rate that some of the other states are not. So our FMAP has actually dropped percentage-wise to the state dollars or GR dollars that we put up.

This is my third session sitting on Appropriations. This is, by far, the most difficult budget that any of us on Appropriations has worked on. All of us would like to see public education at a higher level of funding. What the house accomplished in conference, in my opinion, is the best we can do on the priorities that are important to this house with the resources we have. My constituents sent me here to make the hard decisions, just like they sent you here. They also sent me here with the expectation that we would live within our means. I remember Fed Chairman Bernanke at the Southern Legislative Conference this past spring warning states that you had better find new sources of revenue for your rainy day fund because the volatility that we were beginning to see he expected to continue.

All of us hope we are coming out of this recession; there are positive signs that we are coming out of this recession. But there are also fears on the horizon about interest rates and what will we do if the economy turns downward. I think that this budget is a prudent budget. It's one that I can support, and it's one that I can go back home and explain to my constituents, and that is why I will be voting for **HB 1**.

REPRESENTATIVE Y. DAVIS: Texas and Texans deserve best. I raised a point of order on **HR 2258** to try to stop the bleeding. While I knew it was the time of session and I knew that it was going to be overruled, I thought it was important to raise it, because I think we really need to take a minute to look at what we're doing as Texans. There's no question that we had limited resources; there's no question that we had to make hard choices as legislators. I filed several bills during the session to help raise revenue because I came with the same expectations that every member did: how do we make Texas stronger; how do we make it better; how do we make Texans stronger; and how do we get the best that they have to offer. Those bills were not considered because someone made a decision that we would not have new revenue on the table. While I understand that we probably pass bills that have about \$100 million worth of fees on to the citizens of this state, we keep saying we're not raising revenue, but we're seeing them to death.

We talked about not spending the rainy day fund, we need to hold and preserve some money from the rainy day fund. It's flooding; I don't know why everyone's not clear about that. It's flooding and we need to be using those monies so that we can save the integrity of our state. And I just rise and say to you—I know that many people say well, why did you raise a point of order, and I just saw myself limited in terms of what options are available to stop the pain.

You know, I heard a lot of folks talk about less government is better, less government is what we should be aspiring for. Well, I took a new tune: less government means less pain to our citizens. And so I submit to you that Texas and Texans deserve better.

HB 1 provides nothing but pain, and we ought to be ashamed that we could not figure out better ways to get there. You know, in 2006, the comptroller told us that we could expect this fiasco, this fiscal fiasco. We knew we were dealing with a structural deficit in our budget. We knew that. Everybody that was here during that time, they're not surprised that there's a structural deficit. That's never been a question that there's been a structural deficit. We voted on it. I voted no, but many of you passed it on, and so it faces us today.

We talk about the taxes and exemptions that are out there. We say that we don't want to raise taxes, but in fact, we've given those exemptions. We are reluctant to just review whether or not there's a value to the State of Texas. But we pass pain over to the citizens. And I would just submit to you that as you vote for **HB 1**—and I'll suspect that it'll pass without my vote obviously—I think that we really ought to stop and take a real look at what we're doing to people, what we're doing to Texas, what we're doing to Texans. And we've got to ask ourselves if this is the best we can do. And if you think this is the best we can do, you're going to vote for this bill, I suspect. But if you think that we can do better by Texas, that Texas deserves more from us, and that less government can mean less pain, then you'll join me in voting no on this bill. This is not, this is not a budget that we can be proud of. We ought not put our children, our seniors, our services—we ought not make them secondary. We ought to be proud of what we think Texas is about. But how can we be proud and undermine them by not funding it to the level it needs to be funded so that, in fact, we provide the services our citizens need? How can we go away knowing that we cut \$15 billion and we left corporations making billions of dollars from not paying taxes while citizens are struggling to pay their taxes? How can we be comfortable with that inequity? How can we say that we are doing the best we can when we're leaving money in the account that's called the rainy day fund and not filling those gaps in our budget for children and for seniors, for education, for scholarships? How can we be comfortable with that? So I would just tell you that while I did my best by raising a point of order and stopping it, thinking less government would mean less pain, I accept that we have to vote on this budget and I'll accept that it'll probably pass. I will tell you, members, that many of you, when you get home, will be asked the question couldn't we do better. And I hope you'll take some time to think about it so that next year and next time when we come back, if it's in July or August, we make a commitment to govern Texas like we really are

proud of it and to govern Texas like we want it to be this great state that we often talk about, and to support those citizens that we call our constituents in a way that we'd have them support us.

REPRESENTATIVE CROWNOVER: I would like to agree with everything that Representative Otto said. I was on Appropriations in 2003 and that was my first bite at that interesting apple of appropriations, and it was a scary time for all of us. As we walked through that, the process, there were articles in the paper about how Texas was just going to fall into a slump. Everyone was going to move away from Texas and there was going to be nothing left but old, dying people. You know the story; that didn't happen. We held firm, we did the right thing, we steadied the course, and we were able to reap the benefits.

Here we are, 2011, in an unprecedented—by anyone's terms—unprecedented economic times, and we are trying to adjust and are trying to do the smart, wise, prudent thing in these unprecedented times. I'm looking here at the handout. All funds will be cut by 8.1 percent. Our general revenue will be cut by two percent, and I want you to sit and think. How many of you have been in businesses that had a bad year? Have you ever had a year where you were ending up with less than 50 percent of the revenue you thought was coming in? I bet there are a lot of people here who have done that, and what you do is you buckle up and make it work with every ounce of your body. I know my church has had challenges, and there are programs that we have not been able to do that we wished we could have done. We look forward to restoring those as soon as possible. So, I think I have to applaud Chairman Pitts and the hard work the whole Appropriations Committee has done. I think this is the right thing for Texas, and I will be voting aye.

REPRESENTATIVE GIDDINGS: And before I begin, certainly like everyone else here, I applaud my good friend Jim Pitts. We're not just friends in session, we are friends out of session as well, and I know his heart. I know how conflicted he is. And I'd like to applaud, as well, the work of all of the members of the Appropriations Committee, and likely at the end of this bill, after I vote, I will be delighted to stand up and give him a nice round of applause, along with the members of the Appropriations Committee, all who have worked extremely hard.

Like most of you, I have absolutely no appetite for a special session. At the same time, I have even less of an appetite to have our state lower standards in education. Education is a must—it has always been a priority for us here in the State of Texas. Right in our constitution in Article VII, Section 1, we are directed to make suitable decisions for the support and the maintenance of our public schools. And I don't think we're doing this in this bill. I don't believe we are making suitable provisions. For public schools, we are cutting the per pupil rate by about \$400. As a result, Texas, which already ranks 43rd in per-pupil spending, will likely fall even lower. The shortchanging of our school children is, in my opinion, irresponsible and reckless.

In higher education, a near 30 percent reduction in the amount of students receiving TEXAS Grants is nothing less than appalling. Thankfully, we will renew grants for the students who currently receive them, but we are drastically

reducing the number of new recipients. To know that we are facing and placing a financial burden on some 40,000 working class families across the state who want their children to achieve and surpass them in life, and to support this budget is not only irresponsible, as far as I'm concerned, but unconscionable. These cuts will prevent students from being prepared and productive citizens and leading the kind of lives their parents dreamed for them.

I think it's sometimes believed in this house that most of these TEXAS Grants must go to students who live in democratic districts. Well that's not exactly the case. I speak and I work to make these grants available to students throughout the State of Texas. In District 109, which I represent, in 2009, there were 244 students who received TEXAS Grants. If I go down the list and look at some of the other districts we think of as republican, because they are headed up by republican members of the house, we would see that District 5—528 students in that district. And again, District 109 is 244. We would see District 57, Representative Beck, with 786 students in that district. My district, 244; District 113, Representative Driver, 629. My district, 244; Jim Jackson, District 115, 569. My district, 244; Jim Landtroop, District 85, 630. And I could go on and on and on, but the point to be made is these are all our children. And it shouldn't matter whether they live in districts that are so-called democratic or republican. They are all our children. And it's in our best interest that all of these children, and these students, have an opportunity to get a good education. And what makes this difficult is that we won't see the harm we have done right away as we slam the door on these students. Things will appear to be fine on paper, but if we do not reject these invasive cuts to our education system, once the problem becomes clear to us, we will have lost a whole generation of Texans. Most of us know this bill is fraught with "funny money." Why are we depending on waivers in Health and Human Services that we have been denied? The economic stabilization fund was put in place for a time such as this: when working families have wage earners who have lost their jobs when unemployment is high. You may say unemployment is only around eight percent in our state. Well, guess what—to a person who is unemployed through no fault of their own—and who wants to work—unemployment for that person is 100 percent.

We talk a lot on the house floor, and I would never reveal what house members say to one another on this house floor, but I will say that the score cards are causing some of us to make really bad decisions. But our legacy—and that dash between the years we came and the year you left—won't reflect the score card. Our legacy will center around the folks who want to go to college and we slammed the door in their faces. The children whose exposure has been limited, and they need pre-k to catch up, and we said "no." That will be our legacy, and the score card can't erase that.

The words of Dr. King have been used on this floor many times before, and to paraphrase what he said, it is not what we do in moments of convenience, but what we do in moments of challenge and controversy. He finally says, in that famous quote, "Conscience always asks the question—is it right?" Is it the truth? And I trust the conscience of each and every one of the members of this house. It is those people outside this chamber with the score cards that I don't trust. My

request is that each and every one of us simply vote our conscience, and I know we'll get it right if we simply vote our conscience. The people who send us here deserve that, and that is all that they ask for.

REPRESENTATIVE FARRAR: Mr. Speaker, members, we keep hearing that public education, and other areas in the budget, are getting more money, and I guess you could say that. You could say that if you are comparing it to the original version of **HB 1**. It might also be true if you are including federal stimulus dollars as GR, which we are also doing. It might also be true if you think that a responsible budget does not look forward to enrollment growth in public education, as we are not. To growth in colleges and universities, community colleges, Medicaid case loads, and Department of Family and Protective Services caseloads—if you're not accounting for those things, you may think, yeah, we're saving money, but we're not, because we're not looking forward. You wouldn't say, for instance, that your own personal budget is balanced if you deferred your car payments from this month to next month. Because, what happens next month? You owe this month and next month's next month and that's sort of what we're doing with this budget.

Let me share with you some of the accounting tricks that we're dealing with in **HB 1**. We've—some have been mentioned before, and I'm sorry if I'm repeating some—but we've got \$4.8 billion in unfunded general revenue for Medicaid. We're only funding Medicaid for 20 months. We are deferring \$2.3 billion of public education dollars into the next budget. We are also speculating \$800 million worth of property taxes will return to us at greater than projected levels. We're using GR dedicated dollars for general revenue, but let me tell you what we're going to face in two years. We've heard this before, *deja vu* all over again, well, we'll face that, but it's going to be on steroids, because what we're doing is just making the minimum payment today. What we'll face between now and the next two years is a shift. It's going to be a shift to the local taxpayer. And so, what we're doing to our constituents is, instead of spreading the burden over the entire state, our local taxpayers will be paying for things all by themselves. You know, I just wish we'd all be straight with the people of Texas. Nobody likes taxes, and we all—I guess the majority of folks here campaign on no new taxes, and so on. But here's the thing—things our constituents want do cost money. I saw a bumper sticker one time, maybe you've seen it before, that if you think public education is expensive, try not spending on it. Our constituents expect us to be good stewards of public dollars, and just because we don't make an expenditure, just because we cut something doesn't mean that the cost goes away.

It's our duty to spend money wisely. To spend it up front, where it's cheaper, than to spend it on the back end where it's more expensive, and unfortunately, that's what we continue to do. We need to have the courage to have sound fiscal policy, which we are not doing here in **HB 1**. I would encourage you to vote no on **HB 1**.

REPRESENTATIVE CASTRO: Mr. Speaker and members, the budget that we're about to vote on is the worst Texas budget in more than a generation. I asked a question a while ago of Chairman Pitts about how we arrived at this

budget. Again and again I've heard over the course of this session this idea that we're living within our means. And I would submit to you that this budget is not about living within our means, but more a budget that's trapped by a certain ideology. We have, during this session, the legislative tools to make another choice. That doesn't necessarily mean that you have to raise taxes, which is why I asked the question about fees, I asked a question about the clothing tax exemption.

I find it odd that part of the justification for the budget—for cutting \$4 billion from public education—is that is what the people of Texas asked us to do. If you sincerely believe that, if you believe that the people who elected you in November sent you down here to cut \$4 billion from their public schools and a billion dollars from higher education, then I hope that, as the fall, and the spring, and the summer, and the next fall come along, that when somebody in your district comes up to you—a middle-aged woman who tells you that her mom can't afford to go to a nursing home, and asks you why that is, that you will look her dead-straight in the eye and your answer will be, "Because that's what you sent me here to do. That's why I passed that budget." Or, when a 40-year-old mother tells you that she and her husband are having trouble sending their kid to college because they can't afford it, because tuition has gone up about 75 percent or more at public universities since 2003—and this budget further cuts financial aid and cuts funded universities—and she asks you why that is, I hope that you'll have the same bravado that you will when you vote in a few minutes, and you'll say, "Because that's what you elected me to do. You elected me to cut your son's financial aid, and that's why I did it." I don't believe that's why they sent us down here, and I don't believe that that was the message they were sending us. That is an ideology. That is not practically what people want in the State of Texas, and we have the tools to do something different and refuse to do it.

Others have mentioned that we are, if not the fastest growing state, one of the fastest growing states in the nation; in fact, the governor often brags about that. And if he enters the race for president, I'm sure he'll brag about it even more—that we've recruited in the last 10 years, 700,000 jobs to Texas. But, there's some context to that fact, and I doubt that those facts—those lesser-known facts—will be discussed by Rick Perry. And that is, of all those jobs we've created, including the well-paying ones, that a significant portion of those jobs have gone to people who have moved here from out of state, who have moved here from California, or Colorado, or other places on the East Coast. And the reason for that, I believe, in big part, is because we aren't building what I've called that infrastructure of opportunity. We're not funding our public schools and our universities properly. In other words, we aren't preparing and training our own people in Texas to assume these new jobs that are being created. So the jobs come to us and they're filled by other folks, and with a budget like this, that will continue to happen.

I'm also disappointed that there weren't other ways that we considered raising revenue. I know that many of you from both parties support gaming. Gaming is not a mandatory course of raising revenue, it's still a voluntary thing. That never had a serious discussion in this legislative session. All around, this

budget is both a betrayal of the public's trust, and a failure at its highest level. And for that reason, when it passes today, it will be the worst budget in a generation.

REPRESENTATIVE COLEMAN: You know, this is tough for everyone, and no one wants to go home knowing that the budget isn't good enough for their constituents. I just want to talk about a couple of things. One is that if you take this budget and you look at current services the state should be spending, to maintain services, \$99 billion in general revenue. Instead we're spending \$80.7 billion in general revenue, which means this budget is \$18.3 billion short in 2012 and 2013. And I want to make that clear, because when we talk about whether or not we are funding something appropriately we have to look at the people who need the funding to do the things that they have to do. What's common in this budget is the league that the people actually need the services, now and in the future, are not included in this budget. The growth of the State of Texas is not included in this budget. So, when this budget goes forward it doesn't include any growth of any people who will be living in this state in the coming years. And that's the problem, because you can't stop people, you can't stop growth.

The other thing is that we are deferring \$10 billion into the next biennium with a structural shortfall, what I like to call it, which is \$10 billion. We are looking at starting the 2013 session with a \$20 billion plus shortfall. That's exactly where we are today. All of you know when the LBB, the speaker, the lieutenant governor, and the governor all looked at this session, and they started in May looking at putting together the legislative appropriation request, it needed to be funded. They sent out letters, first thing lets do a five percent cut, and then a 10 percent cut, and that added up. That's a 15 percent cut. So, a year from now in May, the amount of cuts in this budget are going to grow, because a letter is going to go out that says, "Agencies, cut your budget by five percent across the board. Agencies, oh, that's not enough, cut your budget by 10 percent across the board," so that the amount of money that is short coming in to the beginning of the next biennium that shortfall—so that shortfall can be brought down. These cuts are just hidden. They're just pushed off until the start of the calculation of what's needed to fund the next budget. Now, when someone says we are actually doing better, no, we are actually doing worse, because most of the cuts that were asked for during the making of this budget, those across-the-board cuts, were cut from the baseline of this budget. So there are cuts, they are there. As a matter of fact, I think I saw a press release saying \$15.5 billion in cuts, isn't that wonderful?

Now, just a few more things. It's really more than a billion dollars cut to higher ed, because the state needed 700 million more dollars to actually fund higher ed appropriately. And so, the cut of 332 added to that 700 million is a billion. And when that billion is not appropriated, that means tuition will go up. And we've calculated, we believe tuition will go up over a thousand dollars a year, and if you just held that constant over the next five years, that's a \$5,000 increase in sending our kids to college. And most people would say this is about poor kids. No, this is about our kids, because the money that is actually saved that is added to give out in scholarships through increases in tuition, somebody

making 60 or 80 thousand dollars a year, which you all know is not a lot of money, has to pay full freight, and they can get no aid from anywhere. Try sending three kids to college at a total cost of about \$150,000, maybe more, over four years. That's \$450,000 to a state school where you live. So, this just continues those trends.

I guess the last thing—when you look at people with mental illness, and I talk about this a lot, we have an opportunity to fill in all of the cuts to people with mental illness, but we are not going to take that opportunity to reduce the number of people who would not be cared for under this budget, and that disappoints me. That really, really disappoints me, because even Ronald Reagan said they are truly needy, and this budget doesn't even fit his standards. So, I end with—we can do better than this, we have done better than this, and in my 20 years here I've seen people rise to the occasion that would have been defeated at home because they actually did something different than what they were told. I've done that, too. I signed on a conference committee report that has **HB 5** in it, and I'm adamantly against that, but I signed on it anyway, because I think the overall bill is good. So, when I look at those people with grace, I think of Lieutenant Governor Ratliffe who went to do the things that made a difference to all Texans in every district, and he didn't fear for his political life when he did it. So, I'm going to vote no on this budget, but what I really think we ought to do is think about this over the interim, because, members, when you come back, and when we come back we'll be facing a \$20 billion plus shortfall, and the angst that you're going through today, I hope, will be the same angst we will all go through in the next session writing a budget for the next biennium following this one. I want to thank all the people who've done their good work. This is hard and this is not a reflection on them. It's a reflection on the times that we are in, and for all of us, I think we have to dig deep down inside and say, "What is important to us? What is important to the State of Texas, and can we do better?" I think we can.

REPRESENTATIVE ALONZO: Members, first of all, I would like to start off by saying Mr. Pitts is a nice guy. He really is a nice guy; I think he's a nice guy. But now, let's talk about the budget. You know, we hear that the reason the budget is the way it is, is because of November 2010. The reason the budget is the way it is, is because of election 2010. I remember, in 1993, I was told: you get elected, then you come here and make decisions. And I was told that 95 percent of what we do is not democrat or republican; it's the good for the State of Texas. And that 95 percent is the budget, so we have the election in November, then we come here.

And I kept hearing a lot, a lot, a lot, that the election said "cut, cut, cut." But then we had tons and tons of people come to this Capitol, have protests, have marches, make their comments, and have visits to our districts. And in that discussion, with people coming to the office, they said "no cuts, no cuts, no cuts, no cuts, no cuts." After they started hearing about what was going on, they came back and they would say "no cuts, no cuts, no cuts." People would come to my office—whether it was health care, whether it was education, with higher ed, they said "no cuts." I said, "See this sign? It says no cuts, but it's not me you have to convince, it's the rest of the folks in this Capitol," the rest of the folks in this

capitol. And they did; I think they did. They came to each one of us and they said "no cuts, no cuts, no cuts." I don't think we heard from anybody that said "cuts." In fact, the ones that were asking for cuts didn't even come, because they thought they had made that decision in November. But the people that did care about no cuts, no cuts, no cuts came to visit us. And you know, members, it's hard. It's hard to come, because it's a long way from El Paso. It's a long way from Dumas. It's a long way from Longview. It's a long way from Brownsville. It's a long way from El Paso. It's a long way from a lot of places.

But, my main topic is about the cuts. What does that mean? It means the family planning services are being cut by \$73 million—66 percent. It means chronic disease prevention programs are cut by 47 percent. It means HIV/STD prevention programs are cut by \$28.5 million. It means that we'll have \$5 billion in cuts for TEA. It means that 85,000 youth students will not be helped. They'll be cut. It means that \$4 billion for the Foundation School Program will be cut. It means that in higher ed over \$1 billion will be cut. So there's tons, and tons, and tons of cuts. But then the question becomes, do we have the resources? Do we have the resources? And the answer is yes, we have the resources. How and where do we get those resources? One, we have the rainy day fund. Now, in the discussion we would say we are not going to use the rainy day fund, but in the discussion is an example—when the wildfire happened, the governor said "that's a disaster, let's use the rainy day fund." Right? Right. But don't you think not funding 85,000 youth students is a disaster? Don't you think cutting \$4 billion for schools is a disaster? Don't you think cutting \$1 billion in higher ed is a disaster? Yes, it is, yes, it is, yes, it is.

I will terminate this conversation by saying don't forget, don't forget, don't forget. And we will say the decision was made in November, and to all of those that I know I told: you decide, we are just here because of you. Right now, we that are here believe that you out there wanted us to do the cuts. I think that you believe in no cuts, but that's out for you to decide, and the way that we are deciding is by elections. I will end by saying, one of our newspapers once said, "Texas needs leaders who value fiscal austerity, low taxes, and limited government, but we also need those who recognize the fundamental: such public schools and public college aid can't be sacrificed without damaging every aspect of our state and future."

REPRESENTATIVE VILLARREAL: I want to also first recognize the efforts of our chairman of Appropriations, Mr. Pitts; the speaker, members of the conference committee, and all their staff. I know this in an effort that takes a lot of people, it involves a lot of time, and they've put in a lot of work.

I want to make three points very clearly. This budget is a betrayal of Texas families, especially women—especially women and children. Number two, because of this budget, Texas will lose jobs today, and worst of all, it is going to put us in a weaker position to compete for jobs in the future because of the less-educated and less-skilled workforce. Finally, this legislature had other options. We had other choices that we could have made, but the legislature failed to have the courage to do what's right for all of Texas.

The budget cuts will have a disproportionate impact on women. There will be millions of women harmed by this budget. Here is one woman's story as she wrote in a letter to me: "My name is Danielle Hernandez. I reside in San Antonio, Texas. I'm a single mom, an employee, and a full-time college student. I attend Our Lady of the Lake where I am pursuing my teaching degree in special education. I'm going to school in order to provide a better life for my son. I'm aware that Tuition Equalization Grant funding and TEACH Grant funding may be decreased or eliminated. If there is no funding available, then I cannot continue my college education. Please help me be the first person in my family to obtain a college degree." She goes on to write, "My health has not been too good lately either, but I push myself to finish college in order to provide for my son with a more stable life. God bless." Danielle, I'm sorry to tell you that we did cut TEG and other state-funded college grants and scholarships. You may be one of the 43,000 Texans who will not receive help from the state to become a teacher. Even worse, this budget cuts education and thousands of jobs for teachers, which will make it harder for you to find employment once you do complete your college degree. Even worse still, the education your son is receiving, the quality of it, will be harmed—with fewer teachers, students, classrooms will obviously be more crowded. Please take care of your health as best as you can, because this legislature has also gutted women's health care and family planning services by 66 percent. When the house debated the budget in April, republican legislators spent hours attacking women's health and family planning services, and the women of Texas now have to live with those cuts. Basic, preventative health care that might have been there for you, will not be there for you, Danielle. Please, take care.

The legislature could have done more to protect innocent children from being hurt by this budget. Let me tell you a little story about a young lady named Kiera. She is three years old. She lives in Burleson, Texas. Her grandfather called me. He loves her so much, he wanted to tell me about her pre-K program that allowed her to mainstream with other three and four-year-olds. You see, little Kiera is suffering from Down Syndrome, she's living with Down Syndrome, but this public pre-K program has meant a lot to her. It's allowed her to advance in her social skills and her learning. As it stood then, the district would be eliminating full day pre-K for Kiera and her classmates as a direct result of this legislature planning to eliminate public pre-K grants, and, of course, cutting public education overall. Roger, if you're listening, I had hoped little Kiera and thousands of others would be spared. Unfortunately, this legislature failed to act. They will lose their access to full day pre-K. I wish we had used some of the rainy day fund for the next two years or cut back on some of the corporate tax giveaways to help your granddaughter. This legislature felt differently. Please try to find a way to provide Kiera the professional services she will need. As you know, if she does not receive them at an early age, because of her condition, she will live a much harder life.

The Brigidine Sisters of San Antonio wrote to me begging me to stop health care cuts for the elderly and to understand that they are not statistics. They are real people. They told me a special story about one of their own, Sister Winifred,

a woman who dedicated her whole life to caring for others. The sisters are very concerned for their Sister Winifred because their community is aging themselves, and if Sister Winifred loses her spot at the nursing home, they won't be able to take care of her properly and take her in. Sisters, if you're listening, we did make progress. However, I'm sorry to inform you that this budget leaves in place the cut to nursing homes that was implemented last year, and cuts in our overall health care budget are to the tune of 30 percent. Please prepare for the worst, sisters, because in 2013, our health care budget that makes payments to nursing homes and other health care providers runs out four months early.

You see, this budget is hard on women in a lot of ways. If the state is not going to be there for vulnerable children and elderly, it will most likely be women who pick up the pieces, who will have to change their lives dramatically to step in. Carol Poore has an 83-year-old mother who lives in an Alzheimer's unit in Gunter, Texas. Carol said she would have to resign from her secretarial job to care for her mother if she were to be discharged. Neither of the women is able to pay for a nursing home or a home health care nurse.

Here's another story: Janet Amicarillo in San Antonio. She has a 23-year-old son with severe autism. He cannot communicate, sometimes he's aggressive. He requires 24-hour care. If he loses his group home slot, she too will have to leave her job, because she cannot afford to care for him and pay somebody else the professional services that he requires. She fears she'll be reliant on public assistance.

Let's now talk about jobs. Make no mistake, this budget will impact all of us, because it impacts our economy. The LBB, the keeper of the numbers that we rely on to estimate our price tags on every single budget, and to tell us how the numbers add up, they did their own, independent analysis and found that **HB 1**, earlier in the year, will cause the state to lose 335,000 jobs. An increase in unemployment of two percent. Now, I know there's a lot of debate on this report, but here is one thing that we cannot debate, and that is, those in control of state government should have seen this coming since 2007. In 2007, our budget shortfall was eight percent. You might ask, how do you pass a budget with an eight percent hole? Well, we used money from a prior budget cycle. A fund balance. The following budget cycle, when we got together in 2009, that hole nearly doubled in size to 14 percent. We were fortunate to have stimulus dollars to help us bridge this budget hole—or to fill this budget hole. Of course, in 2011, the hole, again, nearly doubled to 27 percent. How are we solving this now? Through a cuts-only and accounting tricks approach to the budget.

My friends, we can do better. We have to do better than this. Texas cannot grow itself out of this problem. It cannot, because our population is growing less educated. Our population is growing less educated because we are failing to educate them. It didn't have to be this way. The governor and the legislature made a choice to do this. They could have chosen to use some of the rainy day fund to pay for the next two years; they chose not to. They could have chosen to close tax loopholes and make all corporations pay their fair share; they chose not

to. They could have chosen to fix our broken business tax; they chose not to. Instead, this legislature chose to balance the budget on the backs of vulnerable Texans and women.

REPRESENTATIVE HOCHBERG: Thank you, members, for your patience, particularly since I think we all know the outcome. So, thank you for patiently listening as those of us on my side sort of get our last shot at this. And I don't have any charts, so—and I think Mr. Turner is coming up shortly after me, so you may end up forgetting what I have to say anyway.

But, first of all, it's been fascinating to watch the last couple of weeks. You know, when we stood up here and passed **HB 1** the first time, I said "this is your school finance vote, members. Don't get on my back when I lay out a plan based on these numbers, because this is your vote." And it's been fascinating watching the last few weeks as we've had these battling plans with my plan, or plans, or dozens of plans, or Mr. Eissler's first runs, or Mr. Eissler's second runs, and the senate's runs, the leadership's runs—and everybody running around with these runs saying, "Hey, Hochberg, this is unacceptable to my school district. Look, this other school district is losing less. This is unacceptable because the other school district's losing less." Well, if it's unacceptable for your school district, it should be unacceptable for the other school district and for every school district in here, and the only way you fix that, other than me taking from yours and you taking from me, is to put more in. And so, when you look at those school finance runs tonight, or tomorrow, or whenever, and you see that Mr. Smith's district may be losing more than Mr. Quintanilla's district, it's not just unacceptable to Mr. Smith's district, that we should take it from Mr. Quintanilla and give it to Mr. Smith. The reason is, if it's unacceptable, it's unacceptable because there's not enough money in the deal. And that could have been fixed pretty simply, logistically, because we're now to the point where the deficit in school funding is far less than the amount of money that is in the rainy day fund and that we anticipate to be in the rainy day fund. I'm convinced that those numbers are unacceptable to many of us, republican and democrat, and that's one reason for me not to vote for that aggregate number and not to vote for this budget.

But I think the bigger reason for me not to vote for it is that I fear that my friend Mr. Otto is correct. John has said many times we shouldn't use much more of the rainy day fund, or any more of the rainy day fund because we're going to come back and have a worse problem. I think he's right. I'm convinced he's right, because we can't even get back to this funding level without more revenue. We're at this funding level because we have used every trick in the book. If anyone has another one out there that we didn't use, bring it forward now. I think there are some people who would like to add it in on some conference report somewhere. I'm sure we could find a place for it. But we've practically used every trick in the book, and you can't use those tricks twice. So next time, let's just stay where we are. We're going to have to find new revenue to replace those tricks. Look at schools. Jimmie Don, you and I know that one of the first things we said was we could hold that August payment off to September. We've done that before, schools are pretty much okay with it, they get it, it is worth \$2 billion. We can't do it the next time, because it's already been deferred. So to just get

back where we are, we've got to find \$2 billion more just to pay for that trick. Oh, and by the way, somehow in the budget, Mr. Pitts, ya'll managed to call it \$2.3 billion, so the Foundation School Program is really short another \$300 million, because the 2.3 isn't the right number to use for that deferral. But, whether it's 2 or 2.3, it isn't going to be there next time.

Since we all seem to agree on that, republicans and democrats, what I'm disappointed about and what I can't figure out is why we've done nothing about that. Not a thing. We see the train coming, we're standing on the tracks. We're not telling anybody to slow down, we're not getting off the tracks. We're just, well, here it's coming, better save the rainy day fund, and we'll come back here next time with exactly the same problem only the money will be bigger and the tricks will be gone. And then—then what do we do? The fact that we haven't done anything convinces me that this is not a one-time budget cut—that it is the desire of this legislature to keep cutting and to keep going down further. If you want to see unacceptable school runs, they're going to start looking like the ones we looked at at the beginning of this when we were down 9.8.

This is a rich and wonderful state. It's a state that I love, it's the state of my birth. My parents took me away from this state for a number of years when I was a kid, but for the last 40 years I've been back here, and I came back and stayed back because this was a place where we could do anything. Texas was the biggest, then we learned about Sarah Palin and she had another state, but they're too far away. They're up there near Russia; we're still the biggest, as far as I'm concerned. We're the biggest, and we're the best, and we were the greatest, and we set our goals high. We reached for the stars, literally and figuratively. We built, with tax dollars, great institutions of higher education. We built, in the district I used to represent, the greatest cancer center perhaps in the world. I like to think it's number one. I have a hat in my office signed by two Nobel prize winners at a university that is, admittedly, a private university, but it still receives huge amounts of federal and state money for research and works with the Texas Medical Center that has huge amounts of state and federal money for research because we set those goals high. We said, it's not good enough to be like every other state, we need to be better. If we give up that quest, we might as well take our name off the license plates, because we'll be just like everybody else. That's not why I came back here. It's not what I wanted to build here. We can do better, we must do better, and we must do better soon.

REPRESENTATIVE MARTINEZ: Members, we're in a state of emergency. A state of emergency that we had to pass a voter ID bill without proving voter impersonation. A state of emergency that we had to pass a sonogram bill that is an intrusion of government. A state of emergency that we had to pass a sanctuary city bill that not one person could define or even tell us where one was located. But what about the true emergency? What about our children? What about education, our seniors? What about our health care and the jobs that will be lost?

This bill betrays the trust of the people of Texas. Knowing that we have billions and billions of dollars left in our state savings account, but failing to utilize it for the betterment of Texas—and all of us knowing that we're ranked 44th in education, and having one of the most uninsured populations. Not living within our means gives away our future, members.

Some things haven't changed since 2003. The legislature starts with the easiest targets first. By not showing we can afford to care for our children, they are yet again the biggest losers in this budget. But, members, what we can't afford is a budget that does not provide our children with a future.

REPRESENTATIVE LYNE: Members, I hadn't planned on speaking when I got up this morning to do this. I wasn't sure how I was going to vote on the budget when I got up this morning. I'm going to speak for this budget because it is what the people of my district sent me here to do. Everywhere I went people said, cut the budget, cut the budget, cut the budget. And I preach from this book that all of us have seen, the fact book of Texas, but I'm not sure they know that Texas wasn't Washington, D.C. We don't spend money like Washington, D.C. That we are—I mean you look at the ranks, we don't spend a whole lot on a lot of things. Half of our budget is federal funds. And we want them to cut federal funds. We have to be—as I tell people at home, we are responsible for us. We have to take the time to get involved.

Wichita Falls is a great place to live and that whole country out there is a great place to live because people are engaged. We have people who give generously. We talk about spending down here. We're not spending enough; we're spending too much. We're taxed too much; we're not taxed enough. I can tell you this: there is never enough. Never. There will be need if we spent every dollar in this state. I told my community when I was mayor, we can hire a police officer for every person in this city, and there will still be crime. We have to be responsible. We have to be engaged.

Every generation has cultural shifts. We're in one of those now. We have a lot of single parents, a lot of single mothers especially, young. They need help. It's easy for me to say, there's help out there, they need to go get it. My wife and I argue about this sometimes. We need to educate. We have problems that currently exist that we have to take care of, but we have to say also we have to start somewhere.

I don't know much about how everything works down here. I've been in politics most of my life, around it. I've seen it. I've been in D.C., I've been here, I've been in communities. In all politics, all government has some really weird stuff that goes on in it. And we heard a lot of those stories today. We have an education system that I flat out—that I've looked at the funding deal; I've been through it at least a dozen times. I couldn't tell anybody at home how we figured out how much money they get. And I guarantee you they can't look and find out how much money they get. Now I figured out the numbers a little while ago based on the numbers coming out, how much we're going to spend, how many students—4.9 million students, three billion something, 30 billion something. That's \$7,500 a student. Yet we give from \$3,000 to \$13,000 per student depending on where they live. And so we can't just divide it up and give money

out. It's not how it works. There's special needs here and special needs there, and rural is different than urban. Urban poor is different than this. We can argue all about that, but I guarantee you that when you get down to it, that equal funding works a heck of a lot better all the way across.

Who do we tax? There's not enough taxes. There's not enough people paying taxes. I was told by one of my university professors, "You're not taxing business enough. We're letting business get off scott free in the State of Texas." Then I got down here and I listened to Sitara and other people. Shoot, businesses are paying more than their fair share, but half of the businesses aren't paying. We think we're overtaxed because we write that property tax check every year. We see it. It's big. If we wrote a check for everything we pay to the federal government, we would go nuts. But we don't see that, it's taken out.

I've heard all my life, don't cut mine. Every program, and we've got hundreds of them—the federal government's got thousands. They're all incredibly important to somebody. So don't cut mine. Don't tax mine. Don't tax me, tax the man behind the tree. And this year I got to hear don't cut you, don't cut me, cut the guy behind the tree. I told the speaker and several other colleagues that I can cut a budget. That is not a problem. I've done it. I've had a lot businesses. I've had some great successes and I've had some failures. I hate letting people go. But when you put faces on those cuts, it makes a difference. And I've been fortunate in my life to work with a lot of nonprofit, a lot of poor, a lot of struggling, a lot of poor educated, and there will always be those folks. But we have to be responsible for us.

I suggest in the interim that a lot of you pick up this book and look at it. Talk to your neighbors. Because I came down here, as I said at the beginning, I did what the people sent me here to do from my district. But I guarantee you there are a lot of angry, unhappy people in my district because they didn't want us to cut theirs. But they didn't want their taxes raised either. It puts us in a weird dilemma, and we are elected to make those decisions. I'm as conservative as I can be, but I've got a big heart. We don't pass mental illness on down. It just goes to the county or the city, mainly to the jails, more than we cut the budget. And you're going to ask me it doesn't sound like you're speaking for this budget very well. This is the budget we have. This is what we knew coming in. This was what it was going to look like. It's looks a whole lot better than when we came in. But this is what we knew. This is what the people who voted for the majority of the people here want to see, but I promise you they don't know what gets spent in our Texas Legislature and how it is spent. That's our responsibility to teach what that is. It's easy to say cut government spending, cut the waste, cut the fat, cut the—show me where it is. Show me where it is.

I work in the energy business and I was talking to some people a little bit earlier. I can tell you as an operator, the Railroad Commission doesn't have enough people in the field to do their job. That's just a fact. But we don't want to increase the budget. There is never enough money. I have never met anybody yet who's said, hey, I'm overpaid and under-worked. Here's some money back. Anybody overpaid in here? Let me look up there and make sure. No, that just doesn't happen. We would all like more. Our communities are the future. That's

where the rubber is going to meet the road. We have to engage our communities regardless if it's 100 people or four or five million people. That's where the activity is going to take place because we're not going to have enough money. That's just the way it is. We're never going to have enough money.

Texas has been blessed to be given a huge natural resource, energy resources. And it has paid for universities, for schools, for students all along. One hundred years. We haven't had to pay because those resources were there and were taxed to fund those things. We've gotten off cheap, folks, because we had an industry, a mineral industry, that created a huge amount of revenue. Our whole rainy day fund is based on that. What other business do we tax that flows into the rainy day fund? None. We have to get behind this budget because this is what it is today. But we have to look in the interim at who we tax, how we tax. And the one discussion I noticed we never have, collectively, how much do we need to spend on education? What does it cost to educate a student? What does it cost to take care of health care? What does it cost to take care of criminal justice? Do we want a lot of nonviolent offenders stuck in jail or do they need rehab? We talk individually about these things in our committees, but as a whole, do we share what that is? We have to have the conversation. We have to make that decision. I've seen schools that cost \$20-, \$30 thousand a year, high schools. Kids got educated really well. They're smart. I've seen schools that don't pay hardly anything and they get educated well sometimes. I don't know how much is enough, but I am tired of hearing it's not enough. But you won't tell me what enough is.

REPRESENTATIVE TURNER: Thank you Mr. Speaker, and members, and I will tell you tonight I will be brief, only because I want to reserve my comments for tomorrow when we deal with 1811. Mr. Speaker, you appointed me to the conference committee. I've enjoyed working with all four members of the conference committee. You appointed me to the conference committee—the only democrat on the committee. And I've had an excellent time working with all four—with the other four. Let me just tell you, members, this is my third term in the Texas House. Just checking to see if you were listening. Give or take a few. My third term give or take a few. Mr. Speaker, I do want to report on the conference committee. As you know, I was very critical of the budget at the beginning. Went on the conference committee, and I believe I did my best to represent the house. I put on my lawyers cap in representing the house, my lawyers cap, with the house being my client, and at the same time with the goal of trying to make the product better than when it left the house the first time around. With regards to the budget itself in the conference committee report I want you to know when it comes to Article I, General Government, Article IV on the judiciary, Article V on public safety, Article VI on natural resources, Article VII dealing with business and economic development, Article IX on general provisions, and X with the legislature, I voted yes on all of those articles with reference to the conference committee report. With respect to Article II on Health and Human Services, and Article III on education and Article VIII when it deals with regulatory services I voted no with respect to this budget.

And I just want to echo a few things that have already been said. I don't believe this is the final budget, and I don't believe that the numbers we are seeing today are going to remain etched in stone. Last time, when the budget was passed from this house, over the interim, we had, like Representative Coleman indicated, we had some reduction. The leadership asked for a five percent reduction initially, then a 2.5 reduction because of budgetary shortfalls. I believe, I believe that because this budget, in large part, is based on deferrals, based on some speedups, and based on deficit spending that this is not the real budget. In Article II, Health and Human Services, yes we are keeping the nursing homes open. We all recognize that's a big deal. But with respect to what we are leaving behind on Medicaid funding, and Dr. Zerwas will tell you, come May 2013 this budget in Article II will run out of money. In May of 2013, providers in all the hospitals will not be paid. And what we have done members, and I want you to understand what we have done, because this is a conservative state, and this is a conservative house, and there are 101 republicans and 49 democrats. What we have done in Article II is that we have placed \$4.8 billion on what I call the Medicaid Mastercard, \$4.8 billion. Which means the State of Texas is obligated to pay it. You will pay it. You'll pay it in one form or another. The State of Texas will either pay it through the rainy day fund, or what will happen over the interim when we leave here is that the leadership will instruct the agencies to start cutting back on their budgets over the next two years. Recognizing that this budget, **HB 1**, in Article II alone, in Article II alone, is carrying forward \$4.8 billion that you are placing on the Medicaid Mastercard. For all people who are conservatives, and for all people who talk about deficit spending, and for everyone in this session, this year, to criticize Washington, D.C., you are implementing what folks are talking about across this country with regards to deficit spending. \$4.8 billion, and no one, not the conferees, not LBB, not the senate, no one will disagree with it. And I'm going to leave it alone. That's on Article II.

In Article III on education, on education there are over 4.5 million kids in our schools, 4.5 million, and the current law—we've established a Foundation School Program on formulas. We are intentionally, intentionally under funding the Foundation School Program by \$4 billion. Factually, no one is questioning the math. No one, LBB, the conferees, the senate, no one will question the fact. And the reason I'm going to reserve most of my comments until tomorrow, because tonight, if you should vote for this budget, tomorrow night you will have to implement your own cuts, and you will sign your name when you vote up here. Sending a reduced check to every one of your school districts. Every one, because you are giving them a haircut of \$4 billion, \$4 billion. When you combine what's happening in Article II, combine what's happening in Article III, \$4.8 billion on the credit card, \$4 billion in Article III on education sending them out to your local school districts, and tomorrow in **HB 1811**, because of what you're going to do in **HB 1** you must pass **HB 1811**. You must reduce what you are going to give to your local school districts in rural Texas, suburban, urban Texas, and you will have to sign your name to it, because that's what you are about to do in **HB 1**. And for my friends in rural Texas, when you vote on **HB 1**,

and you vote tomorrow on **HB 1811** you are taking another step forward in going to the consolidation of your schools, because eventually the money will not be there. We are moving in that direction. I simply raise that tonight this is a serious matter. And really, I don't have any tears for you tonight on this one. I am all teared out. And the reality is we all know what we are doing. We all know that. I've heard people talk about no to deferrals. There were \$2 billion in deferrals in this bill. You're going to vote for it. No to deficit spending—\$4.8 billion. And really the agency says that number is closer to \$5 billion or more. Health and Human Services, a Medicaid waiver. Representative Kolkhorst, \$700 million this budget on. LBB says you didn't get it from President Bush, you think you're going to get it from President Obama? Seven hundred million dollars, don't count on it. This budget is shaky at its best, it's shaky at its best. And for all of my conservative friends. No taxes, true. No rainy day fund, true. But deferrals, deficit spending, some speed ups, and funding that's questionable all exist.

I have never come to the session believing that you could not change peoples' votes on this floor. I'm one of those eternal optimists. The moment I conclude that people cannot change their votes, and that the outcome will just be the outcome is the moment I simply take my seat and say nothing. I simply don't believe that. And my faith doesn't tell me to believe that. Philippians 4 certainly doesn't say that. And I do believe truth will set us free at some point. I do believe that. And at some point I simply pray that this house, and individual members, will have the courage of their convictions, and to say publicly what they have said to me privately. It might not happen tonight. It might not happen tonight. But, eventually I am convinced that your votes will catch up to you. I am convinced. Tonight may not be the night, but tomorrow you will sign your name to the check you give to your district.

REPRESENTATIVE PITTS: Thank you Mr. Speaker, members. I ask for your support in adopting the conference committee report on **HB 1**.

REMARKS ORDERED PRINTED

Representative Vo moved to print all closing remarks on **HB 1**.

The motion prevailed.

Representative Pitts moved to adopt the conference committee report on **HB 1**.

The motion to adopt the conference committee report on **HB 1** prevailed by (Record 1664): 97 Yeas, 53 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); 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; 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; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

The speaker stated that **HB 1** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

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 2847 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Madden called up with senate amendments for consideration at this time,

HB 2847, A bill to be entitled An Act relating to the use of video teleconferencing systems in certain criminal proceedings.

Representative Madden moved to discharge the conferees and concur in the senate amendments to **HB 2847**.

The motion to discharge the conferees and concur in the senate amendments to **HB 2847** prevailed by (Record 1665): 147 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; 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; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; 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 — Lyne; Martinez Fischer.

STATEMENT OF VOTE

When Record No. 1665 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2847** (house engrossment) as follows:

(1) On page 3, lines 20-21, strike "Subsections (c-1) and (c-2)" and substitute "Subsection (c-1)".

(2) Strike the language beginning on page 3, line 22, and ending on page 4, line 3, and substitute the following:

(c) A record [~~recording~~] of the communication shall be made by a court reporter and preserved by the court reporter until all appellate proceedings have been disposed of. The defendant may obtain a copy of the record [~~recording~~] on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

(3) On page 4, line 4, strike "~~(c-2)~~" and substitute "(c-1)".

(4) On page 4, lines 4-5, strike "video recording" and substitute "record".

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

SECTION _____. Article 102.017(d-1), Code of Criminal Procedure, is amended to read as follows:

(d-1) For purposes of this article, the term "security personnel, services, and items" includes:

- (1) the purchase or repair of X-ray machines and conveying systems;
- (2) handheld metal detectors;
- (3) walkthrough metal detectors;
- (4) identification cards and systems;
- (5) electronic locking and surveillance equipment;
- (6) video teleconferencing systems;
- (7) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (8) [~~(7)~~] signage;
- (9) [~~(8)~~] confiscated weapon inventory and tracking systems;
- (10) [~~(9)~~] locks, chains, alarms, or similar security devices;
- (11) [~~(10)~~] the purchase or repair of bullet-proof glass; and
- (12) [~~(11)~~] continuing education on security issues for court personnel and security personnel.

**HB 90 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Cook called up with senate amendments for consideration at this time,

HB 90, A bill to be entitled An Act relating to eligibility to obtain a driver's license.

Representative Cook moved to discharge the conferees and concur in the senate amendments to **HB 90**.

The motion to discharge the conferees and concur in the senate amendments to **HB 90** prevailed by (Record 1666): 146 Yeas, 2 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; 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; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; 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; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Morrison; Walle.

Present, not voting — Mr. Speaker(C).

Absent — Madden.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1666. I intended to vote no.

White

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 90** (senate committee printing) as follows:

(1) Strike SECTIONS 2, 3, and 4 of the bill, amending Sections 521.201 and 521.223, Transportation Code, and adding Section 521.207, Transportation Code (page 1, line 12, through page 2, line 49), and substitute the following:

SECTION _____. Section 521.223(f), Transportation Code, is amended to read as follows:

(f) In the manner provided by Subchapter N, the department shall ~~may~~ issue a license under this section if the holder of the license is convicted of two or more [a] moving violations committed within a 12-month period [violation].

(2) Strike SECTION 6 of the bill (page 2, lines 52-57).

(3) Renumber SECTIONS of the bill accordingly.

**HB 1000 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Branch called up with senate amendments for consideration at this time,

HB 1000, A bill to be entitled An Act relating to the distribution of money appropriated from the national research university fund and to one or more audits of certain general academic teaching institutions in connection with that distribution; making an appropriation.

Representative Branch moved to discharge the conferees and concur in the senate amendments to **HB 1000**.

The motion to discharge the conferees and concur in the senate amendments to **HB 1000** prevailed by (Record 1667): 148 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; 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; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; 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 — Murphy.

The speaker stated that **HB 1000** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

Senate Committee Substitute

CSHB 1000, A bill to be entitled An Act relating to the distribution of money appropriated from the national research university fund; making an appropriation.

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

SECTION 1. Section 62.145(a), Education Code, is amended to read as follows:

(a) A general academic teaching institution becomes ~~is~~ eligible to receive an initial ~~[a]~~ distribution of money appropriated under this subchapter for a state fiscal ~~[each]~~ year ~~[of a state fiscal biennium]~~ if:

(1) the institution is designated as an emerging research university under the coordinating board's accountability system;

(2) in each of the two state fiscal years preceding the state fiscal year for which the appropriation is made ~~[biennium]~~, the institution expended at least \$45 million in restricted research funds; and

(3) the institution satisfies at least four of the following criteria:

(A) the value of the institution's endowment funds is at least \$400 million in each of the two state fiscal years preceding the state fiscal year for which the appropriation is made;

(B) the institution awarded at least 200 doctor of philosophy degrees during each of the two academic years preceding the state fiscal year for which the appropriation is made ~~[biennium]~~;

(C) the entering freshman class of the institution for each of those two academic years demonstrated high academic achievement, as determined according to standards prescribed by the coordinating board by rule, giving consideration to the future educational needs of the state as articulated in the coordinating board's "Closing the Gaps" report;

(D) the institution is designated as a member of the Association of Research Libraries or has a Phi Beta Kappa chapter or has received an equivalent recognition of research capabilities and scholarly attainment as determined according to standards prescribed by the coordinating board by rule;

(E) the faculty of the institution for each of those two academic years was of high quality, as determined according to coordinating board standards based on the professional achievement and recognition of the institution's faculty, including the election of faculty members to national academies; and

(F) for each of those two academic years, the institution has demonstrated a commitment to high-quality graduate education, as determined according to standards prescribed by the coordinating board by rule, including standards relating to the number of graduate-level programs at the institution, the institution's admission standards for graduate programs, and the level of institutional support for graduate students.

SECTION 2. Section 62.146, Education Code, is amended to read as follows:

Sec. 62.146. ACCOUNTING STANDARDS; VERIFICATION OF INFORMATION. (a) The coordinating board by rule shall prescribe standard methods of accounting and standard methods of reporting information for the purpose of determining:

(1) the eligibility of institutions under Section 62.145; and

(2) the amount of restricted research funds expended by an eligible institution in a state fiscal year.

(b) As soon as practicable in each state fiscal ~~even numbered~~ year, based on information submitted by the institutions to the coordinating board as required by the coordinating board, the coordinating board shall certify to the comptroller and the legislature verified information relating to the criteria established by Section 62.145 to be used to determine which institutions are ~~initially~~ eligible for distributions of money from the fund.

(c) Information submitted to the coordinating board by institutions for purposes of establishing eligibility under this subchapter and the coordinating board's certification or verification of that information under this section ~~subsection~~ are subject to a mandatory audit by the state auditor in accordance with Chapter 321, Government Code. The coordinating board may also request one or more audits by the state auditor as necessary or appropriate at any time after an eligible institution begins receiving distributions under this subchapter. Each audit must be based on an examination of all or a representative sample of the restricted research funds awarded to the institution and the institution's expenditures of those funds, and must include, among other elements:

(1) verification of the amount of restricted research funds expended by the institution in the appropriate state fiscal year or years; and

(2) verification of compliance by the institution and the coordinating board with the standard methods of accounting and standard methods of reporting prescribed by the coordinating board under Subsection (a), including verification of:

(A) the institution's compliance with the coordinating board's standards and accounting methods for reporting expenditures of restricted research funds; and

(B) whether the institution's expenditures meet the coordinating board's definition of restricted research expenditures.

(d) From money appropriated from the fund, the comptroller shall reimburse the state auditor for the expenses of any audits conducted under Subsection (c).

SECTION 3. Section 62.148, Education Code, is amended to read as follows:

Sec. 62.148. DISTRIBUTION ~~ALLOCATION~~ OF APPROPRIATED FUNDS TO ELIGIBLE INSTITUTIONS. (a) In each state fiscal year, the comptroller shall distribute to eligible institutions in accordance with this section money ~~the total amount~~ appropriated from the fund for that fiscal year.

(b) The total amount appropriated from the fund for any state fiscal year may not exceed an amount equal to 4.5 percent of the average net market value of the investment assets of the fund for the 12 consecutive state fiscal quarters ending with the last quarter of the preceding state fiscal year, as determined by the comptroller.

(b-1) For purposes of Subsection (b), for a state fiscal quarter that includes any period before the fund was established on January 1, 2010, a reference to the average net market value of the investment assets of the fund includes the average net market value of the investment assets of the former higher education fund for the applicable state fiscal quarter. This subsection expires January 1, 2014.

(c) Subject to Subsection (e), of the total amount appropriated from the fund for distribution in a state fiscal year, each eligible institution is entitled to a distribution in an amount equal to the sum of:

(1) one-seventh of the total amount appropriated; and

(2) an equal share of any amount remaining after distributions are calculated under Subdivision (1), not to exceed an amount equal to one-fourth of that remaining amount.

(d) The comptroller shall retain within the fund any portion of the total amount appropriated from the fund for distribution that remains after all distributions are made for a state fiscal year as prescribed by Subsection (c). The appropriation of that retained amount lapses at the end of that state fiscal year.

(e) If the number of institutions that are eligible for distributions in a state fiscal year is more than four, each eligible institution is entitled to an equal share of the total amount appropriated from the fund for distribution in that fiscal year.

(f) For purposes of this section, the total amount appropriated from the fund for distribution in a state fiscal year does not include any portion of the amount appropriated that is used to reimburse the costs of an audit conducted under Section 62.146(c) [The amount shall be allocated to the eligible institutions based on an equitable formula adopted by the legislature to carry out the purposes of the fund as established by Section 20, Article VII, Texas Constitution. In adopting the allocation formula, the legislature may consider the recommendations of the coordinating board, including recommendations on the appropriate elements and relative weights of elements of the formula].

SECTION 4. For each fiscal year of the state fiscal biennium ending August 31, 2013, the maximum amount permitted by Section 20, Article VII, Texas Constitution, and by Section 62.148(b), Education Code, as added by this Act, is appropriated to the comptroller from the national research university fund for distribution to eligible state universities in accordance with and for the purposes described by Subchapter G, Chapter 62, Education Code.

SECTION 5. 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.

**HB 2910 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Branch called up with senate amendments for consideration at this time,

HB 2910, A bill to be entitled An Act relating to agreements between the Texas Higher Education Coordinating Board and certain organizations for increasing degree completion rates.

Representative Branch moved to discharge the conferees and concur in the senate amendments to **HB 2910**.

The motion to discharge the conferees and concur in the senate amendments to **HB 2910** prevailed by (Record 1668): 148 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; 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; Lucio; 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 — Lyne.

Senate Committee Substitute

CSHB 2910, A bill to be entitled An Act relating to agreements between the Texas Higher Education Coordinating Board and certain organizations for increasing degree completion rates.

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

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0905 to read as follows:

Sec. 61.0905. AGREEMENTS AND GRANTS TO INCREASE DEGREE COMPLETION RATES. (a) The board may, in partnership with institutions of higher education, enter into an agreement with nonprofit organizations to assist the board in identifying and implementing effective methods for increasing degree completion rates at institutions of higher education, including by:

(1) identifying and promoting innovative models, emerging technology platforms, and best practices for increasing degree completion rates in areas including:

(A) developmental education;

(B) financial assistance;

(C) student support services; and

(D) transfer or articulation agreements;

(2) providing data, research, and evaluation support to assist the board in assessing the effectiveness of pilot programs in increasing degree completion rates;

(3) coordinating ongoing local, state, federal, and philanthropic initiatives to increase degree completion rates; and

(4) determining the extent of implementation of degree completion rate improvement models across a region or the state and the effectiveness of the models as student population increases.

(b) The board by rule may establish a grant program to fund projects, including the award of a grant to a nonprofit organization that enters into an agreement with the board under this section, related to the improvement of degree completion rates. If the board establishes a grant program under this section, the board by rule shall prescribe the application procedure and criteria for awarding a grant.

(c) Grants awarded by the board under this section may be funded by:

(1) appropriations; and

(2) gifts, grants, or other donations.

(d) Not later than January 1, 2012, the board shall report to the Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency a description of:

(1) the types of nonprofit organizations eligible for a grant under this section;

(2) grants awarded under this section; and

(3) a survey of partnerships between other states and nonprofit organizations to increase degree completion rates, including identification of best practices.

(e) This section expires September 1, 2013.

SECTION 2. 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.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2910** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the SECTIONS of the bill appropriately:

SECTION _____. Chapter 61, Education Code, is amended by adding Subchapter GG to read as follows:

SUBCHAPTER GG. TEXAS SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS (T-STEM) CHALLENGE SCHOLARSHIP PROGRAM

Sec. 61.9791. DEFINITION. In this subchapter, "STEM program" means a Science, Technology, Engineering, and Mathematics program.

Sec. 61.9792. SCHOLARSHIP PROGRAM. The board shall establish and administer, in accordance with this subchapter and board rules, the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program under which the board provides a scholarship to a student who meets the eligibility criteria prescribed by Section 61.9793.

Sec. 61.9793. ELIGIBLE STUDENT. (a) To receive an initial scholarship under this subchapter, a student must:

(1) graduate from high school with a grade point average of at least 3.0 on a four-point scale in mathematics and science courses;

(2) enroll in a STEM program at an eligible institution; and

(3) agree to work no more than 15 hours a week for a business participating in the STEM program.

(b) To continue to qualify for a scholarship under this subchapter, a student must:

(1) remain enrolled in a STEM program at an eligible institution;

(2) maintain an overall grade point average of at least 3.0 on a four-point scale;

(3) complete at least 80 percent of all semester credit hours attempted for each semester;

(4) complete at least 30 semester credit hours per academic year; and

(5) work no more than 15 hours a week for a business participating in the STEM program.

Sec. 61.9794. ELIGIBLE INSTITUTION. (a) To qualify as an eligible institution under this subchapter, an institution must:

(1) be a public junior college or public technical institute;

(2) admit at least 50 students into a STEM program each academic year; and

(3) develop partnerships with business and industry to:

(A) identify local employment needs in Science, Technology, Engineering, and Mathematics (STEM) fields; and

(B) provide part-time employment for students enrolled in a STEM program.

(b) To maintain eligibility, beginning with the second year following implementation of a scholarship program under this subchapter, an institution must demonstrate to the board that at least 70 percent of the institution's T-STEM Challenge Scholarship graduates, within three months after graduation, are:

(1) employed by a business in a Science, Technology, Engineering, and Mathematics (STEM) field; or

(2) enrolled in upper-division courses leading to a baccalaureate degree in a Science, Technology, Engineering, and Mathematics (STEM) field.

Sec. 61.9795. AMOUNT; FUNDING. (a) Subject to available funding, the board shall award scholarships, with at least 50 percent of the amount awarded from private funds.

(b) An eligible student may receive a scholarship awarded under this subchapter for not more than two academic years.

(c) The board may use any available revenue, including legislative appropriations, and may solicit and accept gifts and grants for purposes of this subchapter.

SECTION _____. The Texas Higher Education Coordinating Board shall award scholarships under Subchapter GG, Chapter 61, Education Code, as added by this Act, beginning with the 2011-2012 academic year. The coordinating board shall adopt the rules required by that subchapter as soon as practicable after this Act takes effect.

HCR 176 - ADOPTED (by Isaac)

The following privileged resolution was laid before the house:

HCR 176

WHEREAS, **HB 1517** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains technical errors that should be corrected; now, therefore, be it

RESOLVED by the 82nd Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to make the following correction:

In SECTION 1 of the bill, in amended Section 542.402(e), Transportation Code, between "municipality" and "shall", insert "or county".

HCR 176 was adopted by (Record 1669): 149 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; 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; Lucio; 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).

RESOLUTIONS ADOPTED

Representative Isaac moved to suspend all necessary rules to take up and consider at this time **HR 2290**, **HR 2355**, **HR 2395**, and **HR 2600**.

The motion prevailed.

The following resolutions were laid before the house:

HR 2290 (by Lewis), In memory of U.S. Army Sergeant John Paul Castro.

HR 2355 (by Strama), In memory of U.S. Army Sergeant Mario Rodriguez, Jr.

HR 2395 (by Eissler), In memory of U.S. Air Force Captain Nathan J. Nylander of Hockley.

HR 2600 (by Martinez), In memory of U.S. Army Sergeant Fernando De La Rosa.

The resolutions were unanimously adopted by a rising vote.

HCR 168 - ADOPTED

(by S. Miller)

Representative S. Miller moved to suspend all necessary rules to take up and consider at this time **HCR 168**.

The motion prevailed.

The following resolution was laid before the house:

HCR 168, Honoring John Cowan on the occasion of his retirement from the Texas Association of Dairymen.

HCR 168 was adopted.

(Phillips in the chair)

ADJOURNMENT

Representative Kleinschmidt moved that the house adjourn until 1 p.m. tomorrow.

The motion prevailed.

The house accordingly, at 8:30 p.m., adjourned until 1 p.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 40

HB 1046, HB 1071, HB 1080, HB 1113, HB 1528, HB 1568, HB 1622, HB 1756, HB 1757, HB 1758, HB 1797, HB 1822, HB 1844, HB 2047, HB 2096, HB 2104, HB 2193, HB 2238, HB 2469, HB 2784, HB 2819, HB 2972, HB 3085, HB 3161, HB 3324, HB 3421, HB 3422, HCR 115, HCR 165

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

Saturday, May 28, 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 CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 81 (31 Yeas, 0 Nays)

SB 223 (31 Yeas, 0 Nays)

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 362

Senate Conferees: West - Chair/Gallegos/Nichols/Patrick/Wentworth

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 200 (31 Yeas, 0 Nays)

HB 1112 (31 Yeas, 0 Nays)

HB 1335	(30 Yeas, 1 Nay)
HB 1732	(31 Yeas, 0 Nays)
HB 2560	(23 Yeas, 8 Nays)
HB 2694	(31 Yeas, 0 Nays)
HB 2729	(31 Yeas, 0 Nays)
HB 3577	(31 Yeas, 0 Nays)
SB 144	(31 Yeas, 0 Nays)
SB 249	(31 Yeas, 0 Nays)
SB 263	(31 Yeas, 0 Nays)
SB 313	(31 Yeas, 0 Nays)
SB 377	(31 Yeas, 0 Nays)
SB 602	(31 Yeas, 0 Nays)
SB 647	(31 Yeas, 0 Nays)
SB 1489	(31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Saturday, May 28, 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 GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 242

Senate Conferees: Hegar - Chair/Harris/Ogden/Whitmire/Williams

HB 2327

Senate Conferees: Wentworth - Chair/Eltife/Harris/Nichols/Rodriguez

HB 3459

Senate Conferees: Whitmire - Chair/Carona/Hegar/Hinojosa/Ogden

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1951 (31 Yeas, 0 Nays)

HB 2048 (31 Yeas, 0 Nays)
SB 156 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Saturday, May 28, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1178 (31 Yeas, 0 Nays)
HB 1286 (30 Yeas, 1 Nay)
HB 2499 (31 Yeas, 0 Nays)
HB 2734 (30 Yeas, 1 Nay)
SB 158 (31 Yeas, 0 Nays)
SB 747 (31 Yeas, 0 Nays)
SB 958 (30 Yeas, 1 Nay)
SB 1331 (31 Yeas, 0 Nays)
SB 1338 (31 Yeas, 0 Nays)
SB 1420 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Saturday, May 28, 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 GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 3328

Senate Conferees: Fraser - Chair/Eltife/Hegar/Hinojosa/Nelson

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 628	(31 Yeas, 0 Nays)
HB 871	(29 Yeas, 2 Nays)
HB 1517	(31 Yeas, 0 Nays)
HB 1711	(31 Yeas, 0 Nays)
SB 652	(31 Yeas, 0 Nays)
SB 773	(27 Yeas, 4 Nays)
SB 1134	(26 Yeas, 5 Nays)
SB 1816	(31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Saturday, May 28, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1	(20 Yeas, 11 Nays)
SB 341	(30 Yeas, 1 Nay)
SB 563	(31 Yeas, 0 Nays)
SB 875	(23 Yeas, 8 Nays)

SB 1087 (28 Yeas, 3 Nays)

SB 1534 (29 Yeas, 2 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

ENROLLED

May 27 - HB 14, HB 25, HB 42, HB 78, HB 174, HB 274, HB 275, HB 289, HB 359, HB 360, HB 398, HB 559, HB 788, HB 805, HB 1009, HB 1046, HB 1071, HB 1080, HB 1083, HB 1113, HB 1205, HB 1247, HB 1293, HB 1301, HB 1314, HB 1330, HB 1402, HB 1429, HB 1473, HB 1476, HB 1500, HB 1528, HB 1568, HB 1622, HB 1651, HB 1690, HB 1721, HB 1737, HB 1750, HB 1756, HB 1757, HB 1758, HB 1784, HB 1822, HB 1823, HB 1844, HB 1856, HB 1887, HB 1891, HB 1897, HB 1930, HB 1967, HB 1969, HB 1981, HB 1994, HB 2047, HB 2096, HB 2104, HB 2119, HB 2136, HB 2138, HB 2141, HB 2193, HB 2220, HB 2238, HB 2247, HB 2256, HB 2266, HB 2296, HB 2310, HB 2315, HB 2330, HB 2346, HB 2363, HB 2396, HB 2492, HB 2496, HB 2541, HB 2575, HB 2577, HB 2584, HB 2636, HB 2651, HB 2678, HB 2722, HB 2819, HB 2869, HB 2960, HB 2966, HB 2972, HB 2996, HB 2997, HB 3030, HB 3076, HB 3085, HB 3096, HB 3216, HB 3324, HB 3421, HB 3422, HB 3474, HB 3475, HB 3580, HB 3597, HB 3674, HB 3724, HB 3730, HB 3746, HB 3813, HB 3831, HB 3834, HCR 142, HCR 162

SENT TO THE GOVERNOR

May 27 - HB 14, HB 25, HB 42, HB 78, HB 149, HB 174, HB 254, HB 274, HB 275, HB 289, HB 336, HB 338, HB 343, HB 359, HB 360, HB 364, HB 371, HB 384, HB 398, HB 412, HB 427, HB 447, HB 452, HB 528, HB 534, HB 554, HB 559, HB 577, HB 588, HB 645, HB 654, HB 673, HB 692, HB 709, HB 710, HB 718, HB 737, HB 748, HB 782, HB 787, HB 788, HB 790, HB 805, HB 807, HB 844, HB 850, HB 890, HB 896, HB 943, HB 961, HB 963, HB 990, HB 1009, HB 1033, HB 1048, HB 1060, HB 1070, HB 1083, HB 1116, HB 1118, HB 1129, HB 1144, HB 1148, HB 1163, HB 1205, HB 1226, HB 1235, HB 1247, HB 1274, HB 1293, HB 1301, HB 1305, HB 1314, HB 1315, HB 1330, HB 1376, HB 1402, HB 1429, HB 1473, HB 1476, HB 1486, HB 1499, HB 1500, HB 1610, HB 1615, HB 1651, HB 1690, HB 1721, HB 1737, HB 1750, HB 1784, HB 1823, HB 1856, HB 1887, HB 1891, HB 1897, HB 1930, HB 1942, HB 1964, HB 1967, HB 1969, HB 1981, HB 1992, HB 1994,

HB 2038, HB 2098, HB 2119, HB 2120, HB 2124, HB 2133, HB 2136,
HB 2138, HB 2141, HB 2160, HB 2170, HB 2195, HB 2220, HB 2223,
HB 2247, HB 2256, HB 2266, HB 2280, HB 2292, HB 2296, HB 2310,
HB 2315, HB 2325, HB 2330, HB 2338, HB 2346, HB 2359, HB 2363,
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HCR 153, HCR 162

SENT TO THE COMPTROLLER

May 27 - HB 275

SENT TO THE SECRETARY OF THE STATE

May 27 - HJR 109

SIGNED BY THE GOVERNOR

May 27 - HB 457, HB 564, HB 994, HB 1147, HB 1215, HB 1251,
HB 1753, HB 2012, HB 2375, HB 2991, HB 3287, HCR 131, HCR 157

