

# HOUSE JOURNAL

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EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

EIGHTIETH DAY — THURSDAY, MAY 19, 2011

The house met at 1:40 p.m. and, at the request of the speaker, was called to order by Representative Kuempel.

The roll of the house was called and a quorum was announced present (Record 1161).

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.

### LEAVE OF ABSENCE GRANTED

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

Phillips on motion of Lewis.

### MAJOR STATE CALENDAR

#### SENATE BILLS

#### THIRD READING

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

**SB 662 ON THIRD READING****(Anchia - House Sponsor)**

**SB 662**, A bill to be entitled An Act relating to the continuation and functions of the State Board of Examiners for Speech-Language Pathology and Audiology; providing an administrative penalty.

**SB 662** was passed by (Record 1162): 146 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; 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; 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; Kuempel(C).

Absent, Excused — Phillips.

Absent — Alonzo.

**SB 650 ON THIRD READING****(Cook - House Sponsor)**

**SB 650**, A bill to be entitled An Act relating to management of certain metropolitan rapid transit authorities.

Representative Cook moved to postpone consideration of **SB 650** 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 430 ON THIRD READING**  
**(Christian - House Sponsor)**

**SB 430**, A bill to be entitled An Act relating to written notice to a groundwater conservation district of groundwater contamination.

**SB 430** was passed by (Record 1163): 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; Cárter; 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; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; 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; Kuempel(C).

Absent, Excused — Phillips.

Absent — Callegari; Martinez; Miller, S.

**SB 764 ON THIRD READING**  
**(Ritter - House Sponsor)**

**SB 764**, A bill to be entitled An Act relating to a prohibition against use of school district resources for a hotel.

**SB 764** was passed by (Record 1164): 141 Yeas, 4 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; 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; 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; Peña; Perry; Pickett; Pitts; Price; Quintanilla; 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; Carter; Creighton; Sheffield.

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

Absent, Excused — Phillips.

Absent — Paxton; Raymond.

#### STATEMENTS OF VOTE

I was shown voting no on Record No. 1164. I intended to vote yes.

Creighton

I was shown voting no on Record No. 1164. I intended to vote yes.

Sheffield

#### SB 800 ON THIRD READING

##### (Elkins - House Sponsor)

**SB 800**, A bill to be entitled An Act relating to the qualifications and operations of workers' compensation data collection agents.

**SB 800** was passed by (Record 1165): 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; Coleman; 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; 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; 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; Zedler; Zerwas.

Nays — Simpson.

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

Absent, Excused — Phillips.

Absent — Cook; Garza; Paxton.

### **POSTPONED BUSINESS**

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

#### **SB 5 ON THIRD READING (Branch - House Sponsor)**

**SB 5**, A bill to be entitled An Act relating to the administration and business affairs of public institutions of higher education.

**SB 5** was read third time on May 18, postponed until later that day, and was again postponed until 7:59 a.m. today.

Representative Anchia moved to postpone consideration of **SB 5** until 3 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. tomorrow.

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 2:30 p.m. today, in 1W.14, to set a calendar.

Permission to meet was granted.

#### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Local and Consent Calendars, 2:30 p.m. today, 1W.14, for a formal meeting, to set a calendar.

#### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative Naishtat requested permission for the Committee on Public Health to meet while the house is in session, at 3:15 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

#### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Public Health, 3:15 p.m. today, 3W.9, for a formal meeting, to consider pending business.

**CSSB 1811 ON SECOND READING**  
**(Pitts - House Sponsor)**

**CSSB 1811**, A bill to be entitled An Act relating to certain state fiscal matters; providing penalties.

**CSSB 1811** was read second time on May 18 and was postponed until 8 a.m. today.

Representative Geren moved to postpone consideration of **CSSB 1811** until 3:30 p.m. today.

The motion prevailed.

**CSSB 1581 ON SECOND READING**  
**(Pitts - House Sponsor)**

**CSSB 1581**, A bill to be entitled An Act relating to state fiscal matters, and certain public health and safety matters, related to public and higher education; providing penalties.

**CSSB 1581** was read second time on May 18 and was postponed until 8 a.m. today.

Representative Geren moved to postpone consideration of **CSSB 1581** until 3:30 p.m. today.

The motion prevailed.

**CSSB 23 ON SECOND READING**  
**(Zerwas - House Sponsor)**

**CSSB 23**, A bill to be entitled An Act relating to the administration of and efficiency, cost-saving, fraud prevention, and funding measures for certain health and human services and health benefits programs, including the medical assistance and child health plan programs.

**CSSB 23** was read second time on May 18 and was postponed until 8 a.m. today.

**Amendment No. 1**

Representative Zerwas offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 12

Amend **CSSB 23** on page 16, lines 14 through 25 by striking existing subsections (F), (G), and (H) and inserting the following and renumbering the remaining sections appropriately:

"(F) under which the managed care organization may not prohibit, limit, or interfere with a recipient's selection of a pharmacy or pharmacist of the recipient's choice for the provision of pharmaceutical services under the plan through the imposition of different copayments;

(G) may allow the managed care organization or any sub-contracted pharmacy benefit manager to contract with a pharmacist or pharmacy providers separately for specialty pharmacy services, except that:

(i) the managed care organization and pharmacy benefit manager is prohibited from allowing exclusive contracts with a specialty pharmacy owned wholly or in part by the pharmacy benefit manager responsible for the administration of the pharmacy benefit program; and

(ii) the managed care organization and pharmacy benefit manager adopts policies and procedures for reclassifying prescription drugs from retail to specialty that are consistent with rules adopted by the executive commissioner and include notice to network pharmacy providers from the managed care organization;

(H) under which the managed care organization may not prevent a pharmacy or pharmacist from participating as a provider if the pharmacy or pharmacist agrees to comply with the financial terms and conditions of the contract as well as other reasonable administrative and professional terms and conditions of the contract;

(I) under which the managed care organization may include mail-order pharmacies in their networks, but must not require enrolled recipients to use them and enrolled recipients who opt to use this service may not be charged fees, including postage and handling fees; and

(J) under which the managed care organization or pharmacy benefit manager must pay claims in accordance with Section 843.339, Insurance Code."

Amend **CSSB 23** on page 10 line 19 by inserting "either" after the word "that" and before the ":".

Amend **CSSB 23** on page 10 lines 22 to 25 by striking existing subsection (B) and inserting the following new subsection (B) as follows:

"(B) is in compliance with the requirements of Section 533.004."

Amend **CSSB 23** on page 13 line 27 by striking the word "in" and replacing it with the word "to".

Amend **CSSB 23** on page 15 line 5 strike "the same" and substitute "a comparable" after the word "to".

Amend **CSSB 23** on page 26 insert the appropriately numbered new subsection to Section 533.005 Government Code as amended.

"( ) Section (21)(A)(B) and (C) are repealed on August 31, 2013."

Amend **CSSB 23** by adding the following appropriately numbered new sections:

"SECTION \_\_\_\_ . Section 247.002(1), Health and Safety Code, is amended to read as follows:

(1) "Assisted living facility" means an establishment that:

(A) furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment;

(B) provides:

(i) personal care services; or

(ii) administration of medication by a person licensed or otherwise authorized in this state to administer the medication; [and]

(C) may provide assistance with or supervision of the administration of medication; ~~and~~

(D) may provide skilled nursing services for a limited duration or to facilitate the provision of hospice services.

SECTION \_\_\_\_\_. Section 247.067(b), Health and Safety Code, is amended to read as follows:

(b) Unless otherwise prohibited by law, a [A] health care professional may be employed by an assisted living facility to provide at the facility to the facility's residents services that are authorized by this chapter and within the professional's scope of practice ~~[to a resident of an assisted living facility at the facility]~~. This subsection does not authorize a facility to provide ongoing services comparable to the services available in an institution licensed under Chapter 242. A health care professional providing services under this subsection shall maintain medical records of those services in accordance with the licensing, certification, or other regulatory standards applicable to the health care professional under law."

Amend **CSSB 23** on page 6 line 4 through 7 by striking (B) and replacing it with the following new (B):

"(B) an assessment of whether the recipient should be referred for additional assessments regarding the recipient's needs for attendant care services and durable medical equipment; and"

Amend **CSSB 23** by striking on page 6 lines 20 through page 7 line 11.

#### **AMENDMENT NO. 1 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE BERMAN: John, there was a bill that would allow physicians to dispense pharmaceuticals from their office just like a pharmacist. Is that in this amendment at all?

REPRESENTATIVE ZERWAS: That is not.

BERMAN: It's not in the amendment?

ZERWAS: It is not.

#### **REMARKS ORDERED PRINTED**

Representative Berman moved to print remarks between Representative Zerwas and Representative Berman.

The motion prevailed.

Amendment No. 1 was adopted.

#### **Amendment No. 2**

Representative Zerwas offered the following amendment to **CSSB 23**:

Floor Packet Page No. 28

Amend **CSSB 23** (house committee printing) as follows:

(1) In SECTION 10 of the bill, immediately following the heading to the section (page 34, line 18), between "PROGRAMS." and "Subchapter", insert "(a)".



(2) In SECTION 10 of the bill, in added Section 531.086(b)(2), Government Code (page 35, lines 11 and 12), strike "or primary care case management" and substitute "payment".

(3) In SECTION 10 of the bill, in added Section 531.086(c), Government Code (page 35, line 13), strike "August 31, 2012" and substitute "August 31, 2013".

(4) In SECTION 10 of the bill, in added Section 531.086(d), Government Code (page 35, line 17), strike "September 1, 2013" and substitute "September 1, 2014".

(5) In SECTION 10 of the bill, in added Section 531.0861(a), Government Code (page 35, line 19), strike "The" and substitute "If cost-effective, the".

(6) At the end of SECTION 10 of the bill (page 36, between lines 5 and 6), insert the following:

(b) Section 32.0641, Human Resources Code, is amended to read as follows:

Sec. 32.0641. RECIPIENT ACCOUNTABILITY PROVISIONS; COST-SHARING REQUIREMENT TO IMPROVE APPROPRIATE UTILIZATION OF [COST-SHARING FOR CERTAIN HIGH COST MEDICAL] SERVICES. (a) To [If the department determines that it is feasible and cost-effective, and to] the extent permitted under and in a manner that is consistent with Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.) and any other applicable law or regulation, including Sections 1916 and 1916A, Social Security Act (42 U.S.C. Sections 1396o and 1396o-1), or under a federal waiver or other authorization, the executive commissioner of the Health and Human Services Commission shall adopt, after consulting with the Medicaid and CHIP Quality-Based Payment Advisory Committee established under Section 536.002, Government Code, cost-sharing provisions that encourage personal accountability and appropriate utilization of health care services, including a cost-sharing provision applicable to [require] a recipient who chooses to receive a nonemergency [a high-cost] medical service [provided] through a hospital emergency room [to pay a copayment, premium payment, or other cost-sharing payment for the high-cost medical service] if:

(1) the hospital from which the recipient seeks service:

(A) performs an appropriate medical screening and determines that the recipient does not have a condition requiring emergency medical services;

(B) informs the recipient:

(i) that the recipient does not have a condition requiring emergency medical services;

(ii) that, if the hospital provides the nonemergency service, the hospital may require payment of a copayment, premium payment, or other cost-sharing payment by the recipient in advance; and

(iii) of the name and address of a nonemergency Medicaid provider who can provide the appropriate medical service without imposing a cost-sharing payment; and

(C) offers to provide the recipient with a referral to the nonemergency provider to facilitate scheduling of the service; and

(2) after receiving the information and assistance described by Subdivision (1) from the hospital, the recipient chooses to obtain ~~[emergency]~~ medical services through the hospital emergency room despite having access to medically acceptable, appropriate ~~[lower cost]~~ medical services.

(b) The department may not seek a federal waiver or other authorization under this section ~~[Subsection (a)]~~ that would:

(1) prevent a Medicaid recipient who has a condition requiring emergency medical services from receiving care through a hospital emergency room; or

(2) waive any provision under Section 1867, Social Security Act (42 U.S.C. Section 1395dd).

(c) The ~~[If the]~~ executive commissioner of the Health and Human Services Commission shall adopt ~~[adopts a copayment or other]~~ cost-sharing provisions ~~[payment]~~ under Subsection (a), other than provisions applicable to recipients who choose to receive nonemergency medical services through a hospital emergency room, in a manner that is consistent with Section 1916 or 1916A, Social Security Act (42 U.S.C. Section 1396o or 1396o-1) ~~[the commission may not reduce hospital payments to reflect the potential receipt of a copayment or other payment from a recipient receiving medical services provided through a hospital emergency room].~~

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

SECTION \_\_\_\_ QUALITY-BASED OUTCOME AND PAYMENT INITIATIVES. (a) Subtitle I, Title 4, Government Code, is amended by adding Chapter 536, and Section 531.913, Government Code, is transferred to Subchapter D, Chapter 536, Government Code, redesignated as Section 536.151, Government Code, and amended to read as follows:

CHAPTER 536. MEDICAID AND CHILD HEALTH PLAN PROGRAMS:

QUALITY-BASED OUTCOMES AND PAYMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 536.001. DEFINITIONS. In this chapter:

(1) "Advisory committee" means the Medicaid and CHIP Quality-Based Payment Advisory Committee established under Section 536.002.

(2) "Alternative payment system" includes:

(A) a global payment system;

(B) an episode-based bundled payment system; and

(C) a blended payment system.

(3) "Blended payment system" means a system for compensating a physician or other health care provider that includes at least one or more features of a global payment system and an episode-based bundled payment system, but that may also include a system under which a portion of the compensation paid to a physician or other health care provider is based on a fee-for-service payment arrangement.

(4) "Child health plan program," "commission," "executive commissioner," and "health and human services agencies" have the meanings assigned by Section 531.001.

(5) "Episode-based bundled payment system" means a system for compensating a physician or other health care provider for arranging for or providing health care services to child health plan program enrollees or Medicaid recipients that is based on a flat payment for all services provided in connection with a single episode of medical care.

(6) "Exclusive provider benefit plan" means a managed care plan subject to 28 T.A.C. Part 1, Chapter 3, Subchapter KK.

(7) "Freestanding emergency medical care facility" means a facility licensed under Chapter 254, Health and Safety Code.

(8) "Global payment system" means a system for compensating a physician or other health care provider for arranging for or providing a defined set of covered health care services to child health plan program enrollees or Medicaid recipients for a specified period that is based on a predetermined payment per enrollee or recipient, as applicable, for the specified period, without regard to the quantity of services actually provided.

(9) "Health care provider" means any person, partnership, professional association, corporation, facility, or institution licensed, certified, registered, or chartered by this state to provide health care. The term includes an employee, independent contractor, or agent of a health care provider acting in the course and scope of the employment or contractual relationship.

(10) "Hospital" means a public or private institution licensed under Chapter 241 or 577, Health and Safety Code, including a general or special hospital as defined by Section 241.003, Health and Safety Code.

(11) "Managed care organization" means a person that is authorized or otherwise permitted by law to arrange for or provide a managed care plan. The term includes health maintenance organizations and exclusive provider organizations.

(12) "Managed care plan" means a plan, including an exclusive provider benefit plan, under which a person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services. A part of the plan must consist of arranging for or providing health care services as distinguished from indemnification against the cost of those services on a prepaid basis through insurance or otherwise. The term does not include a plan that indemnifies a person for the cost of health care services through insurance.

(13) "Medicaid program" means the medical assistance program established under Chapter 32, Human Resources Code.

(14) "Physician" means a person licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(15) "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.

(16) "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.

(17) "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.

(18) "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.

(19) "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.

(20) "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;

(C) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome; or

(D) another condition or procedure of a similar nature, as determined by the executive commissioner after consulting with the advisory committee.

(21) "Quality-based payment system" means a system for compensating a physician or other health care provider, including an alternative payment system, that provides incentives to the physician or other health care provider for providing high-quality, cost-effective care and bases some portion of the payment made to the physician or other health care provider on quality of care outcomes, which may include the extent to which the physician or other health care provider reduces potentially preventable events.

Sec. 536.002. MEDICAID AND CHIP QUALITY-BASED PAYMENT ADVISORY COMMITTEE. (a) The Medicaid and CHIP Quality-Based Payment Advisory Committee is established to advise the commission on establishing, for purposes of the child health plan and Medicaid programs administered by the commission or a health and human services agency:

(1) reimbursement systems used to compensate physicians or other health care providers under those programs that reward the provision of high-quality, cost-effective health care and quality performance and quality of care outcomes with respect to health care services;

(2) standards and benchmarks for quality performance, quality of care outcomes, efficiency, and accountability by managed care organizations and physicians and other health care providers;

(3) programs and reimbursement policies that encourage high-quality, cost-effective health care delivery models that increase appropriate provider collaboration, promote wellness and prevention, and improve health outcomes; and

(4) outcome and process measures under Section 536.003.

(b) The executive commissioner shall appoint the members of the advisory committee. The committee must consist of physicians and other health care providers, representatives of health care facilities, representatives of managed care organizations, and other stakeholders interested in health care services provided in this state, including:

(1) at least one member who is a physician with clinical practice experience in obstetrics and gynecology;

(2) at least one member who is a physician with clinical practice experience in pediatrics;

(3) at least one member who is a physician with clinical practice experience in internal medicine or family medicine;

(4) at least one member who is a physician with clinical practice experience in geriatric medicine;

(5) at least one member who is or who represents a health care provider that primarily provides long-term care services;

(6) at least one member who is a consumer representative; and

(7) at least one member who is a member of the Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events who meets the qualifications prescribed by Section 98.052(a)(4), Health and Safety Code.

(c) The executive commissioner shall appoint the presiding officer of the advisory committee.

Sec. 536.003. DEVELOPMENT OF QUALITY-BASED OUTCOME AND PROCESS MEASURES. (a) The commission, in consultation with the advisory committee, shall develop quality-based outcome and process measures that promote the provision of efficient, quality health care and that can be used in the child health plan and Medicaid programs to implement quality-based payments for acute and long-term care services across all delivery models and payment systems, including fee-for-service and managed care payment systems. The commission, in developing outcome measures under this section, must consider measures addressing potentially preventable events.

(b) To the extent feasible, the commission shall develop outcome and process measures:

(1) consistently across all child health plan and Medicaid program delivery models and payment systems;

(2) in a manner that takes into account appropriate patient risk factors, including the burden of chronic illness on a patient and the severity of a patient's illness;

(3) that will have the greatest effect on improving quality of care and the efficient use of services; and

(4) that are similar to outcome and process measures used in the private sector, as appropriate.

(c) The commission shall, to the extent feasible, align outcome and process measures developed under this section with measures required or recommended under reporting guidelines established by the federal Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality, or another federal agency.

(d) The executive commissioner by rule may require managed care organizations and physicians and other health care providers participating in the child health plan and Medicaid programs to report to the commission in a format specified by the executive commissioner information necessary to develop outcome and process measures under this section.

(e) If the commission increases physician and other health care provider reimbursement rates under the child health plan or Medicaid program as a result of an increase in the amounts appropriated for the programs for a state fiscal biennium as compared to the preceding state fiscal biennium, the commission shall, to the extent permitted under federal law and to the extent otherwise possible considering other relevant factors, correlate the increased reimbursement rates with the quality-based outcome and process measures developed under this section.

Sec. 536.004. DEVELOPMENT OF QUALITY-BASED PAYMENT SYSTEMS. (a) Using quality-based outcome and process measures developed under Section 536.003 and subject to this section, the commission, after consulting with the advisory committee, shall develop quality-based payment systems for compensating a physician or other health care provider participating in the child health plan or Medicaid program that:

(1) align payment incentives with high-quality, cost-effective health care;

(2) reward the use of evidence-based best practices;

(3) promote the coordination of health care;

(4) encourage appropriate physician and other health care provider collaboration;

(5) promote effective health care delivery models; and

(6) take into account the specific needs of the child health plan program enrollee and Medicaid recipient populations.

(b) The commission shall develop quality-based payment systems in the manner specified by this chapter. To the extent necessary, the commission shall coordinate the timeline for the development and implementation of a payment system with the implementation of other initiatives such as the Medicaid Information Technology Architecture (MITA) initiative of the Center for

Medicaid and State Operations, the ICD-10 code sets initiative, or the ongoing Enterprise Data Warehouse (EDW) planning process in order to maximize the receipt of federal funds or reduce any administrative burden.

(c) In developing quality-based payment systems under this chapter, the commission shall examine and consider implementing:

(1) an alternative payment system;

(2) any existing performance-based payment system used under the Medicare program that meets the requirements of this chapter, modified as necessary to account for programmatic differences, if implementing the system would:

(A) reduce unnecessary administrative burdens; and

(B) align quality-based payment incentives for physicians and other health care providers with the Medicare program; and

(3) alternative payment methodologies within the system that are used in the Medicare program, modified as necessary to account for programmatic differences, and that will achieve cost savings and improve quality of care in the child health plan and Medicaid programs.

(d) In developing quality-based payment systems under this chapter, the commission shall ensure that a managed care organization or physician or other health care provider will not be rewarded by the system for withholding or delaying the provision of medically necessary care.

(e) The commission may modify a quality-based payment system developed under this chapter to account for programmatic differences between the child health plan and Medicaid programs and delivery systems under those programs.

Sec. 536.005. CONVERSION OF PAYMENT METHODOLOGY. (a) To the extent possible, the commission shall convert hospital reimbursement systems under the child health plan and Medicaid programs to a diagnosis-related groups (DRG) methodology that will allow the commission to more accurately classify specific patient populations and account for severity of patient illness and mortality risk.

(b) Subsection (a) does not authorize the commission to direct a managed care organization to compensate physicians and other health care providers providing services under the organization's managed care plan based on a diagnosis-related groups (DRG) methodology.

Sec. 536.006. TRANSPARENCY. The commission and the advisory committee shall:

(1) ensure transparency in the development and establishment of:

(A) quality-based payment and reimbursement systems under Section 536.004 and Subchapters B, C, and D, including the development of outcome and process measures under Section 536.003; and

(B) quality-based payment initiatives under Subchapter E, including the development of quality of care and cost-efficiency benchmarks under Section 536.204(a) and efficiency performance standards under Section 536.204(b);

(2) develop guidelines establishing procedures for providing notice and information to, and receiving input from, managed care organizations, health care providers, including physicians and experts in the various medical specialty fields, and other stakeholders, as appropriate, for purposes of developing and establishing the quality-based payment and reimbursement systems and initiatives described under Subdivision (1); and

(3) in developing and establishing the quality-based payment and reimbursement systems and initiatives described under Subdivision (1), consider that as the performance of a managed care organization or physician or other health care provider improves with respect to an outcome or process measure, quality of care and cost-efficiency benchmark, or efficiency performance standard, as applicable, there will be a diminishing rate of improved performance over time.

Sec. 536.007. PERIODIC EVALUATION. (a) At least once each two-year period, the commission shall evaluate the outcomes and cost-effectiveness of any quality-based payment system or other payment initiative implemented under this chapter.

(b) The commission shall:

(1) present the results of its evaluation under Subsection (a) to the advisory committee for the committee's input and recommendations; and

(2) provide a process by which managed care organizations and physicians and other health care providers may comment and provide input into the committee's recommendations under Subdivision (1).

Sec. 536.008. ANNUAL REPORT. (a) The commission shall submit an annual report to the legislature regarding:

(1) the quality-based outcome and process measures developed under Section 536.003; and

(2) the progress of the implementation of quality-based payment systems and other payment initiatives implemented under this chapter.

(b) The commission shall report outcome and process measures under Subsection (a)(1) by health care service region and service delivery model.

[Sections 536.009-536.050 reserved for expansion]

#### SUBCHAPTER B. QUALITY-BASED PAYMENTS RELATING TO MANAGED CARE ORGANIZATIONS

Sec. 536.051. DEVELOPMENT OF QUALITY-BASED PREMIUM PAYMENTS; PERFORMANCE REPORTING. (a) Subject to Section 1903(m)(2)(A), Social Security Act (42 U.S.C. Section 1396b(m)(2)(A)), and other applicable federal law, the commission shall base a percentage of the premiums paid to a managed care organization participating in the child health plan or Medicaid program on the organization's performance with respect to outcome and process measures developed under Section 536.003, including outcome measures addressing potentially preventable events.



(b) The commission shall make available information relating to the performance of a managed care organization with respect to outcome and process measures under this subchapter to child health plan program enrollees and Medicaid recipients before those enrollees and recipients choose their managed care plans.

Sec. 536.052. PAYMENT AND CONTRACT AWARD INCENTIVES FOR MANAGED CARE ORGANIZATIONS. (a) The commission may allow a managed care organization participating in the child health plan or Medicaid program increased flexibility to implement quality initiatives in a managed care plan offered by the organization, including flexibility with respect to financial arrangements, in order to:

- (1) achieve high-quality, cost-effective health care;
- (2) increase the use of high-quality, cost-effective delivery models; and
- (3) reduce potentially preventable events.

(b) The commission, after consulting with the advisory committee, shall develop quality of care and cost-efficiency benchmarks, including benchmarks based on a managed care organization's performance with respect to reducing potentially preventable events and containing the growth rate of health care costs.

(c) The commission may include in a contract between a managed care organization and the commission financial incentives that are based on the organization's successful implementation of quality initiatives under Subsection (a) or success in achieving quality of care and cost-efficiency benchmarks under Subsection (b).

(d) In awarding contracts to managed care organizations under the child health plan and Medicaid programs, the commission shall, in addition to considerations under Section 533.003 of this code and Section 62.155, Health and Safety Code, give preference to an organization that offers a managed care plan that successfully implements quality initiatives under Subsection (a) as determined by the commission based on data or other evidence provided by the organization or meets quality of care and cost-efficiency benchmarks under Subsection (b).

(e) The commission may implement financial incentives under this section only if implementing the incentives would be cost-effective.

[Sections 536.053-536.100 reserved for expansion]

### SUBCHAPTER C. QUALITY-BASED HEALTH HOME PAYMENT SYSTEMS

Sec. 536.101. DEFINITIONS. In this subchapter:

(1) "Health home" means a primary care provider practice or, if appropriate, a specialty care provider practice, incorporating several features, including comprehensive care coordination, family-centered care, and data management, that are focused on improving outcome-based quality of care and increasing patient and provider satisfaction under the child health plan and Medicaid programs.

(2) "Participating enrollee" means a child health plan program enrollee or Medicaid recipient who has a health home.

Sec. 536.102. QUALITY-BASED HEALTH HOME PAYMENTS.

(a) Subject to this subchapter, the commission, after consulting with the advisory committee, may develop and implement quality-based payment systems for health homes designed to improve quality of care and reduce the provision of unnecessary medical services. A quality-based payment system developed under this section must:

(1) base payments made to a participating enrollee's health home on quality and efficiency measures that may include measurable wellness and prevention criteria and use of evidence-based best practices, sharing a portion of any realized cost savings achieved by the health home, and ensuring quality of care outcomes, including a reduction in potentially preventable events; and

(2) allow for the examination of measurable wellness and prevention criteria, use of evidence-based best practices, and quality of care outcomes based on the type of primary or specialty care provider practice.

(b) The commission may develop a quality-based payment system for health homes under this subchapter only if implementing the system would be feasible and cost-effective.

Sec. 536.103. PROVIDER ELIGIBILITY. To be eligible to receive reimbursement under a quality-based payment system under this subchapter, a health home provider must:

(1) provide participating enrollees, directly or indirectly, with access to health care services outside of regular business hours;

(2) educate participating enrollees about the availability of health care services outside of regular business hours; and

(3) provide evidence satisfactory to the commission that the provider meets the requirement of Subdivision (1).

[Sections 536.104-536.150 reserved for expansion]

SUBCHAPTER D. QUALITY-BASED HOSPITAL REIMBURSEMENT SYSTEM

Sec. 536.151 [531.913]. COLLECTION AND REPORTING OF CERTAIN [HOSPITAL HEALTH] INFORMATION [EXCHANGE]. (a) [In this section, "potentially preventable readmission" means a return hospitalization of a person within a period specified by the commission that results 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:

(1) the same condition or procedure for which the person was previously admitted;

(2) an infection or other complication resulting from care previously provided;

(3) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome; or

~~[(4) another condition or procedure of a similar nature, as determined by the executive commissioner.~~

~~[(b)]~~ The executive commissioner shall adopt rules for identifying potentially preventable readmissions of child health plan program enrollees and Medicaid recipients and potentially preventable complications experienced by child health plan program enrollees and Medicaid recipients. The ~~[and the]~~ commission shall collect ~~[exchange]~~ data from ~~[with]~~ hospitals on present-on-admission indicators for purposes of this section.

~~(b) [(e)]~~ The commission shall establish a ~~[health information exchange]~~ program to provide a ~~[exchange]~~ confidential report to ~~[information with]~~ each hospital in this state that participates in the child health plan or Medicaid program regarding the hospital's performance with respect to potentially preventable readmissions and potentially preventable complications. To the extent possible, a report provided under this section should include potentially preventable readmissions and potentially preventable complications information across all child health plan and Medicaid program payment systems. A hospital shall distribute the information contained in the report ~~[received from the commission]~~ to physicians and other health care providers providing services at the hospital.

~~(c)~~ A report provided to a hospital under this section is confidential and is not subject to Chapter 552.

Sec. 536.152. REIMBURSEMENT ADJUSTMENTS. (a) Subject to Subsection (b), using the data collected under Section 536.151 and the diagnosis-related groups (DRG) methodology implemented under Section 536.005, the commission, after consulting with the advisory committee, shall to the extent feasible adjust child health plan and Medicaid reimbursements to hospitals, including payments made under the disproportionate share hospitals and upper payment limit supplemental payment programs, in a manner that may reward or penalize a hospital based on the hospital's performance with respect to exceeding, or failing to achieve, outcome and process measures developed under Section 536.003 that address the rates of potentially preventable readmissions and potentially preventable complications.

(b) The commission must provide the report required under Section 536.151(b) to a hospital at least one year before the commission adjusts child health plan and Medicaid reimbursements to the hospital under this section.

[Sections 536.153-536.200 reserved for expansion]

#### SUBCHAPTER E. QUALITY-BASED PAYMENT INITIATIVES

Sec. 536.201. DEFINITION. In this subchapter, "payment initiative" means a quality-based payment initiative established under this subchapter.

Sec. 536.202. PAYMENT INITIATIVES; DETERMINATION OF BENEFIT TO STATE. (a) The commission shall, after consulting with the advisory committee, establish payment initiatives to test the effectiveness of quality-based payment systems, alternative payment methodologies, and high-quality, cost-effective health care delivery models that provide incentives to physicians and other health care providers to develop health care interventions for child health plan program enrollees or Medicaid recipients, or both, that will:

(1) improve the quality of health care provided to the enrollees or recipients;

(2) reduce potentially preventable events;

(3) promote prevention and wellness;

(4) increase the use of evidence-based best practices;

(5) increase appropriate physician and other health care provider collaboration; and

(6) contain costs.

(b) The commission shall:

(1) establish a process by which managed care organizations and physicians and other health care providers may submit proposals for payment initiatives described by Subsection (a); and

(2) determine whether it is feasible and cost-effective to implement one or more of the proposed payment initiatives.

Sec. 536.203. PURPOSE AND IMPLEMENTATION OF PAYMENT INITIATIVES. (a) If the commission determines under Section 536.202 that implementation of one or more payment initiatives is feasible and cost-effective for this state, the commission shall establish one or more payment initiatives as provided by this subchapter.

(b) The commission shall administer any payment initiative established under this subchapter. The executive commissioner may adopt rules, plans, and procedures and enter into contracts and other agreements as the executive commissioner considers appropriate and necessary to administer this subchapter.

(c) The commission may limit a payment initiative to:

(1) one or more regions in this state;

(2) one or more organized networks of physicians and other health care providers; or

(3) specified types of services provided under the child health plan or Medicaid program, or specified types of enrollees or recipients under those programs.

(d) A payment initiative implemented under this subchapter must be operated for at least one calendar year.

Sec. 536.204. STANDARDS; PROTOCOLS. (a) The executive commissioner shall:

(1) consult with the advisory committee to develop quality of care and cost-efficiency benchmarks and measurable goals that a payment initiative must meet to ensure high-quality and cost-effective health care services and healthy outcomes; and

(2) approve benchmarks and goals developed as provided by Subdivision (1).

(b) In addition to the benchmarks and goals under Subsection (a), the executive commissioner may approve efficiency performance standards that may include the sharing of realized cost savings with physicians and other health care providers who provide health care services that exceed the efficiency performance standards. The efficiency performance standards may not create any

financial incentive for or involve making a payment to a physician or other health care provider that directly or indirectly induces the limitation of medically necessary services.

Sec. 536.205. PAYMENT RATES UNDER PAYMENT INITIATIVES.  
The executive commissioner may contract with appropriate entities, including qualified actuaries, to assist in determining appropriate payment rates for a payment initiative implemented under this subchapter.

(b) The Health and Human Services Commission shall convert the hospital reimbursement systems used under the child health plan program under Chapter 62, Health and Safety Code, and medical assistance program under Chapter 32, Human Resources Code, to the diagnosis-related groups (DRG) methodology to the extent possible as required by Section 536.005, Government Code, as added by this section, as soon as practicable after the effective date of this Act, but not later than:

- (1) September 1, 2013, for reimbursements paid to children's hospitals; and
- (2) September 1, 2012, for reimbursements paid to other hospitals under those programs.

(c) Not later than September 1, 2012, the Health and Human Services Commission shall begin providing performance reports to hospitals regarding the hospitals' performances with respect to potentially preventable complications as required by Section 536.151, Government Code, as designated and amended by this section.

(d) Subject to Section 536.004(b), Government Code, as added by this section, the Health and Human Services Commission shall begin making adjustments to child health plan and Medicaid reimbursements to hospitals as required by Section 536.152, Government Code, as added by this section:

- (1) not later than September 1, 2012, based on the hospitals' performances with respect to reducing potentially preventable readmissions; and
- (2) not later than September 1, 2013, based on the hospitals' performances with respect to reducing potentially preventable complications.

SECTION \_\_\_\_\_. LONG-TERM CARE PAYMENT INCENTIVE INITIATIVES. (a) The heading to Section 531.912, Government Code, is amended to read as follows:

Sec. 531.912. COMMON PERFORMANCE MEASUREMENTS AND PAY-FOR-PERFORMANCE INCENTIVES FOR [QUALITY OF CARE HEALTH INFORMATION EXCHANGE WITH] CERTAIN NURSING FACILITIES.

(b) Sections 531.912(b), (c), and (f), Government Code, are amended to read as follows:

(b) If feasible, the executive commissioner by rule may [shall] establish an incentive payment program for [a quality of care health information exchange with] nursing facilities that choose to participate. The [in a] program must be designed to improve the quality of care and services provided to medical

assistance recipients. Subject to Subsection (f), the program may provide incentive payments in accordance with this section to encourage facilities to participate in the program.

(c) In establishing an incentive payment ~~[a quality of care health information exchange]~~ program under this section, the executive commissioner shall, subject to Subsection (d), adopt common ~~[exchange information with participating nursing facilities regarding]~~ performance measures to be used in evaluating nursing facilities that are related to structure, process, and outcomes that positively correlate to nursing facility quality and improvement. The common performance measures:

(1) must be:

(A) recognized by the executive commissioner as valid indicators of the overall quality of care received by medical assistance recipients; and

(B) designed to encourage and reward evidence-based practices among nursing facilities; and

(2) may include measures of:

(A) quality of care, as determined by clinical performance ratings published by the federal Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality, or another federal agency [life];

(B) direct-care staff retention and turnover;

(C) recipient satisfaction, including the satisfaction of recipients who are short-term and long-term residents of facilities, and family satisfaction, as determined by the Nursing Home Consumer Assessment of Health Providers and Systems survey relied upon by the federal Centers for Medicare and Medicaid Services;

(D) employee satisfaction and engagement;

(E) the incidence of preventable acute care emergency room services use;

(F) regulatory compliance;

(G) level of person-centered care; and

(H) direct-care staff training, including a facility's ~~[level of occupancy or of facility]~~ utilization of independent distance learning programs for the continuous training of direct-care staff.

(f) The commission may make incentive payments under the program only if money is ~~[specifically]~~ appropriated for that purpose.

(c) The Department of Aging and Disability Services shall conduct a study to evaluate the feasibility of expanding any incentive payment program established for nursing facilities under Section 531.912, Government Code, as amended by this section, by providing incentive payments for the following types of providers of long-term care services, as defined by Section 22.0011, Human Resources Code, under the medical assistance program:

(1) intermediate care facilities for persons with mental retardation licensed under Chapter 252, Health and Safety Code; and

(2) providers of home and community-based services, as described by 42 U.S.C. Section 1396n(c), who are licensed or otherwise authorized to provide those services in this state.

(d) Not later than September 1, 2012, the Department of Aging and Disability Services shall submit to the legislature a written report containing the findings of the study conducted under Subsection (c) of this section and the department's recommendations.

Amendment No. 2 was adopted. (The vote was reconsidered later today, and Amendment No. 2 was amended and 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).

### CSSB 23 - (consideration continued)

#### Amendment No. 3

Representative Zerwas offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 54

Amend **CSSB 23** on page 37, line 26 by amending Subsection 531.502(c)(1) as follows:

"(1) identifying health care related state and local funds and program expenditures that; before September 1, 2011 [~~2007~~] are not being matched with federal money; and"

Amend **CSSB 23** on page 37 lines 26 and 27 and page 38 lines 1 through line 9 by striking Section (1) and inserting the following new Subsection (1):

"(1) include safeguards to ensure that the total amount of federal money provided under the disproportionate share hospitals or [~~and~~] upper payment limit supplemental payment program [~~programs~~] that is deposited as provided by Section 531.504 is, for a particular state fiscal year, at least equal to the greater of the annualized amount provided to this state under those supplemental payment programs during state fiscal year 2011 [~~2007~~], excluding amounts provided during that state fiscal year that are retroactive payments, or the state fiscal years during which the waiver is in effect; and"

Amend **CSSB 23** on page 38 lines 12 and 13 by striking (A) and inserting the following new (A):

"(A) be used to supplement hospital reimbursement under a waiver that includes terms that are consistent with, or that produce revenues consistent with, disproportionate share hospital and upper payment limit principles;"

Amend **CSSB 23** on page 39 lines 3 through 8 by striking (b) and inserting the following new Subsection (b):

"(b) The commission and comptroller may accept gifts, grants, and donations from any source, and receive intergovernmental transfers, for purposes consistent with this subchapter and the terms of the waiver. The comptroller shall deposit a gift, grant, or donation made for those purposes in the fund. Any intergovernmental transfers received, including the associated federal matching funds, shall be used only for the purposes originally intended by the transferring entity and in accordance with the terms of the waiver."

Amendment No. 3 was adopted. (Harless recorded voting no.)

**Amendment No. 4**

Representative Zerwas offered the following amendment to **CSSB 23**:

Floor Packet Page No. 90

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ USE OF TRAUMA AND EMERGENCY MEDICAL SERVICES ACCOUNT TO FUND MEDICAID. Section 780.004, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (j) to read as follows:

(a) The commissioner:

(1) [7] with advice and counsel from the chairpersons of the trauma service area regional advisory councils, shall use money appropriated from the account established under this chapter to fund designated trauma facilities, county and regional emergency medical services, and trauma care systems in accordance with this section; and

(2) after consulting with the executive commissioner of the Health and Human Services Commission, shall transfer to an account in the general revenue fund money appropriated from the account established under this chapter to maximize the receipt of federal funds under the medical assistance program established under Chapter 32, Human Resources Code, and to fund provider reimbursement payments as provided by Subsection (j).

(j) Money in the account described by Subsection (a)(2) may be appropriated only to the Health and Human Services Commission to fund provider reimbursement payments under the medical assistance program established under Chapter 32, Human Resources Code, including reimbursement enhancements to the statewide dollar amount (SDA) rate used to reimburse hospitals under the program.

**Amendment No. 5**

Representative Zerwas offered the following amendment to Amendment No. 4:

Amend Floor Amendment No. 4 to **CSSB 23** (page 90, prefiled amendments packet), on page 1 of the amendment as follows:

(1) On line 16, strike "shall transfer" and substitute "may transfer".

(2) On line 27, strike "hospitals" and substitute "designated trauma hospitals".

Amendment No. 5 was adopted.

Amendment No. 4, as amended, was adopted.

**Amendment No. 6**

Representative Frullo offered the following amendment to **CSSB 23**:

Floor Packet Page No. 1

Amend **CSSB 23** (house committee printing) as follows:



(1) In Section 1 of the bill, in amended Section 102.054(c)(1)(H), Business & Commerce Code (page 2, line 22), strike "and".

(2) In Section 1 of the bill, in amended Section 102.054(c)(1)(I), Business & Commerce Code (page 3, line 1), after the semicolon add the following:

and

(J) Internet Crimes Against Children Task Force locations in this state recognized by the United States Department of Justice;

#### **Amendment No. 7**

Representative Frullo offered the following amendment to Amendment No. 6:

Amend Amendment No. 6 to **CSSB 23** by Frullo (prefiled amendment packet, page 1) as follows:

(1) In Item (1) of the amendment, on page 1, line 3, strike "102.054(c)(1)(H), Business & Commerce Code" and substitute "420.008(c)(1)(H), Government Code".

(2) In Item (2) of the amendment, on page 1, line 6, strike "102.054(c)(1)(I), Business & Commerce Code" and substitute "420.008(c)(1)(I), Government Code".

Amendment No. 7 was adopted.

Amendment No. 6, as amended, was adopted.

#### **Amendment No. 8**

Representative S. Miller offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 2

Amend **CSSB 23** (house committee printing) as follows:

In SECTION 1 of the bill, strike Subsection (c) on page 4, lines 23-27 and reletter subsequent subsections accordingly.

SECTION 1. SEXUAL ASSAULT PROGRAM FUND; FEE IMPOSED ON CERTAIN SEXUALLY ORIENTED BUSINESSES. (a) Section 102.054, Business & Commerce Code, is amended to read as follows:

Sec. 102.054. ALLOCATION OF [CERTAIN] REVENUE FOR SEXUAL ASSAULT PROGRAMS. The comptroller shall deposit the amount [first \$25 million] received from the fee imposed under this subchapter [in a state fiscal biennium] to the credit of the sexual assault program fund.

(b) The comptroller of public accounts shall collect the fee imposed under Section 102.052, Business & Commerce Code, until a court, in a final judgement upheld on appeal or no longer subject to appeal, finds Section 102.052, Business & Commerce Code, or its predecessor statute, to be unconstitutional.

(c) Section 102.055, Business & Commerce Code, is repealed.

(d) This section prevails over any other Act of the 82nd Legislature, Regular Session, 2011, regardless of the relative dates of enactment, that purports to amend or repeal Subchapter B, Chapter 102, Business & Commerce Code, or any provision of Chapter 1206 (**HB 1751**), Acts of the 80th Legislature, Regular Session, 2007.

**AMENDMENT NO. 8 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE ZERWAS: We've had a conversation about this, and I just want to be certain that we understand that this is not intended to eliminate the current account—or it's not intended to eliminate the program at all until we actually have a response by the supreme court.

REPRESENTATIVE S. MILLER: Not at all. This does not eliminate the program. The comptroller still has the authority to collect this money, —she will continue collecting it. This just directs her; don't spend it until we know if we won or lost.

ZERWAS: Which I think is a fiscally prudent thing to do, and in the event that the supreme court rules against—or actually rules with the appellate courts,—that money then could be refunded without having to try to find all the money and so forth. But in the event that the supreme court would say that it is reasonable to do this, then I don't believe this amendment changes anything with regard with being able to take that money and applying it for the sexual assault fund.

S. MILLER: That's correct. Absolutely correct.

**REMARKS ORDERED PRINTED**

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

The motion prevailed.

Amendment No. 8 was adopted. (Harless recorded voting no.)

**Amendment No. 9**

Representative Dutton offered the following amendment to **CSSB 23**:

Floor Packet Page No. 4

Amend **CSSB 23** (house committee printing) as follows:

In SECTION 1 of the bill, strike Subsection (c) on page 4, lines 23-27 and reletter subsequent subsections accordingly.

Amendment No. 9 was withdrawn.

**Amendment No. 10**

Representative D. Howard offered the following amendment to **CSSB 23**:

Floor Packet Page No. 5

Amend **CSSB 23** (senate committee printing) on page 5 in SECTION 2 of the bill and beginning at line 21, strike through the wording indicated on line 21 and insert the following additional wording in subparagraph (b)(1)(A) of the amendment in the bill regarding new Sec. 531.02417 proposed to be added to Subchapter B, Chapter 531, Government Code:

(A) if cost-effective and in the best interests of the recipient, by a ~~state employee or contractor~~ physician licensed to practice in Texas or by a physician's assistant, registered nurse or nurse practitioner who is licensed to

practice in Texas who is not the person who will deliver any necessary services to the recipient and is not affiliated with the person who will deliver those services, or by an assessment conducted by or under the direction of the patient's personal physician; and

#### **Amendment No. 11**

Representative D. Howard offered the following amendment to Amendment No. 10:

Amend Amendment No. 10 to **CSSB 23** by D. Howard (prefiled amendment packet, page 5) by striking the text of the amendment and substituting the following:

Amend **CSSB 23** (house committee printing) in SECTION 2 of the bill, in added Section 531.02417(b)(1)(A), Government Code (page 5, line 21), by striking "state employee or contractor" and substituting "physician, physician assistant, or registered nurse who is licensed in this state and".

Amendment No. 11 was adopted.

Amendment No. 10, as amended, was adopted.

#### **Amendment No. 12**

Representative V. Gonzales offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 6

Amend **CSSB 23** (house committee printing) by striking SECTION 3(a) (page 7, line 12, through page 8, line 2) and substituting the following:

(a) Section 533.0025, Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) In expanding the health maintenance organization model of the managed care program into the South Texas service delivery area, the executive commissioner shall determine and develop the most effective alignment of managed care service delivery areas for each managed care model through which services are provided in Duval, Hidalgo, Jim Hogg, Cameron, Maverick, McMullen, Starr, Webb, Willacy, and Zapata Counties. In developing the service delivery areas for each managed care model, the executive commissioner shall consider:

(1) the number of individuals impacted in each of the counties;  
(2) the usual source of health care services for residents in each of the counties; and

(3) other factors relevant to the delivery of health care services in each of the counties [Notwithstanding Subsection (b)(1), the commission may not provide medical assistance using a health maintenance organization in Cameron County, Hidalgo County, or Maverick County].

(f) Each managed care organization that operates within the South Texas service delivery area must maintain a medical director within the service delivery area whose duties include overseeing and managing the managed care organization medical necessity determination process. The medical director:

(1) may be a managed care organization employee or be under contract with the managed care organization;

(2) must be available for peer-to-peer discussions about managed care organization medical necessity determinations and other managed care organization clinical policies; and

(3) may not be affiliated with any hospital, clinic, or other health care related institution or business that operates within the service delivery area.

### **Amendment No. 13**

Representative Coleman offered the following amendment to Amendment No. 12:

Amend Amendment No. 12 to **CSSB 23** by V. Gonzales (prefiled amendment packet, pages 6-7) by striking added Section 533.0025(f), Government Code (page 1, line 25 through page 2, line 8 of the amendment).

Amendment No. 13 was withdrawn.

Representative Zerwas moved to table Amendment No. 12.

The motion to table prevailed by (Record 1166): 89 Yeas, 54 Nays, 2 Present, not voting.

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

Nays — Aliseda; Allen; Alonzo; Alvarado; Anchia; Brown; Castro; Coleman; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Hopson; 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; Strama; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Workman.

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

Absent, Excused — Phillips.

Absent — Burnam; Callegari; Davis, Y.; Keffer.

**STATEMENT OF VOTE**

When Record No. 1166 was taken, I was in the house but away from my desk. I would have voted yes.

Keffer

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Keffer requested permission for the Committee on Energy Resources to meet while the house is in session, at 4:30 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Energy Resources, 4:30 p.m. today, 3W.15, for a formal meeting, to consider pending business.

Public Health, 5 p.m. today, 3W.9, for a formal meeting, to consider pending business.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Kolkhorst requested permission for the Committee on Public Health to meet while the house is in session, at 5 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

**CSSB 23 - (consideration continued)****Amendment No. 14**

Representative Orr offered the following amendment to **CSSB 23**:

Floor Packet Page No. 8

Amend **CSSB 23** (house committee printing) as follows:

(1) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 8, line 19), between "MEDICAL" and "HOMES", insert "AND HEALTH".

(2) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 8, line 20), between "medical" and "home", insert "or health".

(3) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 9, line 26), between "medical" and "homes", insert "or health".

(4) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 10, line 1), between "medical" and "home", insert "or health".

**Amendment No. 15**

Representative Orr offered the following amendment to Amendment No. 14:

Amend Amendment No. 14 to **CSSB 23** by Orr (prefiled amendment packet, page 8) by striking the text of the amendment and substituting the following:

Amend **CSSB 23** (house committee printing) as follows:

(1) In SECTION 3(b) of the bill, adding Section 533.0029, Government Code (page 8, line 19), between "MEDICAL" and "HOMES", insert "AND HEALTH".

(2) In SECTION 3(b) of the bill, strike Section 533.0029(a), Government Code (page 8, line 19 through page 9, line 22), and substitute the following:

(a) For purposes of this section:

(1) "Patient-centered health home" means a health care relationship:

(A) between a primary health care provider, other than a physician, and a child or adult patient in which the provider:

(i) provides comprehensive primary care to the patient; and

(ii) facilitates partnerships between the provider, the patient, physicians and other health care providers, including acute care providers, and, when appropriate, the patient's family; and

(B) that encompasses the following primary principles:

(i) the patient has an ongoing relationship with the provider, and the provider is the first contact for the patient and provides continuous and comprehensive care to the patient;

(ii) the provider coordinates a team of individuals at the practice level who are collectively responsible for the ongoing care of the patient;

(iii) the provider is responsible for providing all of the care the patient needs or for coordinating with physicians or other qualified providers to provide care to the patient throughout the patient's life, including preventive care, acute care, chronic care, and end-of-life care;

(iv) the patient's care is coordinated across health care facilities and the patient's community and is facilitated by registries, information technology, and health information exchange systems to ensure that the patient receives care when and where the patient wants and needs the care and in a culturally and linguistically appropriate manner; and

(v) quality and safe care is provided.

(2) "Patient-centered medical home" means a medical relationship:

(A) between a primary care physician and a child or adult patient in which the physician:

(i) provides comprehensive primary care to the patient; and

(ii) facilitates partnerships between the physician, the patient, acute care and other care providers, and, when appropriate, the patient's family; and

(B) that encompasses the following primary principles:

(i) the patient has an ongoing relationship with the physician, who is trained to be the first contact for the patient and to provide continuous and comprehensive care to the patient;

(ii) the physician leads a team of individuals at the practice level who are collectively responsible for the ongoing care of the patient;

(iii) the physician is responsible for providing all of the care the patient needs or for coordinating with other qualified providers to provide care to the patient throughout the patient's life, including preventive care, acute care, chronic care, and end-of-life care;

(iv) the patient's care is coordinated across health care facilities and the patient's community and is facilitated by registries, information technology, and health information exchange systems to ensure that the patient receives care when and where the patient wants and needs the care and in a culturally and linguistically appropriate manner; and

(v) quality and safe care is provided.

(3) In SECTION 3(b) of the bill, adding Section 533.0029(b)(1), Government Code (page 9, line 26), between "medical" and "homes", insert "or health".

(4) In SECTION 3(b) of the bill, adding Section 533.0029(b)(2), Government Code (page 10, line 1), between "medical" and "home", insert "or health".

(5) In SECTION 3(k) of the bill (page 21, line 23), between "medical" and "homes", insert "or health".

Amendment No. 15 was adopted.

Amendment No. 14, as amended, was adopted.

#### **Amendment No. 16**

Representative V. Gonzales offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 9

Amend **CSSB 23** (house committee printing) in SECTION 3(c) of the bill by striking amended Section 533.003, Government Code (page 10, lines 4 through 25), and substituting the following:

Sec. 533.003. CONSIDERATIONS IN AWARDING CONTRACTS. (a) In awarding contracts to managed care organizations, the commission shall:

(1) give preference to organizations that have significant participation in the organization's provider network from each health care provider in the region who has traditionally provided care to Medicaid and charity care patients;

(2) give extra consideration to organizations that agree to assure continuity of care for at least three months beyond the period of Medicaid eligibility for recipients;

(3) consider the need to use different managed care plans to meet the needs of different populations; ~~and~~

(4) consider the ability of organizations to process Medicaid claims electronically; and

(5) give extra consideration in each health care service region to an organization, if one exists, that:

(A) is locally owned, managed, and operated; and

(B) notwithstanding Section 533.004 or any other law, is not owned or operated by and does not have a contract, agreement, or other arrangement with a hospital district in the region.

(b) For purposes of this section, a managed care organization is considered to be locally owned if the organization is formed under the laws of this state and is headquartered, operates, and has the majority of the organization's staff residing in the health care service region where the organization provides health care services.

Representative Zerwas moved to table Amendment No. 16.

The motion to table prevailed by (Record 1167): 85 Yeas, 59 Nays, 2 Present, not voting.

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

Nays — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Brown; Burkett; Burnam; Castro; Coleman; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hartnett; Hernandez Luna; Howard, D.; Johnson; King, T.; Larson; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Strama; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Weber; Workman.

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

Absent, Excused — Phillips.

Absent — Callegari; Keffer; Riddle.

#### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative Eissler requested permission for the Committee on Public Education to meet while the house is in session, at 5 p.m. today, in 3N.4, to consider pending business.

Permission to meet was granted.

#### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Public Education, 5 p.m. today, 3N.4, for a formal meeting, to consider pending business.



**CSSB 23 - (consideration continued)****Amendment No. 17**

Representative V. Gonzales offered the following amendment to **CSSB 23**:

Floor Packet Page No. 11

Amend **CSSB 23** (house committee printing) in SECTION 3(c) of the bill, in added Section 533.003(5)(A), Government Code (page 10, line 21), by striking "or" and substituting "and".

Amendment No. 17 was withdrawn.

**Amendment No. 18**

Representative J. Davis offered the following amendment to **CSSB 23**:

Floor Packet Page No. 18

Amend **CSSB 23** (house committee printing) by striking SECTION 9 of the bill (page 30, line 6, through page 34, line 17) and substituting the following appropriately numbered SECTION:

SECTION \_\_\_\_\_. HOME TELEMONTORING SERVICES, TELEHEALTH SERVICES, AND TELEMEDICINE MEDICAL SERVICES.

(a) Section 531.001, Government Code, is amended by adding Subdivisions (4-a), (7), and (8) to read as follows:

(4-a) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health and transmission of the data to a licensed home health agency or a hospital, as those terms are defined by Section 531.02164(a).

(7) "Telehealth service" means a health service, other than a telemedicine medical service, that is delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(8) "Telemedicine medical service" means a health care service that is initiated by a physician or provided by a health professional acting under physician delegation and supervision, that is provided for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, or treatment, or for the transfer of medical data, and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(b) Section 531.0216, Government Code, is amended to read as follows:

Sec. 531.0216. PARTICIPATION AND REIMBURSEMENT OF TELEMEDICINE MEDICAL SERVICE PROVIDERS AND TELEHEALTH SERVICE PROVIDERS UNDER MEDICAID. (a) The commission by rule shall develop and implement a system to reimburse providers of services under the state Medicaid program for services performed using telemedicine medical services or telehealth services.

(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.

(c) The commission shall encourage health care providers and health care facilities to participate as telemedicine medical service providers or telehealth service providers in the health care delivery system. The commission may not require that a service be provided to a patient through telemedicine medical services or telehealth services when the service can reasonably be provided by a physician through a face-to-face consultation with the patient in the community in which the patient resides or works. This subsection does not prohibit the authorization of the provision of any service to a patient through telemedicine medical services or telehealth services at the patient's request.

(d) Subject to Section 153.004, Occupations Code, the commission may adopt rules as necessary to implement this section. In the rules adopted under this section, the commission shall:

(1) refer to the site where the patient is physically located as the patient site; and

(2) refer to the site where the physician or health professional providing the telemedicine medical service or telehealth service is physically located as the distant site.

(e) The commission may not reimburse a health care facility for telemedicine medical services or telehealth services provided to a Medicaid recipient unless the facility complies with the minimum standards adopted under Section 531.02161.

(f) Not later than December 1 of each even-numbered year, the commission shall report to the speaker of the house of representatives and the lieutenant governor on the effects of telemedicine medical services, telehealth services, and home telemonitoring services on the Medicaid program in the state, including the number of physicians, ~~and~~ health professionals, and licensed health care facilities using telemedicine medical services, telehealth services, or home telemonitoring services, the geographic and demographic disposition of the physicians and health professionals, the number of patients receiving telemedicine medical services, telehealth services, and home telemonitoring services, the types of services being provided, and the cost of utilization of telemedicine medical services, telehealth services, and home telemonitoring services to the program.

~~(g) In this section:~~

~~(1) "Telehealth service" has the meaning assigned by Section 57.042, Utilities Code.~~

~~(2) "Telemedicine medical service" has the meaning assigned by Section 57.042, Utilities Code.]~~

(c) The heading to Section 531.02161, Government Code, is amended to read as follows:

Sec. 531.02161. TELEMEDICINE, TELEHEALTH, AND HOME TELEMONITORING TECHNOLOGY STANDARDS.

(d) Section 531.02161(b), Government Code, is amended to read as follows:

(b) The commission and the Telecommunications Infrastructure Fund Board by joint rule shall establish and adopt minimum standards for an operating system used in the provision of telemedicine medical services, telehealth services, or home telemonitoring services by a health care facility participating in the state Medicaid program, including standards for electronic transmission, software, and hardware.

(e) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02164 to read as follows:

Sec. 531.02164. MEDICAID SERVICES PROVIDED THROUGH HOME TELEMONITORING SERVICES. (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, that provides home health services as defined by Section 142.001, Health and Safety Code.

(b) If the commission determines that establishing a statewide program that permits reimbursement under the state Medicaid program for home telemonitoring services would be cost-effective and feasible, the executive commissioner by rule shall establish the program as provided under this section.

(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; or

(viii) mental illness or serious emotional disturbance; 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.

(d) If, after implementation, the commission determines that the program established under this section is not cost-effective, the commission may discontinue the program and stop providing reimbursement under the state Medicaid program for home telemonitoring services, notwithstanding Section 531.0216 or any other law.

(e) The commission shall determine whether the provision of home telemonitoring services to persons who are eligible to receive benefits under both the Medicaid and Medicare programs achieves cost savings for the Medicare

program. 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 1395jjj.

(f) The heading to Section 531.02172, Government Code, is amended to read as follows:

Sec. 531.02172. TELEMEDICINE AND TELEHEALTH ADVISORY COMMITTEE.

(g) Sections 531.02172(a) and (b), Government Code, are amended to read as follows:

(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.

(b) The advisory committee must include:

(1) representatives of health and human services agencies and other state agencies concerned with the use of telemedical and telehealth consultations and home telemonitoring services in the Medicaid program and the state child health plan program, including representatives of:

- (A) the commission;
- (B) the Department of State Health Services;
- (C) the Texas Department of Rural Affairs;
- (D) the Texas Department of Insurance;
- (E) the Texas Medical Board;
- (F) the Texas Board of Nursing; and
- (G) the Texas State Board of Pharmacy;

(2) representatives of health science centers in this state;

(3) experts on telemedicine, telemedical consultation, and telemedicine medical services or telehealth services; ~~and~~

(4) representatives of consumers of health services provided through telemedical consultations and telemedicine medical services or telehealth services; and

(5) representatives of providers of telemedicine medical services, telehealth services, and home telemonitoring services.

(h) Section 531.02173(c), Government Code, is amended to read as follows:

(c) The commission shall perform its duties under this section with assistance from the telemedicine and telehealth advisory committee established under Section 531.02172.

(i) The following provisions of the Government Code are repealed:

(1) Section 531.02161(a);

(2) Sections 531.0217(a)(3) and (4);

(3) Section 531.02171, as added by Chapter 661 (**HB 2700**), Acts of the 77th Legislature, Regular Session, 2001; and

(4) Section 531.02171, as added by Chapter 959 (**SB 1536**), Acts of the 77th Legislature, Regular Session, 2001.

(j) Not later than December 31, 2012, the Health and Human Services Commission shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the establishment and implementation of the program to permit reimbursement under the state Medicaid program for home telemonitoring services under Section 531.02164, Government Code, as added by this section. The report must include:

(1) the methods used by the commission to determine whether the program was cost-effective and feasible; and

(2) if the program has been established, information regarding:

(A) the utilization of home telemonitoring services by Medicaid recipients under the program;

(B) the health outcomes of Medicaid recipients who receive home telemonitoring services under the program;

(C) the hospital admission rate of Medicaid recipients who receive home telemonitoring services under the program;

(D) the cost of the home telemonitoring services provided under the program; and

(E) the estimated cost savings to the state as a result of the program.

#### **Amendment No. 19**

Representative J. Davis offered the following amendment to Amendment No. 18:

Amend Amendment No. 18 to **CSSB 23** by J. Davis in the following ways:

(1) On page 7 strike line 13 beginning at the word "If" through line 18.

(2) On page 7 line 25 strike "shall" and substitute "may".

Amendment No. 19 was adopted.

#### **Amendment No. 20**

Representative Naishtat offered the following amendment to Amendment No. 18:

Amend Amendment No. 18 to **CSSB 23** by J. Davis (prefiled amendment packet, pages 18-27) as follows:

(1) In added Section 531.02164(a)(2), Government Code (page 5, lines 23 through 24, of the amendment), strike ", that provides home health services as defined by Section 142.001, Health and Safety Code".

(2) In added Section 531.02164(c)(1)(A)(vii), Government Code (page 6, line 10, of the amendment), strike "or".

(3) In added Section 531.02164(c)(1)(A)(viii), Government Code (page 6, line 12, of the amendment), strike "and" and substitute "or".

(4) In added Section 531.02164(c)(1)(A), Government Code (page 6, between lines 12 and 13, of the amendment), insert the following:

"(ix) asthma; and".

Amendment No. 20 was adopted.

#### **Amendment No. 21**

Representative Schwertner offered the following amendment to Amendment No. 18:

Amend Amendment No. 18 to **CSSB 23** by J. Davis of Harris (prefiled amendment packet, pages 18-27) by adding the following appropriately lettered subsection to the SECTION added by the amendment and relettering subsequent subsections accordingly:

( ) 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. 21 was adopted.

#### **Amendment No. 22**

Representative J. Davis offered the following amendment to Amendment No. 18:

Amend the J. Davis amendment on page 6, Subsection (A) by adding the following:

(x) myocardial infarction;

(xi) stroke.

Amendment No. 22 was adopted.

Amendment No. 18, as amended, was adopted.

#### **Amendment No. 23**

Representative Perry offered the following amendment to **CSSB 23**:

Floor Packet Page No. 53

Amend **CSSB 23** (house committee printing) as follows:

(1) Immediately following the heading to SECTION 11 of the bill (page 36, line 7), between "COLLECTION." and "Subchapter B", insert "(a)".

(2) In SECTION 11 of the bill (page 37, between lines 4 and 5), insert the following appropriately lettered subsection:

( ) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.04242 to read as follows:

Sec. 32.04242. PAYOR OF LAST RESORT. The executive commissioner of the Health and Human Services Commission shall adopt rules to ensure, to the extent allowed by federal law, that the Medicaid program:

(1) is the payor of last resort; and

(2) provides reimbursement for services, including long-term care services, only if, and to the extent, other adequate public or private sources of payment are not available.

Amendment No. 23 was adopted.

#### **Amendment No. 24**

Representative Perry offered the following amendment to **CSSB 23**:

Floor Packet Page No. 56

Amend **CSSB 23** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Subtitle B, Title 4, Government Code, is amended by adding Chapter 422 to read as follows:

#### CHAPTER 422. OFFICE OF INSPECTOR GENERAL

Sec. 422.001. DEFINITION. In this chapter, "office" means the office of inspector general established under this chapter.

Sec. 422.002. OFFICE OF INSPECTOR GENERAL. The office of inspector general is a division within the office of the governor.

Sec. 422.003. GENERAL RESPONSIBILITIES. (a) The office is responsible for the investigation of fraudulent insurance acts, including Medicaid fraud and fraud under the workers' compensation system, in this state.

(b) The office shall:

(1) report to and perform duties as directed by the governor; and

(2) provide assistance to:

(A) inspectors general of state agencies who have jurisdiction over insurance;

(B) the Health and Human Services Commission's office of inspector general; and

(C) the insurance fraud unit of the Texas Department of Insurance.

Sec. 422.004. CONTRACTS FOR INVESTIGATIVE SERVICES. The inspector general may contract with certified public accountants, qualified management consultants, or other professional experts as necessary to independently perform investigative services.



Sec. 422.005. GENERAL POWERS. The office has all the powers necessary or appropriate to carry out its responsibilities and functions under this chapter.

Sec. 422.006. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) The office shall provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

(b) The office shall refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

Sec. MEMORANDUM OF UNDERSTANDING. The office shall enter into a memorandum of understanding with the attorney general to increase security and avoid duplication of duties.

Sec. 422.007. FUNDING. The office shall be funded using existing appropriations to the office of the governor and the Health and Human Services Commission. This section expires September 1, 2013.

Representative Zerwas moved to table Amendment No. 24.

The motion to table prevailed by (Record 1168): 81 Yeas, 53 Nays, 2 Present, not voting. (The vote was reconsidered later today, and Amendment No. 24 was amended and was adopted.)

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bonnen; Branch; Burnam; Button; Callegari; Carter; Castro; Chisum; Cook; Craddick; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dutton; Eissler; Farrar; Fletcher; Frullo; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Hilderbran; Hopson; Howard, C.; Howard, D.; Jackson; Johnson; King, T.; Kleinschmidt; Lewis; Madden; Mallory Caraway; Margo; Menendez; Miles; Miller, D.; Miller, S.; Murphy; Naishtat; Nash; Orr; Otto; Patrick; Paxton; Peña; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Schwertner; Scott; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Torres; Truitt; Turner; Woolley; Workman; Zerwas.

Nays — Aliseda; Alvarado; Anderson, C.; Anderson, R.; Beck; Brown; Burkett; Cain; Christian; Coleman; Creighton; Davis, S.; Elkins; Farias; Flynn; Gallego; Garza; Geren; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Huberty; Hughes; Hunter; Isaac; King, P.; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lozano; Lucio; Lyne; Marquez; Morrison; Muñoz; Oliveira; Parker; Perry; Price; Sheets; Simpson; Smithee; Taylor, L.; Taylor, V.; Thompson; Veasey; Weber; White; Zedler.

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

Absent, Excused — Phillips.

Absent — Crownover; Dukes; Eiland; Hamilton; Keffer; King, S.; Martinez; Martinez Fischer; McClendon; Rodriguez; Villarreal; Vo; Walle.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1168. I intended to vote no.

Harless

I was shown voting yes on Record No. 1168. I intended to vote no.

Hilderbran

I was shown voting no on Record No. 1168. I intended to vote yes.

Hunter

#### Amendment No. 25

Representative Madden offered the following amendment to **CSSB 23**:

Floor Packet Page No. 58

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ CORRECTIONAL HEALTH CARE. (a) Subchapter C, Chapter 499, Government Code, is amended by adding Section 499.055 to read as follows:

Sec. 499.055. POPULATION MANAGEMENT BASED ON INMATE HEALTH. The department shall adopt policies designed to manage inmate population based on similar health conditions suffered by inmates. The policies adopted under this section must maximize organizational efficiencies and reduce health care costs to the department by housing inmates with similar health conditions in the same unit or units that are, if possible, served by or located near one or more specialty health care providers most likely to be needed for the treatment of the health condition.

(b) Section 501.063, Government Code, is amended to read as follows:

Sec. 501.063. ANNUAL INMATE FEE [COPAYMENTS] FOR [CERTAIN] HEALTH CARE [VISITS]. (a) An inmate confined in a facility operated by or under contract with the department, other than a halfway house, [who initiates a visit to a health care provider] shall pay an annual health care services fee [make a copayment] to the department in the amount of \$100 [53]. The inmate shall pay [make] the annual fee [copayment] out of the inmate's trust fund. If the balance in the fund is insufficient to cover the fee [copayment], 50 percent of each deposit to the fund shall be applied toward the balance owed until the total amount owed is paid.

(b) ~~The department may not charge a copayment for health care:~~

~~(1) provided in response to a life threatening or emergency situation affecting the inmate's health;~~

~~(2) initiated by the department;~~

~~(3) initiated by the health care provider or consisting of routine follow up, prenatal, or chronic care; or~~

~~(4) provided under a contractual obligation that is established under the Interstate Corrections Compact or under an agreement with another state that precludes assessing a copayment.~~

~~[(e)]~~ The department shall adopt policies to ensure that before any deductions are made from an inmate's trust fund under this section ~~[an inmate initiates a visit to a health care provider]~~, the inmate is informed that the annual health care services fee ~~[a \$3 copayment]~~ will be deducted from the inmate's trust fund as required by Subsection (a).

(c) ~~[(d)]~~ The department may not deny an inmate access to health care as a result of the inmate's failure or inability to pay a fee under this section ~~[make a copayment]~~.

(d) ~~[(e)]~~ The department shall deposit money received under this section in an account in the general revenue fund that may be used only to pay the cost of administering this section. At the beginning of each fiscal year, the comptroller shall transfer any surplus from the preceding fiscal year to the state treasury to the credit of the general revenue fund.

(c) Subchapter B, Chapter 501, Government Code, is amended by adding Section 501.067 to read as follows:

Sec. 501.067. AVAILABILITY OF CERTAIN MEDICATION. (a) In this section, "over-the-counter medication" means medication that may legally be sold and purchased without a prescription.

(b) The department shall make over-the-counter medication available for purchase by inmates in each inmate commissary operated by or under contract with the department.

(c) The department may not deny an inmate access to over-the-counter medications as a result of the inmate's inability to pay for the medication. The department shall pay for the cost of over-the-counter medication for inmates who are unable to pay for the medication out of the profits of inmate commissaries operated by or under contract with the department.

(d) The department may adopt policies concerning the sale and purchase of over-the-counter medication under this section as necessary to ensure the safety and security of inmates in the custody of, and employees of, the department, including policies concerning the quantities and types of over-the-counter medication that may be sold and purchased under this section.

#### **Amendment No. 25 - Point of Order**

Representative Turner raised a point of order against further consideration of Amendment No. 25 under Rule 8, Section 3 of the House Rules on the grounds that it violates the one subject rule.

The point of order was withdrawn.

Amendment No. 25 was withdrawn.

#### **Amendment No. 26**

Representative Alonzo offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 61

Amend **CSSB 23** (second reading) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . INCLUSION OF CERTAIN EYE HEALTH CARE SERVICE PROVIDERS IN MEDICAID MANAGED CARE PROVIDER NETWORKS. (a) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0065 to read as follows:

Sec. 533.0065. EYE HEALTH CARE SERVICE PROVIDERS. (a) In this section, "Texas-Mexico border region" has the meaning assigned by Section 2056.002.

(b) Subject to Section 32.047, Human Resources Code, but notwithstanding any other law, the commission shall require that each managed care organization that contracts with the commission under any Medicaid managed care model or arrangement to provide health care services to recipients in a region, including a region consisting of all or part of the Texas-Mexico border region, include in the organization's provider network each optometrist, therapeutic optometrist, and ophthalmologist in the region who:

(1) agrees to comply with the terms and conditions of the organization;

(2) agrees to accept the prevailing provider contract rate of the organization;

(3) agrees to abide by the standards of care required by the organization; and

(4) has the credentials required by the organization.

(b) The Health and Human Services Commission shall conduct a study of the fiscal impact on this state of requiring each Medicaid managed care organization that contracts with the commission under any Medicaid managed care model or arrangement implemented under Chapter 533, Government Code, to include in the organization's health care provider network providing services in all or part of the Texas-Mexico border region, as defined by Section 2056.002, Government Code, and other regions of the state, each optometrist, therapeutic optometrist, and ophthalmologist who meets the requirements under Section 533.0065, Government Code, as added by this section. The study must include an analysis of cost savings to the state as a result of a reduction in the number of emergency room visits by Medicaid recipients for nonemergency eye health care services that are realized after implementation of Section 533.0065, Government Code, as added by this section.

(c) Not later than September 1, 2016, the Health and Human Services Commission shall submit to the legislature a written report containing the findings of the study conducted under Subsection (b) of this section and the commission's recommendations regarding the requirement addressed in the study.

(d) The Health and Human Services Commission shall, in a contract between the commission and a Medicaid managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act, require that the managed care organization comply with Section 533.0065, Government Code, as added by this section.

(e) The Health and Human Services Commission shall seek to amend each contract entered into with a Medicaid managed care organization under Chapter 533, Government Code, before the effective date of this Act to require those managed care organizations to comply with Section 533.0065, Government

Code, as added by this section. To the extent of a conflict between Section 533.0065, Government Code, as added by this section, and a provision of a contract with a managed care organization entered into before the effective date of this Act, the contract provision prevails.

#### **Amendment No. 27**

Representative Alonzo offered the following amendment to Amendment No. 26:

Amend Amendment No. 26 to **CSSB 23** by Alonzo (prefiled amendment packet, pages 61-63) in Section 533.0065(b), Government Code, as added by the amendment, by striking "the commission shall require that" and substituting "the commission may require that".

Amendment No. 27 was adopted.

Amendment No. 26, as amended, was adopted. (P. King recorded voting no.)

#### **Amendment No. 28**

Representative Landtroop offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 65

Amend **CSSB 23** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0025 to read as follows:

Sec. 531.0025. RESTRICTION ON CERTAIN FUNDS RECEIVED. Notwithstanding any other law, any money received by health and human services agencies for family planning services, including grant money, may only be awarded or otherwise provided to a person or facility that does not perform abortions or provide abortion-related services.

SECTION \_\_\_\_\_. Section 32.024, Human Resources Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The department shall ensure that money spent under the medical assistance program is not used to perform abortions or provide abortion-related services.

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.

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.

### COMMITTEE GRANTED PERMISSION TO MEET

Representative Deshotel requested permission for the Committee on Business and Industry to meet while the house is in session, at 5:32 p.m. today, in 3N.3, to consider **SB 1425**.

Permission to meet was granted.

### COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Business and Industry, 5:32 p.m. today, 3N.3, for a formal meeting, to consider **SB 1425**.

### CSSB 23 - (consideration continued)

Amendment No. 28 was withdrawn.

### Amendment No. 29

Representative Guillen offered the following amendment to **CSSB 23**:

Floor Packet Page No. 66

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ MEDICAID NONEMERGENCY MEDICAL TRANSPORTATION SERVICES. (a) 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.

(b) 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 section.

(c) 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 section, that is entered into or renewed on or after the date the rules required by Section 531.02414 take effect, require that the regional contracted broker comply with those rules.

Amendment No. 29 was withdrawn.

### **Amendment No. 30**

Representative Guillen offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 69

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ PILOT PROJECT TO ESTABLISH COMPREHENSIVE ACCESS POINT FOR LONG-TERM SERVICES AND SUPPORTS. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0525 to read as follows:

Sec. 531.0525. PILOT PROJECT TO ESTABLISH COMPREHENSIVE ACCESS POINT FOR LONG-TERM SERVICES AND SUPPORTS. (a) In this section:

(1) "Aging and disability resource center" means a center established under the Aging and Disability Resource Center initiative funded in part by the federal Administration on Aging and the Centers for Medicare and Medicaid Services.

(2) "Colocated long-term services and supports staff members" means:  
(A) long-term services and supports staff members who are located in the same physical office; or

(B) long-term services and supports staff members who are not located in the same physical office but who work collaboratively through the use of the telephone or other technologies.

(3) "Department of Aging and Disability Services staff members" includes community services staff members of the Department of Aging and Disability Services.

(4) "Long-term services and supports" means long-term assistance or care provided to older persons and persons with physical disabilities through the Medicaid program or other programs. The term includes assistance or care provided through the following programs:

(A) the primary home care program;

(B) the community attendant services program;

(C) the community-based alternatives program;

(D) the day activity and health services program;

(E) the promoting independence program;

(F) a program funded through the Older Americans Act of 1965

(42 U.S.C. Section 3001 et seq.);

(G) a community care program funded through Title XX of the federal Social Security Act (42 U.S.C. Section 301 et seq.);

(H) the in-home and family support program; and

(I) a nursing facility program.

(5) "Long-term services and supports staff" means:

(A) one or more of the commission's Medicaid eligibility determination staff members;

(B) one or more Department of Aging and Disability Services staff members; and

(C) one or more area agency on aging staff members.

(6) "Pilot project site" means a location in an area served by the pilot project established under this section where colocated long-term services and supports staff members work collaboratively to provide information and tentatively assess functional and financial eligibility to initiate long-term services and supports.



(7) "Tentative assessment of functional and financial eligibility" means an expedited preliminary screening of an applicant to determine Medicaid eligibility with the goal of initiating services within seven business days. The tentative assessment does not guarantee state payment for services.

(b) Subject to availability of funds appropriated by the legislature for this purpose, the commission shall develop and implement a pilot project to establish a comprehensive access point system for long-term services and supports in which colocated long-term services and supports staff members work in collaboration to provide all necessary services in connection with long-term services and supports from the intake process to the start of service delivery. The pilot project must require that, at a minimum, the staff members work collaboratively to:

(1) inform and educate older persons, persons with physical disabilities, and their family members and other caregivers about long-term services and supports for which they may qualify;

(2) screen older persons and persons with physical disabilities requesting long-term services and supports;

(3) provide a tentative assessment of functional and financial eligibility for older persons and persons with physical disabilities requesting long-term services and supports for which there are no interest lists; and

(4) make final determinations of eligibility for long-term services and supports.

(c) In developing and implementing the pilot project, the commission shall ensure that:

(1) the pilot project site has colocated long-term services and supports staff members who are located in the same physical office;

(2) the pilot project site serves as a comprehensive access point for older persons and persons with physical disabilities to obtain information about long-term services and supports for which they may qualify and access long-term services and supports in the site's service area;

(3) the pilot project site is designed and operated in accordance with best practices adopted by the executive commissioner after the commission reviews best practices for similar initiatives in other states and professional policy-based research describing best practices for successful initiatives;

(4) the colocated long-term services and supports staff members supporting the pilot project site include:

(A) one full-time commission staff member who determines eligibility for the Medicaid program and who:

(i) has full access to the Texas Integrated Eligibility Redesign System (TIERS);

(ii) has previously made Medicaid long-term care eligibility determinations; and

(iii) is dedicated primarily to making eligibility determinations for incoming clients at the site;

(B) sufficient Department of Aging and Disability Services staff members to carry out the tentative functional and financial eligibility and screening functions at the site;

(C) sufficient area agency on aging staff members to:

(i) assist with the performance of screening functions and service coordination for services funded under the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.), such as meals programs; and

(ii) identify other locally funded and supported services that will enable older persons and persons with physical disabilities to continue to reside in the community to the extent reasonable; and

(D) any available staff members from local service agencies; and

(5) the colocated long-term services and supports staff members of the pilot project site:

(A) process intakes for long-term services and supports in person or by telephone or through the Internet;

(B) use a standardized screening tool to tentatively assess both functional and financial eligibility with the goal of initiating services within seven business days;

(C) closely coordinate with local hospital discharge planners and staff members of extended rehabilitation units of local hospitals and nursing homes; and

(D) inform persons about community-based services available in the area served by the pilot project.

(d) The pilot project must be implemented in a single county or a multicounty area, as determined by the commission. The pilot project site must be located within an aging and disability resource center service area. If the commission finds that there is no aging and disability resource center that is willing or able to accommodate a pilot project site on the date the pilot project is to be implemented, the pilot project site may be located at another appropriate location.

(e) Not later than January 31, 2013, the commission shall submit a report concerning the pilot project to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services. The report must:

(1) contain an evaluation of the operation of the pilot project;

(2) contain an evaluation of the pilot project's benefits for persons who received services;

(3) contain a calculation of the costs and cost savings that can be attributed to implementation of the pilot project;

(4) include a recommendation regarding adopting improved policies and procedures concerning long-term services and supports with statewide applicability, as determined from information obtained in operating the pilot project;

(5) include a recommendation regarding the feasibility of expanding the pilot project to other areas of this state or statewide; and

(6) contain the perspectives of service providers participating in the pilot project.

(f) This section expires September 1, 2015.

(b) Not later than December 31, 2011, the Health and Human Services Commission shall ensure that the pilot project site is in operation under the pilot project required by Section 531.0525, Government Code, as added by this section.

Amendment No. 30 was adopted. (V. Taylor recorded voting no.)

### **Amendment No. 31**

Representative S. Miller offered the following amendment to **CSSB 23**:

Floor Packet Page No. 75

Amend **CSSB 23** (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:

( ) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0695 to read as follows:

Sec. 531.0695. PRESCRIPTION DRUG BENEFITS. (a) In this section, "prescription drug benefits" means any prescription drug benefits paid by the state under the Medicaid vendor drug program, the child health plan program, the kidney health care program, the children with special health care needs program, or another state program administered by the Health and Human Services commission.

(b) Effective September 1, 2011, and thereafter, the commission shall continue to internally administer prescription drug benefits through the vendor drug program in a fee-for-service model.

(c) The commission shall adopt rules to achieve cost-saving measures for prescription drugs benefits that are comparable to those savings that are projected by the commission if prescription drug benefits were administered in a managed care system.

Amendment No. 31 was withdrawn.

### **Amendment No. 32**

Representative Brown offered the following amendment to **CSSB 23**:

Floor Packet Page No. 79

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . CONTRACTS FOR PRESCRIPTION DRUG BENEFITS. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0696 to read as follows:

Sec. 531.0696. CONSIDERATIONS IN AWARDING CERTAIN PRESCRIPTION DRUG BENEFITS CONTRACTS. (a) This section applies to:

(1) the vendor drug program for the Medicaid and child health plan programs;

(2) the kidney health care program;

(3) the children with special health care needs program; and

(4) any other state program administered by the commission that provides prescription drug benefits.

(b) The commission may not contract with a managed care organization, including a health maintenance organization, or a pharmacy benefit manager to provide prescription drug benefits under a program to which this section applies if the organization or pharmacy benefit manager, in connection with a bid, proposal, or contract with a governmental entity:

(1) in the preceding five years:

(A) made a material misrepresentation or committed fraud;

(B) committed a breach of contract;

(C) was convicted of violating a state or federal law; or

(D) was assessed a penalty or fine in the amount of \$100,000 or more in a state or federal administrative proceeding; or

(2) is the defendant in a pending state or federal criminal case or subject to a pending state or federal enforcement action.

### **Amendment No. 33**

Representative Brown offered the following amendment to Amendment No. 32:

Amend Amendment No. 32 by Brown to **CSSB 23** (page 79, prefiled amendment packet) as follows:

(1) In Section 531.0696(b)(1), Government Code, as added by the amendment, strike "in the preceding five years" and substitute "in the preceding three years".

(2) In Section 531.0696(b)(1)(D), Government Code, as added by the amendment, strike "\$100,000" and substitute "\$500,000".

Amendment No. 33 was adopted.

Amendment No. 32, as amended, was adopted by (Record 1169): 138 Yeas, 3 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; 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, P.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Lavender; Legler; 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; Pickett; Pitts; Price; Quintanilla; Raymond; 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 — Laubenberg; Lewis; Taylor, V.

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

Absent, Excused — Phillips.

Absent — Cain; Crownover; King, S.; Naishtat; Reynolds.

#### STATEMENTS OF VOTE

When Record No. 1169 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

I was shown voting no on Record No. 1169. I intended to vote yes.

Lewis

When Record No. 1169 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

When Record No. 1169 was taken, my vote failed to register. I would have voted yes.

Reynolds

I was shown voting no on Record No. 1169. I intended to vote yes.

V. Taylor

#### Amendment No. 34

Representative Hopson offered the following amendment to **CSSB 23**:

Floor Packet Page No. 81

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ COMMUNICATIONS REGARDING PRESCRIPTION DRUG BENEFITS. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0697 to read as follows:

Sec. 531.0697. PRIOR APPROVAL AND PROVIDER ACCESS TO CERTAIN COMMUNICATIONS WITH CERTAIN RECIPIENTS. (a) This section applies to:

(1) the vendor drug program for the Medicaid and child health plan programs;

(2) the kidney health care program;

(3) the children with special health care needs program; and

(4) any other state program administered by the commission that provides prescription drug benefits.

(b) A managed care organization, including a health maintenance organization, or a pharmacy benefit manager, that administers claims for prescription drug benefits under a program to which this section applies shall, at least 10 days before the date the organization or pharmacy benefit manager intends to deliver a communication to recipients collectively under a program:

(1) submit a copy of the communication to the commission for approval; and

(2) if applicable, allow the pharmacy providers of recipients who are to receive the communication access to the communication.

Amendment No. 34 was adopted.

### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 5:15 p.m. today, in 3W.15, to set a calendar.

Permission to meet was granted.

### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Calendars, 5:15 p.m. today, 3W.15, for a formal meeting, to set a calendar.

### **CSSB 23 - (consideration continued)**

#### **Amendment No. 35**

On behalf of Representative Shelton, Representative Zerwas offered the following amendment to **CSSB 23**:

Floor Packet Page No. 82

Amend **CSSB 23** (house committee printing) by adding the following appropriately lettered subsections to SECTION 3 of the bill and relettering subsequent subsections of SECTION 3 accordingly:

( ) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0073 to read as follows:

Sec. 533.0073. MEDICAL DIRECTOR QUALIFICATIONS. A person who serves as a medical director for a managed care plan must be a physician licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

( ) Section 533.0073, Government Code, as added by this section, applies only to a person hired or otherwise retained as the medical director of a Medicaid managed care plan on or after the effective date of this Act. A person hired or otherwise retained 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. 35 was adopted.

**Amendment No. 36**

Representative V. Taylor offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 83

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ REIMBURSEMENT FOR INDIGENT HEALTH CARE SERVICES. (a) Subchapter A, Chapter 61, Health and Safety Code, is amended by adding Section 61.012 to read as follows:

Sec. 61.012. REIMBURSEMENT FOR SERVICES. (a) In this section, "sponsored alien" means a person who has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) and who, as a condition of admission, was sponsored by a person who executed an affidavit of support on behalf of the person.

(b) A public hospital or hospital district that provides health care services to a sponsored alien under this chapter may recover from a person who executed an affidavit of support on behalf of the alien the costs of the health care services provided to the alien.

(c) A public hospital or hospital district described by Subsection (b) must notify a sponsored alien and a person who executed an affidavit of support on behalf of the alien, at the time the alien applies for health care services, that a person who executed an affidavit of support on behalf of a sponsored alien is liable for the cost of health care services provided to the alien.

(b) Section 61.012, Health and Safety Code, as added by this section, applies only to health care services provided by a public hospital or hospital district on or after the effective date of this Act.

**Amendment No. 37**

Representative V. Taylor offered the following amendment to Amendment No. 36:

Amend Floor Amendment No. 36 to **CSSB 23** (page 83, prefiled amendments packet), on page 1 of the amendment, as follows:

(1) On line 2, strike "SECTION" and substitute "SECTIONS".

(2) Immediately following line 28, add the following:

SECTION \_\_\_\_ Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.024181 and 531.024182 to read as follows:

Sec. 531.024181. VERIFICATION OF IMMIGRATION STATUS OF APPLICANTS FOR CERTAIN BENEFITS WHO ARE QUALIFIED ALIENS.

(a) This section applies only with respect to the following benefits programs:

(1) the child health plan program under Chapter 62, Health and Safety Code;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) the medical assistance program under Chapter 32, Human Resources Code; or

(4) the nutritional assistance program under Chapter 33, Human Resources Code.

(b) If, at the time of application for benefits under a program to which this section applies, a person states that the person is a qualified alien, as that term is defined by 8 U.S.C. Section 1641(b), the commission shall, to the extent allowed by federal law, verify information regarding the immigration status of the person using an automated system or systems where available.

(c) The executive commissioner shall adopt rules necessary to implement this section.

(d) Nothing in this section adds to or changes the eligibility requirements for any of the benefits programs to which this section applies.

Sec. 531.024182. VERIFICATION OF SPONSORSHIP INFORMATION FOR CERTAIN BENEFITS RECIPIENTS; REIMBURSEMENT. (a) In this section, "sponsored alien" means a person who has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) and who, as a condition of admission, was sponsored by a person who executed an affidavit of support on behalf of the person.

(b) If, at the time of application for benefits, a person stated that the person is a sponsored alien, the commission may, to the extent allowed by federal law, verify information relating to the sponsorship, using an automated system or systems where available, after the person is determined eligible for and begins receiving benefits under any of the following benefits programs:

(1) the child health plan program under Chapter 62, Health and Safety Code;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) the medical assistance program under Chapter 32, Human Resources Code; or

(4) the nutritional assistance program under Chapter 33, Human Resources Code.

(c) If the commission verifies that a person who receives benefits under a program listed in Subsection (b) is a sponsored alien, the commission may seek reimbursement from the person's sponsor for benefits provided to the person under those programs to the extent allowed by federal law, provided the commission determines that seeking reimbursement is cost-effective.

(d) If, at the time a person applies for benefits under a program listed in Subsection (b), the person states that the person is a sponsored alien, the commission shall make a reasonable effort to notify the person that the commission may seek reimbursement from the person's sponsor for any benefits the person receives under those programs.

(e) The executive commissioner shall adopt rules necessary to implement this section, including rules that specify the most cost-effective procedures by which the commission may seek reimbursement under Subsection (c).



(f) Nothing in this section adds to or changes the eligibility requirements for any of the benefits programs listed in Subsection (b).

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.

Amendment No. 37 was adopted.

### **Amendment No. 38**

Representative Alonzo offered the following amendment to Amendment No. 36:

Amend Amendment No. 36 by V. Taylor to **CSSB 23** (page 83, prefiled amendment packet) in the added SECTION entitled "REIMBURSEMENT FOR INDIGENT HEALTH CARE SERVICES" by adding the following appropriately lettered subsection to that SECTION and relettering subsequent subsections accordingly:

( ) Section 61.033, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) In accordance with Subsection (a), if an eligible resident receives health care services from a county other than the county in which the resident resides, the county in which the resident resides is liable for those costs.

Representative V. Taylor moved to table Amendment No. 38.

The vote of the house was taken on the motion to table Amendment No. 38 and the vote was announced yeas 73, nays 68.

A verification of the vote was requested and was granted.

(Geren in the chair)

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 1170): 50 Yeas, 89 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Aycock; Beck; Berman; Bonnen; Callegari; Chisum; Christian; Cook; Creighton; Crownover; Driver; Flynn; Frullo; Gonzales, L.; Gooden; Hamilton; Hardcastle; Hilderbran; Howard, C.; Hughes; Hunter; Isaac; Keffer; King, P.; Kleinschmidt; Kolkhorst; Landtroop; Laubenberg; Lavender; Lyne; Madden; Miller, S.; Morrison; Orr; Otto; Parker; Perry; Pitts; Price; Schwertner; Simpson; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Torres; White; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Bohac; Branch; Brown; Burkett; Burnam; Button; Carter; Castro; Coleman; Craddick; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Gallego; Garza; Geren(C); Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hancock; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, D.; Huberty; Jackson; Johnson; Larson; Legler; Lewis; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez

Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Nash; Patrick; Peña; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smithee; Strama; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler.

Present, not voting — Mr. Speaker; Kuempel.

Absent, Excused — Phillips.

Absent — Cain; Dukes; Guillen; King, S.; King, T.; Miller, D.; Oliveira; Paxton.

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

#### **STATEMENT OF VOTE**

I was shown voting yes on Record No. 1170. I intended to vote no.

Frullo

Amendment No. 38 was adopted.

Amendment No. 36, as amended, was adopted.

#### **LEAVES OF ABSENCE GRANTED**

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

Cain on motion of Hughes.

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

Dukes on motion of McClendon.

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

D. Miller on motion of Button.

#### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative S. Miller requested permission for the Committee on Homeland Security and Public Safety to meet while the house is in session, at 6:30 p.m. today, in 3W.15, to consider **SB 1658**, **SB 1696**, **SB 1697**, **SB 1699**, **SB 1787**, and pending business.

Permission to meet was granted.

#### **LEAVE OF ABSENCE GRANTED**

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

S. King on motion of Gooden.

#### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Homeland Security and Public Safety, 6:30 p.m. today, 3W.15, for a formal meeting, to consider **SB 1658**, **SB 1696**, **SB 1697**, **SB 1699**, **SB 1787**, and pending business.

**CSSB 23 - (consideration continued)**

**Amendment No. 39**

Representatives V. Gonzales, Schwertner, and L. Gonzales offered the following amendment to **CSSB 23**:

Floor Packet Page No. 84

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ COUNTY ELIGIBILITY TO RECEIVE STATE ASSISTANCE FOR HEALTH CARE EXPENDITURES. (a) Sections 61.037(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The department may distribute funds as provided by this subchapter to eligible counties to assist the counties in providing:

(1) health care services under Sections 61.028 and 61.0285 to their eligible county residents; or

(2) health care services provided by Medicaid as described by Subsection (b)(1).

(b) Except as provided by Subsection (c), (d), (e), or (g), to be eligible for state assistance, a county must:

(1) spend in a state fiscal year at least eight percent of the county general revenue levy for that year to provide health care services described by Subsection (a) to its eligible county residents who qualify for assistance under Section 61.023 and may include as part of the county's eight percent expenditure level any payment made by the county for health care services provided through Medicaid, including the county's direct reimbursement to health care providers and indirect reimbursement through transfers of funds to the state for health care services provided through Medicaid; and

(2) notify the department, not later than the seventh day after the date on which the county reaches the expenditure level, that the county has spent at least six percent of the applicable county general revenue levy for that year to provide health care services described by Subsection (a)(1) [~~(a)~~] to its eligible county residents who qualify for assistance under Section 61.023 or health care services provided by Medicaid as described by Subdivision (1).

(b) Section 61.038, Health and Safety Code, is amended to read as follows:

Sec. 61.038. DISTRIBUTION OF ASSISTANCE FUNDS. (a) If the department determines that a county is eligible for assistance, the department shall distribute funds appropriated to the department from the indigent health care assistance fund or any other available fund to the county to assist the county in providing:

(1) health care services under Sections 61.028 and 61.0285 to its eligible county residents who qualify for assistance as described by Section 61.037; or

(2) health care services provided through Medicaid as described by Section 61.037(b)(1).

(b) State funds provided under this section to a county must be equal to at least 90 percent of the actual payment for the health care services for the county's eligible residents, including any payments made by the county for health care services provided through Medicaid as described by Section 61.037(b)(1), during the remainder of the state fiscal year after the eight percent expenditure level is reached.

Amendment No. 39 was adopted.

#### **Amendment No. 40**

Representative P. King offered the following amendment to **CSSB 23**:

Floor Packet Page No. 87

Amend **CSSB 23** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 262.023(b), Health and Safety Code, is amended to read as follows:

(b) The board may delegate to the manager or executive director the authority to manage the hospital and to employ and discharge employees other than physicians hired in accordance with Section 262.0235.

SECTION \_\_\_\_\_. Subchapter C, Chapter 262, Health and Safety Code, is amended by adding Section 262.0235 to read as follows:

Sec. 262.0235. EMPLOYMENT OF PHYSICIANS. (a) This section applies only to an authority that is created by the governing body of a municipality with a population of less than 10,000 and that owns or operates a hospital with more than 50 licensed beds.

(b) The board of an authority may employ a physician and retain all or part of the professional income generated by the physician for medical services provided at a hospital or other health care facility owned or operated by the authority if the board satisfies the requirements of this section.

(c) The board of an authority shall:

(1) appoint a chief medical officer for the authority who has been recommended by the medical staff of the authority; and

(2) adopt, maintain, and enforce policies to ensure that a physician employed by the authority exercises the physician's independent medical judgment in providing care to patients.

(d) The policies adopted under this section must include:

(1) policies relating to:

(A) credentialing and privileges;

(B) quality assurance;

(C) utilization review;

(D) peer review and due process; and

(E) medical decision-making; and

(2) the implementation of a complaint mechanism to process and resolve complaints regarding interference or attempted interference with a physician's independent medical judgment.

(e) The policies adopted under this section must be approved by the medical staff of the authority. The medical staff of the authority and the board shall jointly develop and implement a conflict management policy to resolve any conflict between a medical staff policy and a board policy.

(f) For all matters relating to the practice of medicine, each physician employed by an authority shall ultimately report to the chief medical officer of the authority.

(g) The chief medical officer shall notify the Texas Medical Board that the board is employing physicians under this section and that the chief medical officer is the board's designated contact with the Texas Medical Board. The chief medical officer shall immediately report to the Texas Medical Board any action or event that the chief medical officer reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

(h) The board of an authority shall give equal consideration regarding the issuance of medical staff membership and privileges to physicians employed by the authority and physicians not employed by the authority.

(i) A physician employed by an authority shall retain independent medical judgment in providing care to patients and may not be disciplined for reasonably advocating for patient care.

(j) If an authority provides professional liability coverage for physicians employed by the authority, a physician employed by the authority may participate in the selection of the professional liability coverage, has the right to an independent defense at the physician's own cost, and retains the right to consent to the settlement of any action or proceeding brought against the physician.

(k) If a physician employed by an authority enters into an employment agreement that includes a covenant not to compete, the agreement is subject to Section 15.50, Business & Commerce Code.

(l) The board of an authority may not delegate to the manager or executive director of a hospital owned or operated by the hospital authority the authority to hire a physician.

(m) This section may not be construed as authorizing the board to supervise or control the practice of medicine as prohibited under Subtitle B, Title 3, Occupations Code.

#### **Amendment No. 41**

Representative Christian offered the following amendment to Amendment No. 40:

Amend Amendment No. 40 to **CSSB 23** by P. King on page 87 by striking lines 12-15 and substitution the following:

Sec. 262.0235. EMPLOYMENT OF PHYSICIANS. (a) this section applies only to an authority that is:

(1) created by the governing body of a municipality with a population of less than 10,00 and that owns or operates a hospital with more than 50 licensed beds; or

(2) classified as a rural referral center under Section 1886 (d)(1)(C)(i), Social Security Act (42 U.S.C. Section 1395ww(d)(1)(C)(i)) that is not located in a metropolitan statistical area as defined by the United States Office of Management and Budget.

Amendment No. 41 was adopted.

Representative Zerwas moved to table Amendment No. 40, as amended.

The motion to table was lost by (Record 1171): 58 Yeas, 73 Nays, 4 Present, not voting.

Yeas — Aliseda; Alonzo; Anchia; Anderson, C.; Bonnen; Branch; Burnam; Callegari; Castro; Cook; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Eissler; Farias; Farrar; Frullo; Gonzales, L.; Gonzales, V.; Gutierrez; Hancock; Hernandez Luna; Hochberg; Hopson; Hunter; Jackson; Johnson; Kleinschmidt; Kolkhorst; Kuempel; Lavender; Lozano; Margo; Marquez; Martinez; Martinez Fischer; Miller, S.; Muñoz; Murphy; Naishtat; Oliveira; Otto; Patrick; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Sheffield; Shelton; Veasey; Walle; Woolley; Zerwas.

Nays — Allen; Anderson, R.; Aycock; Beck; Berman; Bohac; Brown; Burkett; Button; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Elkins; Fletcher; Flynn; Gallego; Garza; Giddings; Gooden; Guillen; Hamilton; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Howard, D.; Huberty; Hughes; Isaac; Keffer; King, P.; King, T.; Landtroop; Laubenberg; Legler; Lewis; Lucio; Lyne; Madden; McClendon; Morrison; Nash; Orr; Parker; Peña; Perry; Price; Riddle; Scott; Sheets; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Weber; White; Workman; Zedler.

Present, not voting — Mr. Speaker; Geren(C); Gonzalez; Hardcastle.

Absent, Excused — Cain; Dukes; King, S.; Miller, D.; Phillips.

Absent — Alvarado; Coleman; Dutton; Eiland; Larson; Mallory Caraway; Menendez; Miles; Paxton; Pickett.

### STATEMENTS OF VOTE

When Record No. 1171 was taken, I was in the house but away from my desk. I would have voted yes.

Alvarado

I was shown voting no on Record No. 1171. I intended to vote yes.

Aycock

I was shown voting no on Record No. 1171. I intended to vote yes.

Huberty

I was shown voting no on Record No. 1171. I intended to vote yes.

T. Smith

I was shown voting no on Record No. 1171. I intended to vote yes.

Villarreal

I was shown voting yes on Record No. 1171. I intended to vote no.

Vo

Amendment No. 40, as amended, was adopted.

#### **Amendment No. 42**

Representative Fletcher offered the following amendment to **CSSB 23**:

Floor Packet Page No. 91

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . TESTIMONY OF MEMBERS AND FORMER MEMBERS OF STATE BOARD OF DENTAL EXAMINERS. Section 254.018, Occupations Code, is amended to read as follows:

Sec. 254.018. ~~[EXPERT]~~ TESTIMONY. (a) A member or former member of the board may not express an oral or written opinion or serve as an expert witness in a suit involving a health care liability claim against a person licensed or registered under this subtitle [dentist] for injury to or death of a patient or for a violation of the standard of care or the commission of professional malpractice ~~[unless the member receives approval from the board or an executive committee of the board to serve as an expert witness].~~

(b) This section applies to a former member of the board until the second anniversary of the date the member's term expires or the member resigns from the board.

Amendment No. 42 was adopted.

#### **Amendment No. 43**

Representative Y. Davis offered the following amendment to **CSSB 23**:

Floor Packet Page No. 94

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . ELECTRONIC SUBMISSION OF CLAIMS FOR MEDICAL ASSISTANCE REIMBURSEMENT FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0314 to read as follows:

Sec. 32.0314. REIMBURSEMENT FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES. The executive commissioner of the Health and Human Services Commission shall adopt rules requiring the electronic submission of any claim for reimbursement for durable medical equipment and supplies under the medical assistance program.

Amendment No. 43 was adopted.

**Amendment No. 44**

Representative S. Miller offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 105

Amend **CSSB 23** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Section 161.073, Human Resources Code, is amended to read as follows:

Sec. 161.073. RULES. (a) The executive commissioner may adopt rules reasonably necessary for the department to administer this chapter, consistent with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

(b) To the extent allowed by federal law, the executive commissioner shall adopt rules:

(1) requiring that the on-site survey process through which the department certifies ICF-MR facilities and Home and Community-based Services (HCS) providers includes a requirement that the department assign each provider, as a result of an on-site survey, a rating of "excellent," "good," or "average or below average"; and

(2) prescribing a schedule for follow-up on-site surveys under which:

(A) a provider who receives a rating of "excellent" on the most recent survey conducted is subject to another survey not earlier than three years after the date the provider receives the rating;

(B) a provider who receives a rating of "good" on the most recent survey conducted is subject to another survey not earlier than two years after the date the provider receives the rating; and

(C) a provider who receives a rating of "average or below average" on the most recent survey conducted is subject to another survey not earlier than one year after the date the provider receives the rating.

SECTION \_\_\_\_ . Section 161.076, Human Resources Code, as added by Chapter 284 (S.B. 643), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

Sec. 161.076. ON-SITE SURVEYS OF CERTAIN PROVIDERS. Subject to rules adopted under Section 161.073(b), at [A+] least every three years [12 months], the department shall conduct an unannounced on-site survey in each group home, other than a foster home, at which a Home and Community-based Services (HCS) provider provides services.



Amendment No. 44 was withdrawn.

**Amendment No. 45**

Representative Truitt offered the following amendment to **CSSB 23**:

Floor Packet Page No. 109

Amend **CSSB 23** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ ADMINISTRATION OF MEDICATION. (a) Chapter 161, Human Resources Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. ADMINISTRATION OF MEDICATION FOR CLIENTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

Sec. 161.091. DEFINITIONS. In this subchapter:

(1) "Administration of medication" means:

(A) removing a unit or dose of medication from a previously dispensed, properly labeled container;

(B) verifying the medication with the medication order;

(C) giving the proper medication in the proper dosage to the proper client at the proper time by the proper administration route; and

(D) recording the time of administration and dosage administered.

(2) "Client" means a person with an intellectual and developmental disability who is receiving services from a facility or program listed in Section 161.092.

(3) "Unlicensed person" means an individual not licensed as a health care provider who provides services at or for a facility or program listed in Section 161.092, including:

(A) a nurse aide, orderly, assistant, attendant, technician, home health aide, medication aide with a permit issued by a state agency, or other individual who provides personal health care-related services;

(B) a person who is monetarily compensated to perform certain health-related tasks and functions in a complementary or assistive role to a licensed nurse who provides direct client care or performs common nursing functions;

(C) a person who performs those tasks and functions as a volunteer but does not qualify as a friend providing gratuitous nursing care of the sick under Section 301.004, Occupations Code; or

(D) a person who is a professional nursing student who provides care for monetary compensation and not as part of a formal educational program.

Sec. 161.092. APPLICABILITY. This subchapter applies only to administration of medication provided to certain persons with intellectual and developmental disabilities who are served:

(1) in a small facility with not less than one and not more than eight beds that is licensed or certified under Chapter 252, Health and Safety Code;

(2) in a medium facility with not less than nine and not more than 13 beds that is licensed or certified under Chapter 252, Health and Safety Code; or

(3) by one of the following Section 1915(c) waiver programs administered by the Department of Aging and Disability Services to serve persons with intellectual and developmental disabilities:

- (A) the Home and Community-Based Services waiver program; or
- (B) the Texas Home Living waiver program.

Sec. 161.093. ADMINISTRATION OF MEDICATION. (a) Notwithstanding other law, an unlicensed person may provide administration of medication to a client without the requirement that a registered nurse delegate or oversee each administration if:

(1) the medication is:

- (A) an oral medication;
- (B) a topical medication; or
- (C) a metered dose inhaler;

(2) the medication is administered to the client for a stable or predictable condition;

(3) the client has been personally assessed by a registered nurse initially and in response to significant changes in the client's health status, and the registered nurse has determined that the client's health status permits the administration of medication by an unlicensed person; and

(4) the unlicensed person has been:

(A) trained by a registered nurse or licensed vocational nurse under the direction of a registered nurse regarding proper administration of medication; or

(B) determined to be competent by a registered nurse or licensed vocational nurse under the direction of a registered nurse regarding proper administration of medication, including through a demonstration of proper technique by the unlicensed person.

(b) The administration of medication other than the medications described by Subsection (a)(1) is subject to the rules of the Texas Board of Nursing regarding the delegation of nursing tasks to unlicensed persons in independent living environments such as the facilities and programs listed in Section 161.092.

Sec. 161.094. DEPARTMENT DUTIES. (a) The department shall ensure that:

(1) administration of medication by an unlicensed person under this subchapter is reviewed at least annually and after any significant change in a client's condition by a registered nurse or a licensed vocational nurse under the supervision of a registered nurse; and

(2) a facility or program listed in Section 161.092 has policies to ensure that the determination of whether an unlicensed person may provide administration of medication to a client under Section 161.093 may be made only by a registered nurse.

(b) The department shall verify that:

(1) each client is assessed to identify the client's needs and abilities regarding the client's medications;

(2) the administration of medication by an unlicensed person to a client is performed only by an unlicensed person who is authorized to perform that administration under Section 161.093; and

(3) the administration of medication to each client is performed in such a manner as to ensure the greatest degree of independence, including the use of an adaptive or assistive aid, device, or strategy as allowed under program rules.

(c) The department shall enforce this subchapter.

Sec. 161.095. LIABILITY. (a) A registered nurse performing a client assessment required under Section 161.093, or a registered nurse or licensed vocational nurse training an unlicensed person or determining whether an unlicensed person is competent to perform administration of medication under Section 161.093, may be held accountable or civilly liable only in relation to whether the nurse properly:

(1) performed the assessment;

(2) conducted the training; and

(3) determined whether the unlicensed person is competent to provide administration of medication to clients.

(b) The Texas Board of Nursing may take disciplinary action against a registered nurse or licensed vocational nurse under this subchapter only in relation to whether:

(1) the registered nurse properly performed the client assessment required by Section 161.093;

(2) the registered nurse or licensed vocational nurse properly trained the unlicensed person in the administration of medication; and

(3) the registered nurse or licensed vocational nurse properly determined whether an unlicensed person is competent to provide administration of medication to clients.

(c) A registered nurse or licensed vocational nurse may not be held accountable or civilly liable for the acts or omissions of an unlicensed person performing administration of medication.

Sec. 161.096. CONFLICT WITH OTHER LAW. This subchapter controls to the extent of a conflict with other law.

(b) The Texas Board of Nursing and the Texas Department of Aging and Disability Services shall conduct a pilot program to evaluate licensed vocational nurses providing on-call services by telephone to clients, as defined by Section 161.091, Human Resources Code, as added by this section, who are under the care of the licensed vocational nurses. The licensed vocational nurses shall use standardized and validated protocols or decision trees in performing telephone on-call services in the pilot program. The department shall collect data to evaluate the efficacy of licensed vocational nurses performing telephone on-call services in the pilot program. The pilot program must begin not later than September 1, 2011.

(c) The Texas Board of Nursing and the Department of Aging and Disability Services, in consultation with affected stakeholders, including public and private providers, registered and licensed vocational nurses employed by the

facilities or providers of services listed in Section 161.092, Human Resources Code, as added by this section, and other persons or entities the executive director of the board and the commissioner of the department consider appropriate, shall:

- (1) develop the goals and measurable outcomes of the pilot program;
- (2) review the outcomes of the pilot program and make recommendations regarding potential regulatory or statutory changes; and
- (3) on notice of unsafe or ineffective nursing care discovered in the pilot program, review the data or the outcomes and make recommendations for corrective action.

(d) Not later than December 1, 2012, the Texas Board of Nursing and the Department of Aging and Disability Services shall submit a report detailing the findings of the pilot program and any jointly developed recommendations to the Senate Committee on Health and Human Services and the House Committee on Public Health.

(e) Subsections (b)-(d) of this section and this subsection expire September 1, 2015.

(f) In developing any policies, processes, or training curriculum required by Subchapter D-1, Chapter 161, Human Resources Code, as added by this section, the Texas Department of Aging and Disability Services shall convene an advisory committee of affected stakeholders, including public and private providers and registered and licensed vocational nurses employed by the facilities or providers of services listed in Section 161.092, Human Resources Code, as added by this section, and other persons or entities the department considers appropriate.

Amendment No. 45 was adopted.

#### **Amendment No. 24 - Vote Reconsidered**

Representative Chisum moved to reconsider the vote by which Amendment No. 24 was tabled.

The motion to reconsider prevailed.

(Kuempel in the chair)

#### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today to meet with members of the senate:

Eiland on motion of Geren.

#### **CSSB 23 - (consideration continued)**

Amendment No. 24 was adopted.

#### **Amendment No. 2 - Vote Reconsidered**

Representative V. Gonzales moved to reconsider the vote by which Amendment No. 2 was adopted.

The motion to reconsider prevailed.

**Amendment No. 46**

Representative V. Gonzales offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 to **CSSB 23** by Zerwas (prefiled amendment packet, pages 28-52), in item (7), in added Section 536.005, Government Code (page 12, between lines 21 and 22), by inserting the following:

(a-1) In converting reimbursement systems under Subsection (a), the commission may examine and consider incorporating elements of reimbursement methodologies that address historical disparities in the provision of health care services to women, children, and persons with mental illnesses.

Amendment No. 46 was adopted.

Amendment No. 2, as amended, was adopted.

**Amendment No. 47**

Representative Landtroop offered the following amendment to **CSSB 23**:  
Floor Packet Page No. 65

Amend **CSSB 23** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0025 to read as follows:

Sec. 531.0025. RESTRICTION ON CERTAIN FUNDS RECEIVED. Notwithstanding any other law, any money received by health and human services agencies for family planning services, including grant money, may only be awarded or otherwise provided to a person or facility that does not perform abortions or provide abortion-related services.

SECTION \_\_\_\_\_. Section 32.024, Human Resources Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The department shall ensure that money spent under the medical assistance program is not used to perform abortions or provide abortion-related services.

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.

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.

**Amendment No. 48**

Representative Landtroop offered the following amendment to Amendment No. 47:

Amend Amendment No. 47 by Landtroop to **CSSB 23** (page 65, prefiled amendment packet) as follows:

(1) In added Section 531.0025, Government Code (page 1, line 6 of the amendment), following "RECEIVED." insert "(a)".

(2) In added Section 531.0025, Government Code (page 1, line 11 of the amendment), between "services" and the underlined period, insert "except an abortion or an abortion related service in a medical emergency".

(3) In added Section 531.0025, Government Code (page 1, between lines 11 and 12 of the amendment), insert the following:

(b) In this section, "medical emergency" means a life-threatening physical condition aggravated by, caused by, or arising 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.

### LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to meet with members of the senate:

Branch on motion of Flynn.

Geren on motion of Zedler.

### CSSB 23 - (consideration continued)

Amendment No. 48 was adopted.

(Cain now present)

Amendment No. 47, as amended, was adopted by (Record 1172): 90 Yeas, 44 Nays, 2 Present, not voting.

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

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Coleman; Davis, Y.; Deshotel; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Naishtat; Oliveira; Patrick; Raymond; Reynolds; Ritter; Rodriguez; Scott; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Branch; Dukes; Eiland; Geren; King, S.; Miller, D.; Phillips.

Absent — Callegari; Guillen; King, T.; Miller, S.; Otto; Paxton; Peña.

### STATEMENTS OF VOTE

When Record No. 1172 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

I was shown voting no on Record No. 1172. I intended to vote yes.

Martinez

When Record No. 1172 was taken, I was excused for important business in the district. Had I been present I would have voted yes.

D. Miller

I was shown voting no on Record No. 1172. I intended to vote yes.

Patrick

### Amendment No. 49

Representative S. Miller offered the following amendment to **CSSB 23**:

Floor Packet Page No. 105

Amend **CSSB 23** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 161.073, Human Resources Code, is amended to read as follows:

Sec. 161.073. RULES. (a) The executive commissioner may adopt rules reasonably necessary for the department to administer this chapter, consistent with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

(b) To the extent allowed by federal law, the executive commissioner shall adopt rules:

(1) requiring that the on-site survey process through which the department certifies ICF-MR facilities and Home and Community-based Services (HCS) providers includes a requirement that the department assign each provider, as a result of an on-site survey, a rating of "excellent," "good," or "average or below average"; and

(2) prescribing a schedule for follow-up on-site surveys under which:

(A) a provider who receives a rating of "excellent" on the most recent survey conducted is subject to another survey not earlier than three years after the date the provider receives the rating;

(B) a provider who receives a rating of "good" on the most recent survey conducted is subject to another survey not earlier than two years after the date the provider receives the rating; and

(C) a provider who receives a rating of "average or below average" on the most recent survey conducted is subject to another survey not earlier than one year after the date the provider receives the rating.

SECTION \_\_\_\_ . Section 161.076, Human Resources Code, as added by Chapter 284 (SB 643), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

Sec. 161.076. ON-SITE SURVEYS OF CERTAIN PROVIDERS. Subject to rules adopted under Section 161.073(b), at [~~A~~] least every three years [~~12 months~~], the department shall conduct an unannounced on-site survey in each group home, other than a foster home, at which a Home and Community-based Services (HCS) provider provides services.

### LEAVE OF ABSENCE GRANTED

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

Hilderbran on motion of Bonnen.

(Geren now present)

### CSSB 23 - (consideration continued)

Amendment No. 49 was adopted. (Kolkhorst recorded voting no.)

(Branch now present)

CSSB 23, as amended, was passed to third reading by (Record 1173): 95 Yeas, 45 Nays, 2 Present, not voting.

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

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

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

Absent, Excused — Dukes; Eiland; Hilderbran; King, S.; Miller, D.; Phillips.



Absent — Burkett; Paxton.

### STATEMENTS OF VOTE

When Record No. 1173 was taken, my vote failed to register. I would have voted yes.

Burkett

I was shown voting yes on Record No. 1173. I intended to vote no.

Reynolds

### COMMITTEE GRANTED PERMISSION TO MEET

Representative Kolkhorst requested permission for the Committee on Public Health to meet while the house is in session, at 7:05 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

### MESSAGE FROM THE SENATE

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

### COMMITTEE GRANTED PERMISSION TO MEET

Representative Gallego requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session, at 7:15 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

### COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Health, 7:05 p.m. today, 3W.9, for a formal meeting, to consider pending business.

Criminal Jurisprudence, 7:15 p.m. today, 3W.9, for a formal meeting, to consider pending business.

### POSTPONED BUSINESS

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

#### CSSB 1811 ON SECOND READING (Pitts - House Sponsor)

**CSSB 1811**, A bill to be entitled An Act relating to certain state fiscal matters; providing penalties.

**CSSB 1811** was read second time on May 18, postponed until 8 a.m. today, and was again postponed until this time.

Representative Geren moved to postpone consideration of **CSSB 1811** until 2 p.m. tomorrow.

The motion prevailed.

**CSSB 1581 ON SECOND READING**  
**(Pitts - House Sponsor)**

**CSSB 1581**, A bill to be entitled An Act relating to state fiscal matters, and certain public health and safety matters, related to public and higher education; providing penalties.

**CSSB 1581** was read second time on May 18, postponed until 8 a.m. today, and was again postponed until this time.

**CSSB 1581 - POINT OF ORDER**

Representative Villarreal raised a point of order against further consideration of **CSSB 1581** under Rule 8, Section 3 of the House Rules and under Article III, Section 35a of the Texas Constitution on the grounds that the bill violates the one subject rule.

The chair sustained the point of order.

**CSSB 1581** was returned to the senate.

**MAJOR STATE CALENDAR**  
**SENATE BILLS**  
**SECOND READING**

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

**SB 663 ON SECOND READING**  
**(Anchia - House Sponsor)**

**SB 663**, A bill to be entitled An Act relating to the continuation and functions of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments; providing an administrative penalty.

**Amendment No. 1**

Representative Anchia offered the following amendment to **SB 663**:

Amend **SB 663** (house committee printing) as follows:

(1) In SECTION 9 of the bill, in proposed Section 402.1022, Occupations Code (page 6, line 25), strike "(a)".

(2) In SECTION 9 of the bill, in proposed Section 402.1022, Occupations Code (page 7, lines 2-5), strike proposed Subsection (b) of that section.

Amendment No. 1 was adopted.

**SB 663**, as amended, was passed to third reading.

**POSTPONED BUSINESS**

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

**SB 650 ON THIRD READING**  
**(Cook - House Sponsor)**

**SB 650**, A bill to be entitled An Act relating to management of certain metropolitan rapid transit authorities.

**SB 650** was read third time earlier today and was postponed until this time.

(Speaker in the chair)

(Phillips now present)

### **Amendment No. 1**

Representative Coleman offered the following amendment to **SB 650**:

Amend **SB 650** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 456.003, Transportation Code, is amended to read as follows:

Sec. 456.003. PARTICIPATION INELIGIBILITY. A transit authority is ineligible to participate in the formula or discretionary program provided by this chapter unless the authority was created under Chapter 453 or former Article 1118z, Revised Statutes, by a municipality having a population of less than 200,000 at the time the authority is created.

SECTION \_\_\_\_\_. Section 456.006, Transportation Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) Notwithstanding Subsection (b), an urban transit district that was not included in an urbanized area containing a transit authority according to the 2000 federal decennial census but, as a result of the 2010 federal decennial census urban and rural classification, is included in an urbanized area that contains one or more transit authorities may receive money from the formula or discretionary program in an amount that does not exceed the amount of funds allocated to the district during the fiscal biennium ending August 31, 2011. This subsection expires August 31, 2018.

(b-2) The population of a municipality that was considered part of an urban transit district for purposes of the state transit funding formula for the fiscal biennium ending August 31, 2011, but that is included in a large urbanized area as a result of the 2010 federal decennial census, continues to be considered part of the urban transit district for purposes of the state transit funding formula. This subsection expires August 31, 2018.

SECTION \_\_\_\_\_. Section 456.0221, Transportation Code, is amended by adding Section 456.0221 to read as follows:

Sec. 456.0221. ALLOCATION TO CERTAIN RECIPIENTS AFFECTED BY NATURAL DISASTER. (a) The commission shall consider as an urban transit district for the purposes of the allocation of funds under this chapter a designated recipient:

(1) that received money under the formula as an urban transit district for the fiscal biennium ending August 31, 2011;

(2) whose population according to the most recent decennial census is less than 50,000; and

(3) whose population loss over the preceding 10-year period is primarily the result of a natural disaster.

(b) This section expires August 31, 2018.

Amendment No. 1 was withdrawn.

**Amendment No. 2**

Representatives Workman, D. Howard, Strama, Rodriguez, Isaac, Naishtat, Schwertner, and Dukes offered the following amendment to **SB 650**:

Amend **SB 650** on third reading as follows:

(1) In Section 451.134(a), Transportation Code, as amended on second reading by the Workman amendment, strike "90 days" and substitute "two months".

(2) Strike SECTION 3 of the bill, as amended on second reading by the Workman amendment, and substitute the following appropriately numbered SECTION:

SECTION \_\_\_\_ . Not later than September 1, 2016, a metropolitan rapid transit authority required to establish a reserve account under Section 451.134, Transportation Code, as added by this Act, shall establish the account. Not later than December 31, 2014, the authority shall file a report on the authority's progress in fulfilling this requirement with the lieutenant governor, speaker of the house of representatives, and each member of the legislature.

(3) In SECTION 1 of the bill, strike Section 451.139(a), Transportation Code, and substitute the following:

(a) An authority may issue bonds only in an amount necessary for managing or funding retiree pension benefit obligations for pension plans existing as of January 1, 2011, that result from the competitive bidding of transit services required by Section 451.137.

Amendment No. 2 was adopted.

**SB 650**, as amended, was passed by (Record 1174): 138 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; Cain; Callegari; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; 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; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; Menendez; Miles; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Dukes; Eiland; Hilderbran; King, S.; Miller, D.

Absent — Coleman; Kolkhorst; McClendon; Paxton; Villarreal.

### STATEMENT OF VOTE

When Record No. 1174 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

### LEAVE OF ABSENCE GRANTED

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

Villarreal on motion of Menendez.

### MAJOR STATE CALENDAR

(consideration continued)

### CSSB 660 ON SECOND READING

(Ritter - House Sponsor)

**CSSB 660**, A bill to be entitled An Act relating to the review and functions of the Texas Water Development Board, including the functions of the board and related entities in connection with the process for establishing and appealing desired future conditions in a groundwater management area.

#### Amendment No. 1

Representative Ritter offered the following amendment to **CSSB 660**:

Amend **CSSB 660** (house committee printing) as follows:

(1) In SECTION 9 of the bill, in Section 16.053(e)(3)(A), Water Code (page 13, line 5), strike "managed" and substitute "modeled [~~managed~~]".

(2) In SECTION 16 of the bill, in amended Section 36.1071(e)(3)(A), Water Code (page 20, line 7), strike "managed" and substitute "modeled [~~managed~~]".

(3) In SECTION 16 of the bill, in amended Section 36.1071(e)(3)(A), Water Code (page 20, lines 8-9), strike "adopted [~~established~~]" and substitute "established".

(4) In SECTION 17 of the bill, strike added Section 36.108(d)(8), Water Code (page 23, lines 14-15), and substitute the following:

(8) the feasibility of achieving the desired future condition; and

(5) In SECTION 17 of the bill, in added Section 36.108(d-2), Water Code (page 24, line 13), strike "than 30 or more".

(6) In SECTION 17 of the bill, in added Section 36.108(d-2), Water Code (page 24, line 17), strike "the proposed desired future conditions relevant" and substitute "any proposed desired future conditions relevant".

(7) In SECTION 17 of the bill, in added Section 36.108(d-3)(5), Water Code (page 26, line 7), between "and" and "public", insert "relevant".

(8) In SECTION 17 of the bill, in the heading to added Section 36.1085, Water Code (page 34, line 10), strike "MANAGED" and substitute "MODELED".

(9) In SECTION 17 of the bill, in added Section 36.1085(b), Water Code (page 35, line 24), strike "managed" and substitute "modeled [~~managed~~]".

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative Laubenberg offered the following amendment to **CSSB 660**:

Amend **CSSB 660** (senate committee printing) as follows:

(1) In SECTION 5 of the bill, in added Section 11.1271(f)(2), Water Code (page 3, line 16), strike "uniform water use calculation system" and substitute "methodology and guidance for calculating water use and conservation".

(2) In SECTION 10 of the bill, in amended Section 16.402(e)(2), Water Code (page 6, line 49), strike "uniform water use calculation system" and substitute "methodology and guidance for calculating water use and conservation".

(3) In SECTION 11 of the bill, in the recital (page 6, line 61), strike "Section 16.403" and substitute "Sections 16.403 and 16.404".

(4) In SECTION 11 of the bill, strike added Section 16.403, Water Code (page 6, lines 62-67), and substitute the following:

Sec. 16.403. WATER USE REPORTING. (a) The board and the commission, in consultation with the Water Conservation Advisory Council, shall develop a uniform, consistent methodology and guidance for calculating water use and conservation to be used by a municipality or water utility in developing water conservation plans and preparing reports required under this code. At a minimum, the methodology and guidance must include:

(1) a method of calculating water use for each sector of water users served by a municipality or water utility;

(2) a method of classifying water users within sectors;

(3) a method of calculating water use in the residential sector that includes both single-family and multifamily residences, in gallons per capita per day;

(4) a method of calculating water use in the industrial, agricultural, commercial, and institutional sectors that is not dependent on a municipality's population or the number of customers served by a water utility; and

(5) guidelines on the use of service populations by a municipality or water utility in developing a per-capita-based method of calculation, including guidance on the use of permanent and temporary populations in making calculations.

(b) The board or the commission, as appropriate, shall use the methodology and guidance developed under Subsection (a) in evaluating a water conservation plan, program of water conservation, survey, or other report relating to water conservation submitted to the board or the commission under:

(1) Section 11.1271;

(2) Section 13.146;

- (3) Section 15.106;
- (4) Section 15.607;
- (5) Section 15.975;
- (6) Section 15.995;
- (7) Section 16.012(m);
- (8) Section 16.402;
- (9) Section 17.125;
- (10) Section 17.277;
- (11) Section 17.857; or
- (12) Section 17.927.

(c) The board, in consultation with the commission and the Water Conservation Advisory Council, shall develop a data collection and reporting program for municipalities and water utilities with more than 3,300 connections.

(d) Not later than January 1 of each odd-numbered year, the board shall submit to the legislature a report that includes the most recent data relating to:

(1) statewide water usage in the residential, industrial, agricultural, commercial, and institutional sectors; and

(2) the data collection and reporting program developed under Subsection (c).

Sec. 16.404. RULES AND STANDARDS. The commission and the board, as appropriate, shall adopt rules and standards as necessary to implement this subchapter.

(5) In SECTION 19(3) of the bill (page 13, line 60), strike "calculation system required by Section 16.403" and substitute "and conservation calculation methodology and guidance and the data collection and reporting program required by Sections 16.403(a) and (c)".

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

SECTION \_\_\_\_ . Not later than January 1, 2015, the Texas Water Development Board shall submit to the legislature the first report required by Section 16.403(d), Water Code, as added by this Act.

### **Amendment No. 3**

Representative Laubenberg offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 by Laubenberg to **CSSB 660** (house committee printing) as follows:

(1) In the introductory language (page 1, line 1), strike "Senate" and substitute "house".

(2) In Item (1) of the amendment (page 1, line 4), strike "page 3, line 16" and substitute "page 6, line 14".

(3) In Item (2) of the amendment (page 1, line 8), strike "page 6, line 49" and substitute "page 15, line 11".

(4) In Item (3) of the amendment (page 1, lines 11-12), strike "page 6, line 61" and substitute "page 15, line 23".

(5) In Item (4) of the amendment (page 1, line 15), strike "page 6, lines 62-67" and substitute "page 15, line 24, through page 16, line 2".

(6) In Item (4) of the amendment, at the end of added Section 16.403, Water Code (page 3, between lines 6 and 7), add the following:

(e) Data included in a water conservation plan or report required under this code and submitted to the board or commission must be interpreted in the context of variations in local water use. The data may not be the only factor considered by the commission in determining the highest practicable level of water conservation and efficiency achievable in the jurisdiction of a municipality or water utility for purposes of Section 11.085(l).

(7) In Item (5) of the amendment (page 3, line 10), strike "SECTION 19(3)" and substitute "SECTION 21(3)".

(8) In Item (5) of the amendment (page 3, line 10), strike "page 13, line 60" and substitute "page 38, line 20".

Amendment No. 3 was adopted.

Amendment No. 2, as amended, was adopted.

#### **Amendment No. 4**

Representative Price offered the following amendment to **CSSB 660**:

Amend **CSSB 660** (house committee printing) as follows:

(1) In SECTION 17 of the bill, in added Section 36.1082(b), Water Code (page 28, line 13), between "affected person" and "[(f) A district", insert "who seeks to appeal a desired future condition adopted under Section 36.108 must file a petition under Section 36.1083. Additionally, an affected person".

(2) In SECTION 17 of the bill, in added Section 36.1083(b), Water Code (page 31, line 17), after the period, add "An affected person may not request a hearing under this section for a reason described by Section 36.1082(b)."

(3) In SECTION 17 of the bill, in added Section 36.1083(c), Water Code (page 31, line 18), strike "receiving a request" and substitute "the deadline for filing a petition".

(4) In SECTION 17 of the bill, in added Section 36.1083(c)(3), Water Code (page 31, line 22), strike "copy of the petition to the office" and substitute "copy of any petitions received by the district to the office".

(5) In SECTION 17 of the bill, in added Section 36.1083, Water Code (page 33, between lines 24 and 25), insert the following:

(k) If the administrative law judge considers it appropriate, the administrative law judge may consolidate hearings requested under this section by two or more districts and shall specify the location for the consolidated hearing from the possible locations under Subsection (d). The administrative law judge shall prepare separate findings of fact and conclusions of law for each district included as a party in a multidistrict hearing.

(6) In SECTION 17 of the bill, in added Section 36.1084, Water Code (page 33, line 25), between "CONDITION." and "A", insert "(a)".

(7) In SECTION 17 of the bill, in added Section 36.1084, Water Code (page 34, between lines 9 and 10), insert the following:



(b) A court's finding under this section does not apply to a desired future condition that is not a matter before the court.

(c) A petitioner may file a consolidated suit under this section to appeal the final orders of two or more districts.

Amendment No. 4 was adopted.

#### COMMITTEE GRANTED PERMISSION TO MEET

Representative Gallego requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session, at 7:30 p.m. today, in 3W.15, to consider **SB 1695** and pending business.

Permission to meet was granted.

#### COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, 7:30 p.m. today, 3W.15, for a formal meeting, to consider **SB 1695** and pending business.

#### COMMITTEE GRANTED PERMISSION TO MEET

Representative Pitts requested permission for the Committee on Appropriations to meet while the house is in session, at 8 p.m. today, in 1W.14, to consider **SB 1588** and **SJR 5**.

Permission to meet was granted.

#### COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Appropriations, 8 p.m. today, 1W.14, for a formal meeting, to consider **SB 1588** and **SJR 5**.

#### **CSSB 660 - (consideration continued)**

#### **Amendment No. 5**

Representative Martinez Fischer offered the following amendment to **CSSB 660**:

Amend **CSSB 660** as follows by adding the following new section to the Water Code:

SECTION \_\_\_\_ . Sec. 6.301. HYDRAULIC FRACTURING DRINKING WATER STUDY. The board shall conduct a study on the costs, benefits, and effect on both current and future water resources in relation to use of hydraulic fracturing treatment in this state. The study must include considerations of:

(1) the necessity of requiring disclosure of information related to hydraulic fracturing treatment, such as the base fluids, additives, and chemical constituents used by a person in a hydraulic fracturing treatment; and

(2) the protection of groundwater and surface water in this state.

**Amendment No. 6**

Representative Martinez Fischer offered the following amendment to Amendment No. 5:

Amend Amendment No. 5 by Martinez Fischer to **CSSB 660** (house committee report) by striking the text of the amendment and substituting the following:

Amend **CSSB 660** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Not later than January 1, 2013, the Texas Water Development Board shall conduct a study and provide a report to the legislature on the costs and benefits to this state of hydraulic fracturing treatments and the effects of hydraulic fracturing treatments on the current and future water resources of this state. The study must include consideration of:

(1) the desirability of requiring disclosure of information related to hydraulic fracturing treatments, such as the identity of the base fluids, additives, and chemical constituents used by a person in performing a hydraulic fracturing treatment; and

(2) the need to protect groundwater and surface water in this state.

(b) The board may request, accept, and administer grants, gifts, appropriations, or other money from any source to implement this section.

(c) Notwithstanding Subsection (a) of this section, the board is required to implement this section only if a sufficient amount of money from appropriations or other sources is available for that purpose.

Amendment No. 6 was adopted.

Amendment No. 5, as amended, was adopted.

**CSSB 660**, as amended, was passed to third reading. (V. Taylor recorded voting no.)

**GENERAL STATE CALENDAR  
SENATE BILLS  
SECOND READING**

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

**SB 543 ON SECOND READING  
(L. Taylor - House Sponsor)**

**SB 543**, A bill to be entitled An Act relating to a probate fee exemption for estates of certain law enforcement officers, firefighters, and others killed in the line of duty.

**SB 543** was passed to third reading.

**SB 710 ON SECOND READING  
(Menendez - House Sponsor)**

**SB 710**, A bill to be entitled An Act relating to the disclosure of a hazardous drain in a swimming pool or spa by a seller of residential real property.

**SB 710** was passed to third reading. (White recorded voting no.)

**SB 864 ON SECOND READING**  
**(Marquez - House Sponsor)**

**SB 864**, A bill to be entitled An Act relating to the services included in a retail price list provided by a funeral establishment.

**Amendment No. 1**

Representative Gutierrez offered the following amendment to **SB 864**:

Amend **SB 864** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 651.303(b) and (c), Occupations Code, are amended to read as follows:

(b) The commission by rule shall define the terms of employment of a provisional license holder. The terms of employment[+:

[~~(1)~~] must include service by the provisional license holder[+:

[~~(A)~~] of at least 17 hours a week or 73 hours a month; and

[~~(B)~~] under actual working conditions and under the personal supervision of a funeral director or embalmer[+; and

[~~(2)~~] may not require more than 17 hours a week or 73 hours a month].

(c) The term of the provisional license program must be at least 12 consecutive months but not more than 24 consecutive months.

SECTION \_\_\_\_\_. Subchapter K, Chapter 651, Occupations Code, is amended by adding Section 651.5011 to read as follows:

Sec. 651.5011. CHARGING FUNERAL DIRECTOR IN CHARGE WITH VIOLATION. In determining whether to charge a funeral director in charge with a violation based on conduct for which a licensed employee of the funeral establishment was directly responsible, the commission may consider:

(1) the nature and seriousness of the violation;

(2) the extent to which the licensed employee of the funeral establishment whose conduct is the basis of the violation was under the direct supervision of the funeral director in charge or another person at the time the licensed employee engaged in the conduct; and

(3) the causal connection between the supervision of the licensed employee of the funeral establishment by the funeral director in charge and the conduct engaged in by the licensed employee that is the basis of the violation.

Amendment No. 1 was adopted.

**SB 864**, as amended, was passed to third reading.

**SB 1416 ON SECOND READING**  
**(Gallego, Peña, and Fletcher - House Sponsors)**

**SB 1416**, A bill to be entitled An Act relating to the creation of the offense of possession, manufacture, transportation, repair, or sale of a tire deflation device; providing criminal penalties.

Representative Menendez moved to postpone consideration of **SB 1416** until 7:45 p.m. today.

The motion prevailed.

**CSSB 761 ON SECOND READING**  
**(Truitt - House Sponsor)**

**CSSB 761**, A bill to be entitled An Act relating to the employment of physicians by certain hospitals associated with nonprofit fraternal organizations.

**CSSB 761** was passed to third reading.

**SB 587 ON SECOND READING**  
**(Darby - House Sponsor)**

**SB 587**, A bill to be entitled An Act relating to jurisdiction in certain proceedings brought by the attorney general with respect to charitable trusts.

**SB 587** was passed to third reading.

**POSTPONED BUSINESS**

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

**CSHCR 21**  
**(by Gallego)**

**CSHCR 21**, 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.

**CSHCR 21** was laid before the house on May 18 and was postponed until 7:30 a.m. today.

Representative Dutton moved to postpone consideration of **CSHCR 21** until 7:45 p.m. today.

The motion prevailed.

**SB 5 ON THIRD READING**  
**(Branch - House Sponsor)**

**SB 5**, A bill to be entitled An Act relating to the administration and business affairs of public institutions of higher education.

**SB 5** was read third time on May 18, postponed until later that day, postponed until 7:59 a.m. today, and was again postponed until this time.

**Amendment No. 1**

Representative Hughes offered the following amendment to **SB 5**:

Amend **SB 5** on third reading by striking the text added to the bill by Floor Amendment No. 7 by Hughes, substituting the following appropriately numbered ARTICLE, and renumbering the ARTICLES and SECTIONS of the bill accordingly:

## ARTICLE \_\_\_\_ . STUDENT FEE ADVISORY COMMITTEES

SECTION \_\_\_\_ .01. Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.5033 to read as follows:

Sec. 54.5033. STUDENT FEE ADVISORY COMMITTEE MEETINGS OPEN TO PUBLIC. (a) A student fee advisory committee established under this chapter shall conduct meetings at which a quorum is present in a manner that is open to the public and in accordance with procedures prescribed by the president of the institution.

(b) The procedures prescribed by the president must:

(1) provide for notice of the date, hour, place, and subject of the meeting at least 72 hours before the meeting is convened; and

(2) require that the notice be:

(A) posted on the Internet; and

(B) published in a student newspaper of the institution, if an issue of the newspaper is published between the time of the Internet posting and the time of the meeting.

(c) The final recommendations made by a student fee advisory committee must be recorded and made public.

Amendment No. 1 was adopted.

**Amendment No. 2**

On behalf of Representative Zedler, Representative Hughes offered the following amendment to **SB 5**:

Amend **SB 5**, on third reading, in added Subsection (b), Section 51.9741, Education Code, by striking "substantially similar" and substituting "similar".

Amendment No. 2 was adopted.

**Amendment No. 3**

Representative Branch offered the following amendment to **SB 5**:

Amend **SB 5** on third reading as follows:

In Section 51.406(b), Education Code, as added by SECTION 6.02 of the bill, strike Subdivision (9) referencing Section 2052.103, Education Code, (page 23, line 21, house committee printing) and renumber the remaining subdivisions accordingly.

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Brown offered the following amendment to **SB 5**:

Amend **SB 5** as follows:

(1) Add the following appropriately numbered SECTION to the bill, renumbering the other sections of the bill accordingly:

SECTION \_\_\_\_ . Subtitle D, Title 3, Education Code, is amended by adding Chapter 89 to read as follows:

CHAPTER 89. THE TEXAS A&M UNIVERSITY SYSTEM HEALTH  
SCIENCE CENTER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 89.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of regents of The Texas A&M University System.

(2) "Health science center" means The Texas A&M University System Health Science Center.

Sec. 89.002 COMPOSITION. (a) The Texas A&M University System Health Science Center is composed of the following component institutions, agencies, and programs under the management and control of the board:

(1) The Texas A&M University System Health Science Center College of Medicine;

(2) The Texas A&M University System Health Science Center Baylor College of Dentistry;

(3) The Texas A&M University System Health Science Center School of Rural Public Health;

(4) The Texas A&M University System Health Science Center Irma Lerma Rangel College of Pharmacy;

(5) The Texas A&M University System Health Science Center College of Nursing;

(6) The Texas A&M University System Health Science Center School of Graduate Studies;

(7) The Texas A&M University System Health Science Center Institute of Biosciences and Technology;

(8) The Texas A&M University System Health Science Center Coastal Bend Health Education Center;

(9) The Texas A&M University System Health Science Center South Texas Health Center; and

(10) The Texas A&M University System Health Science Center Rural and Community Health Institute;

(b) The Texas A&M University System Health Science Center Baylor College of Dentistry may use the name "Baylor" only:

(1) in accordance with:

(A) a license agreement between the health science center and Baylor University; or

(B) other written approval from Baylor University; or

(2) as otherwise permitted by law.

Sec. 89.003. MANDATORY VENUE. (a) Venue for a suit filed against the health science center, any component institution, agency, or program of the health science center, or any officer or employee of the health science center is in Brazos County.

(b) This section does not waive any defense to or immunity from suit or liability that may be asserted by an entity or individual described by this section.

(c) In case of a conflict between this section and any other law, this section controls.

Sec. 89.004. EXPENDITURE OF STATE FUNDS. The board is authorized to expend funds appropriated to it by the legislature for all lawful purposes of the health science center and its component institutions, agencies, and programs as well as funds available under the authority of Section 18, Article VII, Texas Constitution, for the purposes expressed in that section for the support of the health science center and its component institutions, agencies, and programs.

[Sections 89.005-89.050 reserved for expansion]

SUBCHAPTER B. THE TEXAS A&M UNIVERSITY SYSTEM HEALTH SCIENCE CENTER IRMA LERMA RANGEL COLLEGE OF PHARMACY

Sec. 89.051. THE TEXAS A&M UNIVERSITY SYSTEM HEALTH SCIENCE CENTER IRMA LERMA RANGEL COLLEGE OF PHARMACY.

(a) The board shall maintain a college of pharmacy as a component of the health science center.

(b) The college shall be known as The Texas A&M University System Health Science Center Irma Lerma Rangel College of Pharmacy, and the primary building in which the school is operated in Kleberg County must include "Irma Rangel" in its official name.

(2) Add the following appropriately numbered SECTION to the bill, renumbering the other sections of the bill accordingly:

SECTION \_\_\_\_\_. Section 61.003(5), Education Code, is amended to read as follows:

(5) "Medical and dental unit" means The Texas A&M University System Health Science Center and its component institutions, agencies, and programs; The University of Texas Medical Branch at Galveston; The University of Texas Southwestern Medical Center at Dallas; The University of Texas Medical School at San Antonio; The University of Texas Dental Branch at Houston; The University of Texas M. D. Anderson Cancer Center; The University of Texas Graduate School of Biomedical Sciences at Houston; The University of Texas Dental School at San Antonio; The University of Texas Medical School at Houston; The University of Texas Health Science Center–South Texas and its component institutions, if established under Subchapter N, Chapter 74; the nursing institutions of The Texas A&M University System and The University of Texas System; and The University of Texas School of Public Health at Houston; and such other medical or dental schools as may be established by statute or as provided in this chapter.

(3) Add the following appropriately numbered SECTION to the bill, renumbering the other sections of the bill accordingly:

SECTION \_\_\_\_\_. The following are repealed:

- (1) Subchapters D, F, G, and H, Chapter 86, Education Code; and
- (2) Subchapter I, Chapter 87, Education Code.

(4) Add the following appropriately numbered SECTION to the bill, renumbering the other sections of the bill accordingly:

SECTION \_\_\_\_\_. Section 89.003, Education Code, as added by this Act, applies only to an action brought against The Texas A&M University System Health Science Center, a component institution, agency, or program of that center, or an officer or employee of that center on or after the effective date of this Act.

Amendment No. 4 was adopted.

**SB 5**, as amended, was passed by (Record 1175): 136 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; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; 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, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; Menendez; Miles; 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; Truitt; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Dukes; Eiland; Hilderbran; King, S.; Miller, D.; Villarreal.

Absent — Coleman; Giddings; Gonzalez; McClendon; Paxton; Torres; Turner.

#### STATEMENT OF VOTE

When Record No. 1175 was taken, my vote failed to register. I would have voted yes.

McClendon

#### **SB 1416 ON SECOND READING** **(Gallego, Peña, and Fletcher - House Sponsors)**

**SB 1416**, A bill to be entitled An Act relating to the creation of the offense of possession, manufacture, transportation, repair, or sale of a tire deflation device; providing criminal penalties.

**SB 1416** was read second time earlier today and was postponed until this time.



**Amendment No. 1**

Representative Fletcher offered the following amendment to **SB 1416**:

Amend **SB 1416** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 38.04(b) and (c), Penal Code, are amended to read as follows:

(b) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if:

~~(A) the actor has been previously convicted under this section;~~

~~[or~~

~~(B) the actor uses a vehicle while the actor is in flight and the actor has not been previously convicted under this section;]~~

(2) a felony of the third degree if:

~~(A) the actor uses a vehicle while the actor is in flight [and the actor has been previously convicted under this section]; [or~~

~~(B) another suffers serious bodily injury as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight; or~~

~~(C) the actor uses a tire deflation device against the officer while the actor is in flight; or~~

(3) a felony of the second degree if:

~~(A) another suffers death as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight; or~~

~~(B) another suffers serious bodily injury as a direct result of the actor's use of a tire deflation device while the actor is in flight.~~

(c) In this section:

(1) "Vehicle" [~~—"vehiele"~~] has the meaning assigned by Section 541.201, Transportation Code.

(2) "Tire deflation device" has the meaning assigned by Section 46.01.

SECTION \_\_\_\_\_. Section 38.04, Penal 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.

Amendment No. 1 was adopted.

**SB 1416**, as amended, was passed to third reading.

**CSHCR 21**  
**(by Gallego)**

**CSHCR 21**, 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.

**CSHCR 21** was laid before the house on May 18, postponed until 7:30 a.m. today, and was again postponed until this time.

**CSHCR 21** was adopted by (Record 1176): 138 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; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; 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; 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; Menendez; Miles; 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.; Thompson; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Taylor, V.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Dukes; Eiland; Hilderbran; King, S.; Miller, D.; Villarreal.

Absent — Coleman; McClendon; Paxton; Torres.

**STATEMENT OF VOTE**

When Record No. 1176 was taken, my vote failed to register. I would have voted yes.

McClendon

**HB 1286 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative D. Howard called up with senate amendments for consideration at this time,

**HB 1286**, A bill to be entitled An Act relating to adoption of rules by the University Interscholastic League.

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 1286**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1286**: D. Howard, chair; Aycock, Darby, Patrick, and Veasey.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a committee meeting:

Johnson on motion of Burnam.

(Bohac in the chair)

### HB 413 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Aycock called up with senate amendments for consideration at this time,

**HB 413**, A bill to be entitled An Act relating to the confidentiality of certain information held by a veterinarian.

Representative Aycock moved to concur in the senate amendments to **HB 413**.

The motion to concur in the senate amendments to **HB 413** prevailed by (Record 1177): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alisedá; Allen; Alonzo; Alvarado; Anchia; 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; 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; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; 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, 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; 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; Bohac(C).

Absent, Excused — Dukes; Eiland; Hilderbran; Johnson; King, S.; Miller, D.; Villarreal.

Absent — Anderson, C.; Paxton; Simpson.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 413** (senate committee printing) in SECTION 1 of the bill, in amended Section 801.353(f), Occupations Code (page 1, line 21), by striking "or physician" and substituting "~~or~~ physician, or other licensed health care professional".

(Eiland now present)

**HB 2154 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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 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 2154**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2154**: Eiland, chair; Hancock, Sheets, Smithee, and Walle.

**HB 345 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Kleinschmidt called up with senate amendments for consideration at this time,

**HB 345**, A bill to be entitled An Act relating to limitations on awards in an adjudication brought against a local governmental entity for breach of contract.

Representative Kleinschmidt moved to concur in the senate amendments to **HB 345**.

The motion to concur in the senate amendments to **HB 345** prevailed by (Record 1178): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; 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; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn;

Fruillo; 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; Keffer; King, P.; 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, 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Dukes; Hilderbran; Johnson; King, S.; Miller, D.; Villarreal.

Absent — Lewis; Paxton.

#### Senate Committee Substitute

**CSHB 345**, A bill to be entitled An Act relating to limitations on awards in an adjudication brought against a local governmental entity for breach of contract.

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

SECTION 1. Section 271.153(a), Local Government Code, is amended to read as follows:

(a) The total amount of money awarded in an adjudication brought against a local governmental entity for breach of a contract subject to this subchapter is limited to the following:

(1) the balance due and owed by the local governmental entity under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work the contractor is directed to perform by a local governmental entity in connection with the contract;

(3) reasonable and necessary attorney's fees that are equitable and just; and

(4) interest as allowed by law, including interest as calculated under Chapter 2251, Government Code.

SECTION 2. The change in law made by this Act applies only to an adjudication commenced on or after the effective date of this Act. An adjudication commenced before the effective date of this Act is governed by the law applicable to the adjudication 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 September 1, 2011.

**HB 1136 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Aycock called up with senate amendments for consideration at this time,

**HB 1136.** A bill to be entitled An Act relating to requiring an election authority to provide notice to certain county chairs regarding certain election activities.

Representative Aycock moved to concur in the senate amendments to **HB 1136.**

The motion to concur in the senate amendments to **HB 1136** prevailed by (Record 1179): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; 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; 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; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; 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, 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Dukes; Hilderbran; Johnson; King, S.; Miller, D.; Villarreal.

Absent — Farrar; Paxton.

**Senate Committee Substitute**

**CSHB 1136,** A bill to be entitled An Act relating to requiring an election authority to provide notice to certain county chairs regarding certain election activities.

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

SECTION 1. Subchapter E, Chapter 31, Election Code, is amended by adding Section 31.124 to read as follows:

Sec. 31.124. PROVISION OF NOTICE TO COUNTY CHAIRS BY ELECTION AUTHORITY. (a) A county election officer of each county shall hold a meeting with the county chair of each political party to discuss, as appropriate, the following for each primary election or general election for state and county officers:

- (1) the lists provided by each political party under Section 85.009;
- (2) the lists provided by each political party under Section 87.002(c);

and

- (3) the implementation of Subchapters A, B, C, and D, Chapter 87.

(b) A county election officer of each county shall deliver written notice of the time and place of the meeting required by Subsection (a) not later than 72 hours before the meeting date to the county chair of each political party that made nominations by primary election for the general election for state and county officers preceding the date of the meeting.

(c) The notice required by Subsection (b) may be delivered by United States mail, electronic mail, or other method of written communication, as determined by the county election officer.

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 34 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Branch called up with senate amendments for consideration at this time,

**HB 34**, A bill to be entitled An Act relating to including in the public high school curriculum instruction in methods of paying for postsecondary education and training.

Representative Branch moved to concur in the senate amendments to **HB 34**.

The motion to concur in the senate amendments to **HB 34** prevailed by (Record 1180): 140 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; 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; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; 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; 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, 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Dukes; Hilderbran; Johnson; King, S.; Miller, D.; Villarreal.

Absent — Paxton.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 34** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 28.0021(b), Education Code (page 1, line 32), immediately following "section.", insert the following:

Each district and each open-enrollment charter school that offers a high school program shall ensure that a district or charter school student enrolled at an institution of higher education in a dual credit course meeting the requirements for an economics credit under Section 28.025 receives the instruction described under this subsection.

(2) In SECTION 1 of the bill, in added Section 28.0021(c), Education Code (page 1, line 44), between "Subsection (b)" and the period, insert "and shall ensure that the instruction described under this subsection is provided to a district or charter school student enrolled at an institution of higher education in a dual credit course meeting the requirements for an economics credit".

**HB 1555 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Thompson submitted the following conference committee report on **HB 1555**:

Austin, Texas, May 16, 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 1555** 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.

Ellis  
Huffman  
Patrick  
Shapiro  
Whitmire  
On the part of the senate

Thompson  
Allen  
Eissler  
Hartnett  
Hochberg  
On the part of the house



**HB 1555**, A bill to be entitled An Act relating to the first day of instruction in certain school districts that provide additional days of instruction financed with local funds.

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

SECTION 1. Section 25.0811(a), Education Code, is amended to read as follows:

(a) Except as provided by this section, a [A] school district may not begin instruction for students for a school year before the fourth Monday in August. A school district may:

(1) begin instruction for students for a school year before the fourth Monday in August if [unless] the district operates a year-round system under Section 25.084; or

(2) begin instruction for students for a school year on or after the first Monday in August at a campus or at not more than 20 percent of the campuses in the district if:

(A) the district has a student enrollment of 190,000 or more;

(B) the district at the beginning of the school year provides, financed with local funds, days of instruction for students at the campus or at each of the multiple campuses, in addition to the minimum number of days of instruction required under Section 25.081;

(C) the campus or each of the multiple campuses are undergoing comprehensive reform, as determined by the board of trustees of the district; and

(D) a majority of the students at the campus or at each of the multiple campuses are educationally disadvantaged.

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 Thompson moved to adopt the conference committee report on **HB 1555**.

The motion to adopt the conference committee report on **HB 1555** prevailed by (Record 1181): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; 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; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; 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, 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; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Dukes; Hilderbran; Johnson; King, S.; Miller, D.; Villarreal.

Absent — Paxton; Torres.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 1181. I intended to vote no.

Zedler

### SB 321 - 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 321**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 321**: Kleinschmidt, chair; Fletcher, Geren, Guillen, and Hardcastle.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a committee meeting:

Gooden on motion of Burnam.

### SB 602 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Marquez, the house granted the request of the senate for the appointment of a Conference Committee on **SB 602**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 602**: Marquez, chair; Brown, S. Davis, Gallego, and Solomons.

### HB 275 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS

Representative Pitts called up with senate amendments for consideration at this time,

**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.

Representative Pitts 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 275**.

The motion prevailed. (Guillen recorded voting no.)

### **HB 275 - MOTION TO INSTRUCT CONFEREES**

Representative Walle moved to instruct the Conference Committee on **HB 275** to adhere to the house language in Section 1(a), which stipulates the amount of \$3.9 million 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 to 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.

The motion to instruct conferees was lost by (Record 1182): 44 Yeas, 92 Nays, 2 Present, not voting.

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

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

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

Absent, Excused — Dukes; Gooden; Hilderbran; Johnson; King, S.; Miller, D.; Villarreal.

Absent — Christian; Coleman; Farias; Huberty; Paxton.

### **STATEMENTS OF VOTE**

When Record No. 1182 was taken, I was temporarily out of the house chamber. I would have voted no.

Christian

When Record No. 1182 was taken, I was in the house but away from my desk. I would have voted no.

Huberty

### **HB 275 - CONFERENCE COMMITTEE APPOINTED**

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 275**: Pitts, chair; Aycock, Darby, Giddings, and Morrison.

### **FIVE-DAY POSTING RULE SUSPENDED**

Representative Jackson moved to suspend the five-day posting rule to allow the Committee on Judiciary and Civil Jurisprudence to consider **SB 1417**, **SB 1807**, and pending business at 8:30 a.m. tomorrow in E2.010.

The motion prevailed.

### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Judiciary and Civil Jurisprudence, 8:30 a.m. tomorrow, E2.010, for a public hearing, to consider **SB 1417**, **SB 1807**, and pending business.

### **SB 647 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative L. Taylor, the house granted the request of the senate for the appointment of a Conference Committee on **SB 647**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 647**: L. Taylor, chair; R. Anderson, Hancock, Smithee, and Vo.

(Phillips in the chair)

### **HB 3726 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

Representative Guillen called up with senate amendments for consideration at this time,

**HB 3726**, A bill to be entitled An Act relating to the private entity granted care and custody of the Alamo.

Representative Guillen 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 3726**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3726**: Guillen, chair; Larson, Price, Deshotel, and Kuempel.

**SB 316 - 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 316**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 316**: Gallego, chair; Rodriguez, Christian, Woolley, and Hartnett.

**PROVIDING FOR RECESS**

Representative Otto moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house recess until 9:30 a.m. tomorrow.

The motion prevailed.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING  
AND REFERRAL TO COMMITTEES  
RESOLUTIONS REFERRED TO COMMITTEES  
CORRECTIONS IN REFERRAL**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 3.)

(V. Taylor in the chair)

**RECESS**

In accordance with a previous motion, the house, at 8:34 p.m., recessed until 9:30 a.m. tomorrow.

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**ADDENDUM**

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**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. 3**

**HR 2000** (By Bohac), Congratulating Glad Tidings Assembly of God Church in Houston on its 75th anniversary.

To Rules and Resolutions.

**HR 2001** (By Bohac), In memory of Madeline Cleveland Harris of Houston.

To Rules and Resolutions.

**HR 2002** (By Bohac), In memory of Olga R. Gomez of Houston.  
To Rules and Resolutions.

**HR 2003** (By Bohac), Congratulating Austin Leighton of Houston on achieving the rank of Eagle Scout.  
To Rules and Resolutions.

**HR 2004** (By Bohac), In memory of Frank Woodruff Buckles, the last American veteran of World War I.  
To Rules and Resolutions.

**HR 2005** (By Bohac), In memory of Jean R. Ols of Houston.  
To Rules and Resolutions.

**HR 2006** (By Bohac), Recognizing the Clayton Library Center for Genealogical Research in Houston as a valuable community and state asset.  
To Rules and Resolutions.

**HR 2007** (By Bohac), In memory of Camilo R. Gomez of Houston.  
To Rules and Resolutions.

**HR 2008** (By Bohac), In memory of Clara F. Santikos of Houston.  
To Rules and Resolutions.

**HR 2009** (By Bohac), In memory of native Texan Edd Kellum Hendee.  
To Rules and Resolutions.

**HR 2010** (By Bohac), In memory of Louvelle Chafin of Houston.  
To Rules and Resolutions.

**HR 2011** (By Bohac), In memory of Evelyn Petersen Cernik of Houston.  
To Rules and Resolutions.

**HR 2012** (By Bohac), In memory of Charles Henry Kadlecek of Houston.  
To Rules and Resolutions.

**HR 2013** (By Bohac), In memory of Diana Lynn Psencik of Houston.  
To Rules and Resolutions.

**HR 2014** (By Bohac), In memory of Charles Edward Grubbs of Willis.  
To Rules and Resolutions.

**HR 2015** (By Bohac), Congratulating Janice Gabriel on being named the 2010 Northwest Houston Leader of the Year.  
To Rules and Resolutions.

**HR 2016** (By Bohac), In memory of Gladys Johnson Glenn.  
To Rules and Resolutions.

**HR 2017** (By Bohac), In memory of Clymer Lewis Wright, Jr., of Houston.  
To Rules and Resolutions.

**HR 2018** (By Hernandez Luna), Commemorating the rededication of a Texas Centennial Marker at the Lorenzo de Zavala homesite in Harris County.  
To Rules and Resolutions.

**HR 2019** (By V. Gonzales), Congratulating Cynthia Leon of Mission on her swearing in as a Texas Department of Public Safety commissioner.

To Rules and Resolutions.

**HR 2021** (By Schwertner), Commemorating the Hill Country Shoot-Out Barbeque.

To Rules and Resolutions.

**HR 2022** (By Dutton), Congratulating Sharon Nowling Perry on the occasion of her retirement as a teacher at Port Houston Elementary School.

To Rules and Resolutions.

**HR 2023** (By Dutton), Congratulating Michael W. Ashley of Houston on his induction into the Prairie View Interscholastic League Coaches Association Hall of Fame.

To Rules and Resolutions.

**HR 2024** (By Dutton), In memory of Marjorie Banks Ammons of Houston.

To Rules and Resolutions.

**HR 2025** (By Dutton), Honoring Georgia Provost of Houston for her achievements and contributions to the community.

To Rules and Resolutions.

**HR 2026** (By Solomons), In memory of U.S. Army Staff Sergeant Carlos Alonzo Benitez of Carrollton.

To Rules and Resolutions.

**HR 2027** (By Anchia), Congratulating Carina Nicole Ramirez on her graduation from The University of Texas at Austin.

To Rules and Resolutions.

**HR 2028** (By Anchia), In memory of Anthony A. Hernandez of Dallas.

To Rules and Resolutions.

**HR 2029** (By Anchia), In memory of Joel M. Lebovitz of Dallas.

To Rules and Resolutions.

**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.

To Rules and Resolutions.

**HR 2032** (By Kuempel), In memory of renowned industrialist and philanthropist Marvin Selig.

To Rules and Resolutions.

**HR 2033** (By Hilderbran), Congratulating George and Mary Virginia Holekamp of Kerrville on their 60th wedding anniversary.

To Rules and Resolutions.

**HR 2034** (By Button), Honoring Barbara Powers on earning the Silver Beaver Award from the Circle Ten Council of the Boy Scouts of America.

To Rules and Resolutions.

**HR 2035** (By Button), Honoring Thomas Cooper on earning the Silver Beaver Award from the Circle Ten Council of the Boy Scouts of America.

To Rules and Resolutions.

**HR 2036** (By Paxton), Congratulating Wester Middle School in Frisco on being named a School to Watch by the Texas Middle School Association.

To Rules and Resolutions.

**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.

To Rules and Resolutions.

**HR 2038** (By Workman), Recognizing the 2011 Austin Kidney Walk.

To Rules and Resolutions.

**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.

To Rules and Resolutions.

**HR 2040** (By Isaac), Commemorating the inaugural Memorial Hermann Ironman Texas competition, taking place in The Woodlands on May 21, 2011.

To Rules and Resolutions.

**HR 2041** (By Isaac), Honoring Railroad Bar-B-Que on its participation in "Bar-B-Quesday" during the 82nd Legislative Session.

To Rules and Resolutions.

**HR 2042** (By Madden), In memory of Diane Price of Richardson.

To Rules and Resolutions.

**HR 2043** (By Bohac), Congratulating Lindsay Ann Smith and Bradley Allen Pepper on their engagement.

To Rules and Resolutions.

**HR 2044** (By Hunter), In memory of former Aransas County sheriff Bob Hewes of Fulton.

To Rules and Resolutions.

**HR 2046** (By Naishtat), Honoring Robert Nunez for his service as a legislative intern.

To Rules and Resolutions.

**HR 2047** (By Naishtat), Honoring Clay Scallan for her service as a legislative intern.

To Rules and Resolutions.

**HR 2048** (By Naishtat), Commending Eric Leventhal for his service as an intern in the office of State Representative Elliott Naishtat.

To Rules and Resolutions.

**HR 2049** (By Naishtat), Honoring Jessica Hoy for her outstanding service as a legislative aide.

To Rules and Resolutions.



**HR 2050** (By Naishtat), Honoring Melanie Wilmoth for her outstanding service as a legislative aide.

To Rules and Resolutions.

**HR 2052** (By Orr), Commemorating the 150th anniversary of the founding of the Meridian Blue Lodge Freemasons.

To Rules and Resolutions.

**HR 2053** (By Carter), Recognizing the members of the Richardson Independent School District board of trustees for their service.

To Rules and Resolutions.

**HR 2054** (By Carter), Congratulating Kimberly Locus on the occasion of her retirement as executive director of the Dallas County Republican Party.

To Rules and Resolutions.

**HR 2055** (By Y. Davis), Congratulating Ruth Wyrick on earning an honorary doctor of humane letters degree from Southwestern Christian College.

To Rules and Resolutions.

**HR 2056** (By Reynolds), Honoring Missouri City mayor pro tem Brett Kolaja for his public service.

To Rules and Resolutions.

**HR 2057** (By Reynolds), Commemorating the 2011 Sugar Land Memorial Day ceremony.

To Rules and Resolutions.

**HR 2058** (By Reynolds), Commemorating the 2011 Fort Bend Salutes America Memorial Day event.

To Rules and Resolutions.

**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.

To Rules and Resolutions.

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

To Rules and Resolutions.

**HR 2061** (By Martinez Fischer), Honoring Tyler Ingraham of San Antonio for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

**HR 2062** (By Martinez Fischer), Honoring Irma Aguirre of Mission for her participation in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

**HR 2063** (By Madden), Honoring the Dallas County Community Supervision and Corrections Department on the occasion of Probation, Parole, and Community Supervision Week.

To Rules and Resolutions.

**HR 2064** (By Madden), Congratulating Detective Steve Boyd on being named the 2010 Officer of the Year by the Plano Police Department.

To Rules and Resolutions.

**HR 2065** (By Madden), Honoring Chief Gregory W. Rushin for his 25 years of service to the Plano Police Department.

To Rules and Resolutions.

**HR 2066** (By Quintanilla), In memory of Matilde Apodaca of Socorro.

To Rules and Resolutions.

**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.

To Rules and Resolutions.

**HR 2069** (By Thompson), Commending Mark Harris for his service on the board of the Texas Nursery & Landscape Association.

To Rules and Resolutions.

**HR 2070** (By Muñoz), Congratulating Victoria Johnson on her selection as the 2011 Mission Consolidated Independent School District Secondary Teacher of the Year.

To Rules and Resolutions.

**HR 2071** (By Muñoz), Honoring Christopher Madrid for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

**HR 2072** (By Muñoz), Honoring Mario and Carlos Bracamontes for creating the Toros rugby program in Pharr.

To Rules and Resolutions.

**HR 2073** (By Muñoz), Congratulating Melissa Garza on her selection as the 2011 Mission Consolidated Independent School District Elementary Teacher of the Year.

To Rules and Resolutions.

**HR 2074** (By Parker), Honoring Texas Health Presbyterian Hospital in Flower Mound on the occasion of its first anniversary.

To Rules and Resolutions.

**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.

To Rules and Resolutions.

**HR 2076** (By Hilderbran), In memory of Barbara Esgen Stieren of San Antonio.

To Rules and Resolutions.

**HR 2077** (By Orr), In memory of U.S. Army Staff Sergeant Bryan Burgess of Cleburne.

To Rules and Resolutions.

**HR 2078** (By Madden), Congratulating Officer Scott Kermes on being named the 2009 Officer of the Year by the Plano Police Department.

To Rules and Resolutions.

**HR 2079** (By Madden), Honoring Jay Dalehite for his achievements as president of the Canyon Creek Homeowners Association in Richardson.

To Rules and Resolutions.

**HR 2080** (By Ritter), Recognizing Transforming Texas Waterfronts.

To Rules and Resolutions.

**HR 2081** (By S. King), Honoring Andy Cleveland on her retirement from the Abilene Independent School District.

To Rules and Resolutions.

**HR 2082** (By D. Miller), Congratulating Wyman Meinzer on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

To Rules and Resolutions.

**HR 2083** (By D. Miller), Congratulating Louis M. Pearce, Jr., on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

To Rules and Resolutions.

**HR 2084** (By D. Miller), Congratulating Scooter Fries on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

To Rules and Resolutions.

**HR 2085** (By D. Miller), Congratulating Kinky Friedman on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

To Rules and Resolutions.

**HR 2086** (By D. Miller), Commemorating the posthumous induction of Toots Mansfield into the Frontier Times Museum Texas Heroes Hall of Honor.

To Rules and Resolutions.

**HR 2087** (By D. Miller), Congratulating the 2011 inductees of the Frontier Times Museum Texas Heroes Hall of Honor in Bandera.

To Rules and Resolutions.

**HR 2088** (By Branch), Congratulating Randall Stephenson, chair and CEO of AT&T, on receiving the 2011 H. Neil Mallon Award.

To Rules and Resolutions.

**HR 2089** (By Guillen), Congratulating Lizbeth Martinez on her selection as the 2010-2011 U.S. Border Patrol Youth of the Year.

To Rules and Resolutions.

**HR 2090** (By Lozano), Honoring Jose Antonio Ramirez for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

To Rules and Resolutions.

**HR 2091** (By Madden), In memory of Rhonda H. Picon of Plano.

To Rules and Resolutions.

**SB 774** to Higher Education.

**SB 824** to Economic and Small Business Development.

**SB 1920** to Natural Resources.

**SB 1928** to House Administration.

**SCR 51** to House Administration.

**SCR 56** to Rules and Resolutions.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

**SB 34** to Defense and Veterans' Affairs.

### MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

#### Message No. 2

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Thursday, May 19, 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 8** Darby SPONSOR: Harris  
Relating to prohibiting certain private transfer fees and the preservation of private real property rights; providing penalties.  
(Committee Substitute)

**HB 260** Hilderbran SPONSOR: Patrick  
Relating to the prosecution and punishment of unlawful transport of a person.  
(Amended)

**HB 962** Hartnett SPONSOR: Rodriguez  
Relating to rules regarding return of service.

**HB 1774** Taylor, Larry SPONSOR: Huffman  
Relating to the continuation and functions of the office of injured employee counsel under the workers' compensation program.

**HB 2189** Elkins SPONSOR: Deuell  
Relating to the regulation of handfishing.

**HB 2605** Taylor, Larry SPONSOR: Huffman  
Relating to the continuation and functions of the division of workers' compensation of the Texas Department of Insurance.  
(Committee Substitute/Amended)

**SB 1920**

Gallegos

Relating to the powers of the Coastal Water Authority; affecting the authority to issue bonds.

**SCR 56**

Fraser

Honoring John Cowan on the occasion of his retirement from the Texas Association of Dairymen.

Respectfully,

Patsy Spaw

Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 19, 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 92**

Cook

SPONSOR: Estes

Relating to the regulation of slaughterers by certain counties.

(Amended)

**HB 109**

Brown

SPONSOR: Ogden

Relating to the temporary lowering of prima facie speed limits at a vehicular accident reconstruction site.

(Committee Substitute)

**HB 268**

Hilderbran

SPONSOR: Seliger

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.

(Committee Substitute/Amended)

**HB 378**

Guillen

SPONSOR: Williams

Relating to stationary tow trucks on a highway; providing a penalty.

(Committee Substitute)

**HB 447**

Menendez

SPONSOR: Uresti

Relating to the powers of a defense base development authority.

(Committee Substitute)

**HB 970**

Gonzales, Larry

SPONSOR: Ogden

Relating to the use of municipal hotel occupancy tax revenue to enhance and upgrade coliseums and multiuse facilities in certain municipalities.

(Committee Substitute)

**HB 1615** Brown SPONSOR: Ogden  
Relating to the administering of medications to children in certain facilities;  
providing criminal penalties.

(Committee Substitute)

**HB 1841** Hartnett SPONSOR: Carona  
Relating to the taxability of Internet hosting.

**HB 2203** Otto SPONSOR: Williams  
Relating to the pilot program authorizing a property owner to appeal to the State  
Office of Administrative Hearings certain appraisal review board determinations.

**HB 2499** Cook SPONSOR: Nichols  
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.

(Committee Substitute/Amended)

**HB 2725** Hartnett SPONSOR: Williams  
Relating to the determination of incompetency in criminal cases.

(Committee Substitute/Amended)

**HB 2904** Zerwas SPONSOR: Zaffirini  
Relating to the administration of the Glenda Dawson Donate Life-Texas Registry.

(Committee Substitute)

**HB 3134** Crownover SPONSOR: Duncan  
Relating to the plugging of inactive oil and gas wells.

(Committee Substitute)

**HB 3272** Burnam SPONSOR: Deuell  
Relating to the low-income vehicle repair assistance, retrofit, and accelerated  
vehicle retirement program.

**HCR 18** Creighton SPONSOR: Shapiro  
Urging Congress to propose and submit to the states an amendment to the United  
States Constitution providing for a federal balanced budget.

**HCR 164** Smithee SPONSOR: Seliger  
Honoring Jean Hilfiger of Saint-Nabord, France, for his courageous actions in  
assisting U.S. military forces in France during World War II.

**SB 1927** Zaffirini  
Relating to the authority of certain volunteer firefighter and emergency services  
organizations to hold tax-free sales or auctions.

Respectfully,

Patsy Spaw

Secretary of the Senate

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**APPENDIX**

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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

**May 18**

Agriculture and Livestock - **SB 89**

Border and Intergovernmental Affairs - **SB 1649**

Criminal Jurisprudence - **SB 158, SB 159, SB 1308, SB 1551**

Defense and Veterans' Affairs - **SB 966, SB 1796**

Energy Resources - **SB 105, SB 924, SB 1434**

Higher Education - **SB 1799, SJR 50**

Human Services - **SB 218, SB 1178**

Judiciary and Civil Jurisprudence - **HCR 141, SB 1717**

Licensing and Administrative Procedures - **SB 266, SB 438, SB 626, SB 799, SB 867, SB 1342**

Pensions, Investments, and Financial Services - **SB 371, SB 1285, SB 1286**

Public Education - **SB 738, SB 1872**

Public Health - **SB 7, SB 901**

Redistricting - **SB 31**

State Affairs - **HCR 158, SB 773, SB 781, SB 898, SB 1133, SB 1613**

Transportation - **SB 1330, SB 1611**

Urban Affairs - **SB 649, SB 1234**

Ways and Means - **SB 762, SB 916**

**ENROLLED**

**May 18 - HB 27, HB 35, HB 118, HB 184, HB 266, HB 315, HB 434, HB 460, HB 479, HB 563, HB 625, HB 650, HB 679, HB 699, HB 716, HB 726, HB 843, HB 848, HB 885, HB 908, HB 988, HB 989, HB 993, HB 1028, HB 1061, HB 1106, HB 1130, HB 1174, HB 1263, HB 1344, HB 1380, HB 1390, HB 1405, HB 1449, HB 1488, HB 1503, HB 1545, HB 1566, HB 1567, HB 1570, HB 1674, HB 1779, HB 1829, HB 1861, HB 1862, HB 1869, HB 1956, HB 2033, HB 2035, HB 2144, HB 2229, HB 2251, HB 2271, HB 2351, HB 2360, HB 2376, HB 2495, HB 2615, HB 2631, HB 2670, HB 2699, HB 2866, HB 2920, HB 2935, HB 3004, HB 3141, HB 3255, HB 3389, HB 3487, HB 3570, HB 3847, HCR 33, HCR 69, HCR 100, HCR 143**

**SENT TO THE GOVERNOR**

**May 18 - HB 11, HB 205, HB 328, HB 734, HB 965, HB 1064, HB 1254, HB 1300, HB 1450, HB 1789, HB 1889, HB 1901, HB 1936, HB 1952, HB 1953, HB 2002, HB 2067, HB 2131, HB 2403, HB 2468, HB 2503, HB 2831, HB 2936, HCR 127, HCR 135, HCR 154, HCR 155, HCR 161**