

HOUSE JOURNAL

EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-THIRD DAY — FRIDAY, MAY 29, 2009

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

The roll of the house was called and a quorum was announced present (Record 1387).

Present — Mr. Speaker; Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Absent, Excused — Kuempel.

Absent — Hancock.

The invocation was offered by Dr. David Fleming, senior pastor, Champion Forest Baptist Church, Houston.

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

CAPITOL PHYSICIAN

The speaker recognized Representative Chisum who presented Dr. T. Stephen Carter of Childress as the "Doctor for the Day."

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

(Hancock now present)

HR 2768 - ADOPTED
(by Geren)

Representative Geren moved to suspend all necessary rules to take up and consider at this time **HR 2768**.

The motion prevailed.

The following resolution was laid before the house:

HR 2768, Honoring the heroism of all those involved in saving the life of State Representative Edmund Kuempel.

HR 2768 was read and was adopted.

On motion of Representative Cook, the names of all the members of the house were added to **HR 2768** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Geren who introduced Representative Zerwas, Jennifer Irby, Rod Welsh, Trevor Rice, Trooper Diane Riojas, Trooper Edwin Carpenter, Trooper Antonio Rico, and DPS Director Lamar Beckworth.

**DPS DIRECTOR'S AWARD PRESENTED TO
REPRESENTATIVE ZERWAS AND JENNIFER IRBY**

The speaker had read the following citation:

Representative Zerwas and House Sergeant-at-Arms Jennifer Irby are hereby awarded the DPS Director's Award in recognition of their professional performance during a life-threatening situation.

On Tuesday, May 12, 2009, shortly after 10 p.m., House Assistant Sergeant-at-Arms Ms. Jennifer Irby was returning to the floor of the Texas House of Representatives from the Capitol Extension. As Ms. Irby entered the elevator, she found Representative Kuempel sitting slumped over in the corner of the elevator. Ms. Irby checked Representative Kuempel's vital signs and found that he was breathing and had a pulse. Knowing that she would be able to locate on the first floor a DPS state trooper who could help care for Representative Kuempel, Ms. Irby rode the elevator to the first floor of the Capitol. She then summoned a DPS trooper and brought him to the elevator to assist Representative Kuempel.

Ms. Irby's timely observation, poise, and judgment in a stressful situation brought Representative Kuempel the necessary aid that ultimately saved his life.

Representative Zerwas, M.D., was alerted to the emergency and responded to give assistance. Upon observing Representative Kuempel lying on the floor, without a pulse, and emergency medical attention beginning, Representative Zerwas stepped forward and provided chest compressions to Representative Kuempel, while giving guidance to those attempting to save his life.

Representative Zerwas and others continued administering medical attention to Representative Kuempel despite the risk of exposure and after most other people would have felt that it was hopeless.

Representative Zerwas' perseverance, knowledge, and poise in the face of a life-and-death emergency, and his guidance and assistance given to those involved, were instrumental in saving the life of Representative Kuempel.

Lamar Beckworth
DPS Director

**DPS DIRECTOR'S AWARD PRESENTED TO TROOPERS
DIANE RIOJAS, EDWIN CARPENTER, AND ANTONIO RICO**

The speaker had read the following citation:

Troopers Diane Riojas, Edwin Carpenter, and Antonio Rico are hereby awarded the DPS Director's Citation in recognition of their professional performance during a life-threatening situation.

On Tuesday, May 12, 2009, Trooper Edwin Carpenter responded to a call for assistance concerning a medical emergency in a first floor elevator inside the Capitol. When Trooper Carpenter arrived, he found Representative Kuempel in a sitting position, unconscious and unresponsive. Trooper Carpenter immediately called for assistance and checked for a pulse. Trooper Carpenter moved Representative Kuempel out onto the floor just outside the elevator. Trooper Diane Riojas arrived and assisted Trooper Carpenter with administering CPR. Trooper Antonio Rico secured the Automated External Defibrillator (AED) and ran to the scene. Troopers Carpenter and Riojas continued CPR while Trooper Rico administered AED shocks as needed until EMS personnel arrived. Representative Kuempel was stabilized and then transported to Brackenridge Hospital by EMS for emergency treatment.

The perseverance, judgment, and poise of Troopers Riojas, Carpenter, and Rico in the performance of their duties during a difficult and stressful situation provided Representative Kuempel with the necessary medical attention that saved his life.

By their actions, Troopers Riojas, Carpenter, and Rico bring much distinction upon themselves, the Texas Department of Public Safety, and the law enforcement profession.

Lamar Beckworth
DPS Director

PRINTING RULES SUSPENDED

Representative Geren moved to suspend Rule 12, Section 1(a) and Rule 13, Section 10 of the House Rules to the extent necessary to permit the following:

For all conference committee reports, the copy of the third printing required to be provided to members under the House Rules shall be accomplished by providing an electronic copy of the report available for viewing to each member. Notice of the availability of the electronic copy shall be transmitted to the member's Capitol electronic mail address before the hard-copy third printing is delivered to the chief clerk. Any member may request a printed copy of the third

printing by requesting the same from the chief clerk. The conference committee report is eligible for consideration by the house not earlier than the 24th hour after the hard-copy third printing has been delivered by the printer to the chief clerk. The date and time the chief clerk receives the hard-copy third printing shall be noted in the Texas Legislative Information System.

The motion prevailed.

HR 2738 - ADOPTED
(by Marquez)

Representative Marquez moved to suspend all necessary rules to take up and consider at this time **HR 2738**.

The motion prevailed.

The following resolution was laid before the house:

HR 2738, Congratulating meteorologist Amber Sullins of El Paso for winning the 2009 Best Weathercast Award from the Texas Associated Press Broadcasters.

HR 2738 was adopted.

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 1, 2, and 3).

HR 2542 - ADOPTED
(by Sheffield)

Representative Sheffield moved to suspend all necessary rules to take up and consider at this time **HR 2542**.

The motion prevailed.

The following resolution was laid before the house:

HR 2542, Congratulating Beatrice Arnold of Falls County on her receipt of the Mrs. VFW award.

HR 2542 was adopted.

HR 1206 - PREVIOUSLY ADOPTED
(by Laubenberg)

The chair laid out the following previously adopted resolution:

HR 1206, Congratulating Bruce and Shirley Shoquist of Rockwall on the occasion of their 50th wedding anniversary.

HR 2875 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2875**, suspending the limitations on the conferees for **SB 1**.

COMMITTEE GRANTED PERMISSION TO MEET

Representative McClendon requested permission for the Committee on Rules and Resolutions to meet while the house is in session, at 11:20 a.m. today, in 2W.6, to consider the calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, 11:20 a.m. today, 2W.6, for a formal meeting, to consider the calendar.

LEAVE OF ABSENCE GRANTED

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

Alvarado on motion of Homer.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List Nos. 40, 41, and 42).

SB 58 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Vaught submitted the conference committee report on **SB 58**.

Representative Vaught moved to adopt the conference committee report on **SB 58**.

The motion to adopt the conference committee report on **SB 58** prevailed by (Record 1388): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.;

Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel.

Absent — Burnam; Crownover.

LEAVE OF ABSENCE GRANTED

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

Lewis on motion of Pitts.

HB 1633 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Walle called up with senate amendments for consideration at this time,

HB 1633, A bill to be entitled An Act relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.

Representative Walle moved to concur in the senate amendments to **HB 1633**.

The motion to concur in the senate amendments to **HB 1633** prevailed by (Record 1389): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Corte; Turner, S.

Senate Committee Substitute

CSHB 1633, A bill to be entitled An Act relating to the prosecution and punishment of the offense of graffiti and to certain conditions imposed on defendants convicted of that offense or on juveniles adjudicated as having engaged in conduct in violation of that offense.

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

SECTION 1. Article 42.037(s), Code of Criminal Procedure, is amended to read as follows:

(s)(1) A court shall order ~~[If a court orders]~~ a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution by:

(A) reimbursing the owner of the property for the cost of restoring the property; or

(B) with the consent of the owner of the property, ~~[to the victim of the offense, the court may order the defendant to make restitution as provided by Subsection (b)(1)(B) or by]~~ personally restoring the property by removing or painting over any markings the defendant made.

(2) A court shall order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution to a political subdivision that owns public property or erects a street sign or official traffic-control device on which the defendant makes markings in violation of Section 28.08, Penal Code, by:

(A) paying an ~~[-The]~~ amount ~~[of the restitution ordered must be]~~ equal to the lesser of ~~[the amount of restitution authorized by Subsection (b)(1)(B) or]~~ the cost to the political subdivision of replacing or restoring the public property, street sign, or official traffic-control device; or

(B) with the consent of the political subdivision, restoring the public property, street sign, or official traffic-control device by removing or painting over any markings made by the defendant on the property, sign, or device.

(3) If the court orders a defendant to make restitution under this subsection ~~[subdivision]~~ and the defendant is financially unable to make the restitution, the court may order the defendant to perform a specific number of hours of community service~~[- including service restoring the property by removing or painting over any markings the defendant made.]~~ to satisfy the restitution.

(4) Notwithstanding Subsection (g)(4), a court shall direct a defendant ordered to make restitution under this subsection as a condition of community supervision to deliver the amount or property due as restitution to the defendant's supervising officer for transfer to the owner. A parole panel shall direct a defendant ordered to make restitution under this subsection as a condition of parole or mandatory supervision to deliver the amount or property due as

restitution to the defendant's supervising officer. The defendant's supervising officer shall notify the court when the defendant has delivered the full amount of restitution ordered.

(5) For purposes of this subsection [~~subdivision~~], "official traffic-control device" has the meaning assigned by Section 541.304, Transportation Code.

SECTION 2. Section 11, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (k) to read as follows:

(k) A court granting community supervision to a defendant convicted of an offense under Section 28.08, Penal Code, shall require as a condition of community supervision that the defendant perform:

(1) at least 15 hours of community service if the amount of pecuniary loss resulting from the commission of the offense is \$50 or more but less than \$500; or

(2) at least 30 hours of community service if the amount of pecuniary loss resulting from the commission of the offense is \$500 or more.

SECTION 3. Section 54.046, Family Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) If a juvenile court places on probation under Section 54.04(d) a child adjudicated as having engaged in conduct in violation of Section 28.08, Penal Code, in addition to other conditions of probation, the court:

(1) shall [~~may~~] order the child to:

(A) reimburse the owner of the property for the cost of restoring the property; or

(B) with consent of the owner of the property, restore the property by removing or painting over any markings made by the child on the property; and

(2) if the child made markings on public property, a street sign, or an official traffic-control device in violation of Section 28.08, Penal Code, shall [~~may~~] order the child to:

(A) make to the political subdivision that owns the public property or erected the street sign or official traffic-control device restitution in an amount equal to the lesser of the cost to the political subdivision of replacing or restoring the public property, street sign, or official traffic-control device; or

(B) with the consent of the political subdivision, restore the public property, street sign, or official traffic-control device by removing or painting over any markings made by the child on the property, sign, or device.

(c) If a juvenile court orders a child to make restitution under Subsection (a) and the child, child's parent, or other person responsible for the child's support is financially unable to make the restitution, the court may order the child to perform a specific number of hours of community service, in addition to the hours required under Subsection (d), to satisfy the restitution.

(d) If a juvenile court places on probation under Section 54.04(d) a child adjudicated as having engaged in conduct in violation of Section 28.08, Penal Code, in addition to other conditions of probation, the court shall order the child to perform:

(1) at least 15 hours of community service if the amount of pecuniary loss resulting from the conduct is \$50 or more but less than \$500; or

(2) at least 30 hours of community service if the amount of pecuniary loss resulting from the conduct is \$500 or more.

(e) The juvenile court shall direct a child ordered to make restitution under this section to deliver the amount or property due as restitution to a juvenile probation department for transfer to the owner. The juvenile probation department shall notify the juvenile court when the child has delivered the full amount of restitution ordered.

SECTION 4. Section 28.08(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner with:

- (1) [~~aerosol~~] paint;
- (2) an indelible marker; or
- (3) an etching or engraving device.

SECTION 5. The change in law made by this Act applies only to an offense that is committed or conduct that occurs on or after the effective date of this Act. An offense that is committed or conduct that occurs before the effective date of this Act is covered by the law in effect when the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed or conduct occurred before the effective date of this Act if any element of the offense or conduct occurred before that date.

SECTION 6. This Act takes effect September 1, 2009.

**HB 2682 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Geren called up with senate amendments for consideration at this time,

HB 2682, A bill to be entitled An Act relating to the authority of municipalities to alter speed limits.

Representative Geren moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2682**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2682**: Alvarado, chair; Bohac, McClendon, Guillen, and Merritt.

LEAVE OF ABSENCE GRANTED

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

Driver on motion of Hunter.

NAMES ADDED

On motion of Representative Corte, the names of all the members of the house were added to **HR 1166 - HR 1168, HR 1172, HR 1250, HR 1272, HR 1303, HR 1400, HR 1755, HR 1757, HR 1943, HR 2064, HR 2068, HR 2097, HR 2098, HR 2116, HR 2124, HR 2187, HR 2199, HR 2264, HR 2294 - HR 2333, HR 2329, HR 2335 - HR 2345, HR 2407 - HR 2409, HR 2457, HR 2505 - HR 2523, HR 2543, HR 2554, HR 2574 - HR 2580, HR 2582, HR 2583, HR 2641 - HR 2643, and HR 2773** as signers thereof.

HB 4755 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hamilton called up with senate amendments for consideration at this time,

HB 4755, A bill to be entitled An Act relating to the creation of the Guadalupe County Development and Management District; providing authority to impose an assessment, impose a tax, and issue bonds; granting a limited power of eminent domain.

Representative Hamilton moved to concur in the senate amendments to **HB 4755**.

The motion to concur in the senate amendments to **HB 4755** prevailed by (Record 1390): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Driver; Kuempel; Lewis.

Absent — Cook.

Senate Committee Substitute

CSHB 4755, A bill to be entitled An Act relating to the creation of the Guadalupe County Development and Management District; providing authority to impose an assessment, impose a tax, and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3887 to read as follows:

CHAPTER 3887. GUADALUPE COUNTY DEVELOPMENT AND
MANAGEMENT DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3887.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "County" means Guadalupe County.

(3) "District" means the Guadalupe County Development and Management District.

(4) "Improvement project" means a program or project authorized by Section 3887.102, inside or outside the boundaries of the district.

Sec. 3887.002. CREATION AND NATURE OF DISTRICT. (a) The district is a special district created under Section 59, Article XVI, Texas Constitution, with all of the powers granted by this chapter.

(b) The district is a governmental unit for the purposes of Chapter 101, Civil Practice and Remedies Code, and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of that chapter.

Sec. 3887.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, and protect the environment and the other natural resources of the state, and to encourage and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the county from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant county services provided in the district.

Sec. 3887.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment;

(3) providing quality residential housing;

(4) developing or expanding transportation and commerce; and

(5) improving and enhancing the environment in and around the district and in the county.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a residential community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty and enhancing and improving the environment as an essential natural resource of the state.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, vehicle parking, and street art objects are parts of and necessary components of a street and are considered to be an improvement project that includes a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3887.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under Section 3887.107 or other law.

(b) A mistake in the field notes of the district contained in Section 2 of the Act enacting this chapter or in copying the field notes in the legislative process does not in any way affect:

(1) the district's organization, existence, or validity;

(2) the district's right to contract, including the right to issue any type of bond or other obligation for a purpose for which the district is created;

(3) the district's right to impose or collect an assessment, tax, or any other revenue; or

(4) the legality or operation of the board.

Sec. 3887.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

(a) If all or any part of the district is annexed into a municipality, any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created by the municipality under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created by the municipality under Chapter 312, Tax Code; or

(3) an enterprise zone created by the municipality under Chapter 2303, Government Code.

(b) If a municipality creates a tax increment reinvestment zone described by Subsection (a), the municipality, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code, including the right to pledge the money as security for any bonds issued by the district for an improvement project.

[Sections 3887.007-3887.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3887.051. GOVERNING BODY; TERMS. The district is governed by a board of five directors who serve staggered terms of four years, with two or three directors' terms expiring July 1 of each odd-numbered year.

Sec. 3887.052. ELECTION DATE. The board shall hold elections for directors on the uniform election date in May of odd-numbered years.

Sec. 3887.053. VACANCY. The board of directors shall appoint a director to fill a vacancy on the board for the remainder of the unexpired term.

Sec. 3887.054. ELIGIBILITY. (a) To serve as a director, a person must be at least 18 years old and be:

(1) a resident of the district who is also a registered voter of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district;

(5) an agent, employee, or tenant of a person covered by Subdivision (2), (3), or (4); or

(6) an initial director.

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3887.055. DIRECTOR'S OATH OR AFFIRMATION. A director's oath or affirmation of office shall be filed with the district, and the district shall retain the oath or affirmation in the district records.

Sec. 3887.056. OFFICERS. The board shall elect from among the directors a presiding officer, an assistant presiding officer, and a secretary.

Sec. 3887.057. COMPENSATION, EXPENSES, AND LIABILITY INSURANCE FOR DIRECTORS. (a) The district may compensate each director in an amount not to exceed \$50 for each board meeting. The total amount of compensation for one director may not exceed \$2,000 annually.

(b) The district shall reimburse directors for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of a director.

(c) The district may obtain and pay for comprehensive general liability insurance coverage from commercial insurance companies or other sources that protect and insure the directors against personal liability and from any and all claims for actions taken as directors or actions and activities taken by the district or by others acting on the district's behalf.

Sec. 3887.058. CONFLICTS OF INTEREST. (a) A director may participate in all board votes and decisions, subject to the requirements of this section.

(b) Section 171.004, Local Government Code, does not apply to the district.

(c) A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file an affidavit with the board secretary declaring the interest. Another affidavit is not required if the director's interest changes.

(d) After the affidavit is filed, the director may participate in a discussion or vote if:

(1) a majority of the appointed directors have a similar interest in the same entity;

(2) all other similar businesses or charitable entities in the district will receive a similar pecuniary benefit; or

(3) the appointed director is a property owner in the district.

Sec. 3887.059. INITIAL DIRECTORS. (a) The initial board consists of the following directors:

<u>Place No.</u>	<u>Name of Initial Director</u>
<u>Place 1</u>	<u>G. Steven White</u>
<u>Place 2</u>	<u>Christopher Turner</u>
<u>Place 3</u>	<u>Holly White Turner</u>
<u>Place 4</u>	<u>Bradley White</u>
<u>Place 5</u>	<u>Jacob White</u>

(b) Of the initial directors, the terms of directors appointed for places 1 and 2 expire on July 1, 2011, and the terms of the initial directors appointed for places 3, 4, and 5 expire on July 1, 2013.

(c) Section 49.052, Water Code, does not apply to initial directors.

(d) This section expires September 1, 2014.

[Sections 3887.060-3887.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3887.101. GENERAL POWERS AND DUTIES. The district has the duties imposed by this chapter and the powers:

(1) provided by the general laws relating to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code;

(2) provided by the general laws relating to road districts and road utility districts created under Section 52, Article III, Texas Constitution, including Chapter 441, Transportation Code, except that the district may exercise any power granted by this chapter without regard to any provision or requirement of or procedure prescribed in Chapter 441, Transportation Code;

(3) that Subchapter A, Chapter 372, Local Government Code, provides a municipality or a county;

(4) provided by Chapter 375, Local Government Code;

(5) that Chapter 505, Local Government Code, provides a corporation created under that chapter; and

(6) that Chapter 1371, Government Code, provides an issuer.

Sec. 3887.102. IMPROVEMENT PROJECTS. (a) The district may provide, or it may enter into contracts with a governmental or private entity to provide, the following types of improvement projects or activities in support of or incidental to those projects:

(1) a supply and distribution facility or system to provide potable and nonpotable water to the residents and businesses of the district, including a wastewater collection facility;

(2) a paved, macadamized, or graveled road or street inside and outside the district, to the full extent authorized by Section 52, Article III, Texas Constitution;

(3) the planning, design, construction, improvement, and maintenance of:

(A) landscaping;

(B) highway right-of-way or transit corridor beautification and improvement;

(C) lighting, banners, and signs;

(D) a street or sidewalk;

(E) a hiking and cycling path or trail;

(F) a pedestrian walkway, skywalk, crosswalk, or tunnel;

(G) a park, lake, garden, recreational facility, community activities center, dock, wharf, sports facility, open space, scenic area, or related exhibit or preserve;

(H) a fountain, plaza, or pedestrian mall; or

(I) a drainage or storm-water detention improvement;

(4) protection and improvement of the quality of storm water that flows through the district;

(5) the planning, design, construction, improvement, maintenance, and operation of:

(A) a water or sewer facility; or

(B) an off-street parking facility or heliport;

(6) the planning and acquisition of:

(A) public art and sculpture and related exhibits and facilities; or

(B) an educational facility and a cultural exhibit or facility;

(7) the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for:

(A) a conference, convention, or exhibition;

(B) a manufacturer, consumer, or trade show;

(C) a civic, community, or institutional event; or

(D) an exhibit, display, attraction, special event, or seasonal or cultural celebration or holiday;

(8) the removal, razing, demolition, or clearing of land or improvements in connection with an improvement project;

(9) the acquisition and improvement of land or other property for the mitigation of the environmental effects of an improvement project;

(10) the acquisition of property or an interest in property in connection with an authorized improvement project, including any project or projects that are authorized by Subchapter A, Chapter 372, or Chapter 375, Local Government Code;

(11) a special or supplemental service for the improvement and promotion of the district or an area adjacent to the district or for the protection of public health and safety or the environment in or adjacent to the district, including:

(A) advertising;

(B) promotion;

(C) tourism;

(D) health and sanitation;

(E) public safety;

(F) security;

(G) fire protection or emergency medical services;

(H) business recruitment;

(I) development;

(J) the reduction of automobile traffic volume and congestion, including the provision, construction, and operation of light rail or streetcar systems and services; and

(K) recreational, educational, or cultural improvements, enhancements, and services; or

(12) any similar public improvement, facility, or service.

(b) The district may not undertake a project under this section unless the board determines the project to be necessary to accomplish a public purpose of the district.

(c) The district may not provide, conduct, or authorize any improvement project on municipal or county streets, highways, rights-of-way, roads, or easements without the consent of the governing body of the municipality or county, as applicable.

(d) For the purposes of this section, planning, design, construction, improvement, and maintenance of a lake includes work done for drainage, reclamation, or recreation.

Sec. 3887.103. GENERAL POWERS REGARDING CONTRACTS. (a) The district may:

(1) contract with any public or private person, body, or entity to accomplish any district purpose, including a contract for:

(A) the payment, repayment, or reimbursement of costs incurred by that person on behalf of the district, including all or part of the costs of an improvement project and interest on the reimbursed cost; or

(B) the use, occupancy, lease, rental, operation, maintenance, or management of all or part of a proposed or existing improvement project; and

(2) apply for and contract with any public or private person, body, or entity to receive, administer, and perform a duty or obligation of the district under a federal, state, local, or private gift, grant, loan, conveyance, transfer, bequest, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or others of a proposed or existing improvement project.

(b) A contract the district enters into to carry out a purpose of this chapter may be on any terms and for any period the board determines, including a negotiable or nonnegotiable note or warrant payable to any other person.

(c) Any person, including but not limited to the county, may contract with the district to carry out the purposes of this chapter without further statutory or other authorization.

Sec. 3887.104. RULES; ENFORCEMENT. (a) The district may adopt rules:

(1) to administer or operate the district;

(2) for the use, enjoyment, availability, protection, security, and maintenance of the district's property and facilities; or

(3) to provide for public safety and security in the district.

(b) The district may enforce its rules by injunctive relief.

(c) To the extent a district rule conflicts with a county rule, order, or regulation, the county rule, order, or regulation controls.

Sec. 3887.105. NAME CHANGE. The board by resolution may change the district's name. The board shall give written notice of the change to the county and any municipality in which the district is wholly or partly located.

Sec. 3887.106. USE OF ROADWAY, PARK, OR OTHER PUBLIC AREA OR FACILITY OF DISTRICT. (a) The board by rule may regulate the private use of a public roadway, open space, park, sidewalk, or similar public area or facility in the district. To the extent the district rules conflict with a rule, order, or regulation of the county or of a municipality in which the district is wholly or partly located, the rule, order, or regulation of the county or municipality controls. A rule may provide for the safe and orderly use of public roadways, open spaces, parks, sidewalks, and similar public areas or facilities in the district.

(b) The board may require a permit for a parade, demonstration, celebration, entertainment event, or similar nongovernmental activity in or on a public roadway, open space, park, sidewalk, or similar public area or facility that is owned by the district. The board may charge a fee for the permit application or for public safety or security services for such facilities in an amount the board considers necessary.

(c) The board may require a permit or franchise agreement with a vendor, concessionaire, exhibitor, or similar private or commercial person or organization for the limited use of the area or facility owned by the district on terms and on payment of a permit or franchise fee the board may impose.

Sec. 3887.107. ADDING OR REMOVING TERRITORY. (a) The board may add or remove territory under Subchapter J, Chapter 49, and Section 54.016, Water Code, except that the addition or removal of the territory must be approved by the owners of the territory being added or removed.

(b) A reference to a tax in Subchapter J, Chapter 49, or Section 54.016, Water Code, means an ad valorem tax.

(c) Territory may not be removed from the district if bonds or other obligations of the district payable wholly or partly from ad valorem taxes or assessments levied or assessed on the territory are outstanding.

Sec. 3887.108. ECONOMIC DEVELOPMENT. The district may create economic development and other programs pursuant to Section 52-a, Article III, Texas Constitution, including the imposition and collection of ad valorem taxes for such purposes if approved by the voters of the district at an election, including the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality with a population of more than 100,000; and

(2) Chapter 1509, Government Code, provides to any municipality.

Sec. 3887.109. TERMS OF EMPLOYMENT; COMPENSATION. The board may employ and establish the terms of employment and compensation of an executive director or general manager and any other district employees the board considers necessary.

Sec. 3887.110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 3887.111-3887.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3887.151. GENERAL POWERS REGARDING FINANCIAL MATTERS. Except as provided in an agreement executed pursuant to Section 3887.160, the district may:

(1) impose an ad valorem tax on all taxable property in the district, including industrial, commercial, and residential property, to pay for an improvement project of the types authorized by Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and to secure the payment of bonds issued for such purposes;

(2) impose an assessment on property in the district to pay the cost or the cost of maintenance of any authorized district improvement in the manner provided for:

(A) a district under Subchapters A, E, and F, Chapter 375, Local Government Code; or

(B) a municipality or county under Subchapter A, Chapter 372, Local Government Code;

(3) provide or secure the payment or repayment of any bond, note, or other temporary or permanent obligation or reimbursement or other contract with any person, and the costs and expenses of the establishment, administration, and operation of the district and the district's costs or share of the costs or revenue of an improvement project or district contractual obligation or indebtedness by or through:

(A) the imposition of an ad valorem tax or an assessment, user fee, concession fee, or rental charge; or

(B) any other revenue or resources of the district, or other revenues, including revenues from a tax increment reinvestment zone created by a municipality in which all or a portion of the territory of the district has been annexed;

(4) establish user charges related to the operation of storm-water facilities, including the regulation of storm water for the protection of water quality in the district;

(5) establish user charges for the use of potable and nonpotable water of the district;

(6) undertake separately or jointly with other persons, including a municipality or the county, all or part of the cost of an improvement project, including an improvement project:

(A) for improving, enhancing, and supporting public safety and security, fire protection and emergency medical services, and law enforcement in and adjacent to the district; or

(B) that confers a general benefit on the entire district or a special benefit on a definable part of the district; and

(7) enter into a tax abatement agreement in accordance with the general laws of this state authorizing and applicable to tax abatement agreements by municipalities.

Sec. 3887.152. BORROWING MONEY. The district may borrow money for a district purpose by issuing or executing bonds, notes, credit agreements, or other obligations of any kind found by the board to be necessary or appropriate for a district purpose. The bond, note, credit agreement, or other obligation must be secured by and payable from ad valorem taxes, assessments, or any combination thereof or from other district revenue.

Sec. 3887.153. IMPACT FEES AND ASSESSMENTS; EXEMPTION. (a) The district may impose an impact fee or assessment on property in the district, including an impact fee or assessment on residential or commercial property, only in the manner provided by Subchapter A, Chapter 372, or Subchapter F, Chapter 375, Local Government Code, for a municipality, county, or public improvement district, according to the benefit received by the property.

(b) An impact fee for residential property must be for the limited purpose of providing capital funding for:

(1) public water and wastewater facilities;

(2) drainage and storm-water facilities; and

(3) streets and alleys.

(c) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed; and

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes.

(d) The lien of an assessment against property runs with the land. The portion of an assessment payment obligation that has not yet come due is not eliminated by the foreclosure of an ad valorem tax lien, and any purchaser of property in a foreclosure of an ad valorem tax lien takes the property subject to the assessment payment obligations that have not yet come due and to the lien and terms of the lien's payment under the applicable assessment ordinance or order.

(e) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

(f) The district may not impose an impact fee on the property, including equipment and facilities, of a public utility provider in the district.

Sec. 3887.154. RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

Sec. 3887.155. MAINTENANCE AND OPERATION TAX; ELECTION.

(a) The district may impose a tax for maintenance and operation purposes, including for:

(1) planning, constructing, acquiring, maintaining, repairing, and operating all improvement projects, including land, plants, works, facilities, improvements, appliances, and equipment of the district; and

(2) paying costs of services, engineering and legal fees, and organization and administrative expenses.

(b) The district may not impose a maintenance and operation tax unless the tax is approved by a majority of the district voters voting at an election held for that purpose. The proposition in a maintenance and operation tax election may be for a specific maximum rate or for an unlimited rate. If a maximum tax rate is approved, the board may impose the tax at any rate that does not exceed the approved rate.

(c) A maintenance and operation tax election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

Sec. 3887.156. USE OF SURPLUS MAINTENANCE AND OPERATION MONEY. If the district has surplus maintenance and operation tax money that is not needed for the purposes for which it was collected, the money may be used for any authorized purpose.

Sec. 3887.157. BONDS AND OTHER OBLIGATIONS; MUNICIPAL APPROVAL. (a) Subject to the requirements of Sections 3887.159 and 3887.160, the district by competitive bid or negotiated sale may issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or from assessments in the manner provided by Subchapter A, Chapter 372, or Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or any other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable, wholly or partly, by a pledge of any part of the money the district receives from system or improvement revenues or from any other source.

Sec. 3887.158. BOND MATURITY. Bonds may mature not more than 40 years from their date of issue.

Sec. 3887.159. TAXES FOR BONDS AND OTHER OBLIGATIONS. (a) At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

(b) Bonds or other obligations that are secured by and payable from ad valorem taxes may not be issued unless the bonds and the imposition of the taxes are approved by a majority of the district voters voting at an election held for that purpose.

(c) The district shall hold an election required by this section in the manner provided by Chapter 54, Water Code, and the Election Code.

Sec. 3887.160. DEVELOPMENT AND OPERATING AGREEMENT REQUIRED TO UNDERTAKE IMPROVEMENT PROJECTS, IMPOSE TAXES OR ASSESSMENTS, AND BORROW MONEY, INCLUDING BONDS. (a) After the district's board of directors is organized, but before the district may undertake any improvement project, issue bonds, impose taxes, impose assessments or fees, or borrow money, the district must negotiate and execute with the county a mutually approved and accepted development and operating agreement, including any pre-annexation agreements, and any limitations regarding the plans and rules for:

(1) the exercise of the powers granted to the district under this chapter, including the organization, development, and operation of the district;

(2) the selection and description of improvement projects that may be undertaken and financed by the district and the ownership, operation, and maintenance of the improvement projects;

(3) the terms, conditions, methods, means, and amounts of financing authorized by this chapter that the district may undertake in providing improvement projects; and

(4) the amounts, methods, and times of reimbursement to the county for costs and expenses, if any, incurred by the county with respect to the development and operation of the district and the financing of improvement projects by the district.

(b) An agreement required by this section may not be effective until its terms and execution are approved by the board by order or resolution.

[Sections 3887.161-3887.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 3887.201. DISSOLUTION BY BOARD ORDER. (a) The board, with the approval of the county, by order may dissolve the district.

(b) The board may not dissolve a district until:

(1) the district's outstanding indebtedness and all contractual obligations that are payable from ad valorem taxes or assessments have been paid, satisfied, or discharged; and

(2) if, at the time of dissolution, the district is not situated wholly or partly within a municipality, the county agrees to accept title to all district property and to provide the level of services provided by the district as of the date of dissolution.

(c) If the district is located wholly or partly within a municipality, the municipality may dissolve the district by ordinance at any time after all outstanding debt and contractual obligations of the district that are payable from ad valorem taxes have been paid, satisfied, and discharged. If the district has outstanding debt that is payable from assessments or other district revenue, other than ad valorem taxes, and the municipality dissolves the district, the municipality assumes, subject to the appropriation and availability of funds, the obligations of the district, including any bonds or other indebtedness payable from assessments or district revenue other than ad valorem taxes.

(d) If a municipality dissolves the district, the board shall transfer ownership of all district property to the municipality.

SECTION 2. The Guadalupe County Development and Management District shall include the following land, described by metes and bounds as follows:

Being a 391.0 acre tract of land situated in the Robert Hall Survey, Abstract 11, Guadalupe County, Texas, being all that tract of land called 391.262 acres, conveyed to S. White Ranches and Properties Ltd., by deed recorded in Volume 1766, Page 701, Official Records Guadalupe County, Texas, and being more particularly described as follows:

Beginning at a point in the northwest right-of-way line of Dowdy Road for the southeast corner of a tract of land called 251.468 acres, described in Volume 897, Page 545, Official Records Guadalupe County, Texas, the southwest corner of the 391.262 acre tract and the herein described tract.

Thence, North 00° 42' 22" W, 5775.99 feet with the east line of the 251.468 acre tract and the west line of the 391.262 acre tract, to a point for the northeast corner of the 251.468 acre tract, the northwest corner of the 391.262 acre tract and the herein described tract.

Thence, in an easterly direction with westernmost north line of the 391.262 acre tract as follows:

N 88° 33' 40" E, 52.89 feet to a point for an angle point.

N 88° 22' 45" E, 295.62 feet to a point for an interior corner of the 391.262 acre tract and the herein described tract.

Thence, N 00° 32' 11" E, 246.42 feet and N 00° 28' 10" E, 193.80 feet with the northernmost west line of the 391.262 acre tract to a point for the northernmost northwest corner of the 391.262 acre tract and the herein described tract.

Thence, in an easterly direction with the northernmost north line of the 391.262 acre tract as follows:

N 88° 55' 39" E, 262.26 feet to a point for an angle point.

N 89° 28' 30" E, 637.99 feet to a point for an angle point.

N 89° 33' 42" E, 209.00 feet to a point for the northernmost northeast corner of the 391.262 acre tract and the herein described tract.

Thence, S 00° 33' 33" E, 526.42 feet, and S 00° 20' 25" E, 529.32 feet with the northernmost east line of the 391.262 acre tract to a point for an interior corner of the 391.262 acre tract and the herein described tract.

Thence, S 40° 41' 11" E, 337.20 feet and S 40° 33' 23" E, 487.11 feet with the northernmost northeast line of the 391.262 acre tract to a point for an interior corner of the 391.262 acre tract and the herein described tract.

Thence, in an easterly direction with the easternmost north line of the 391.262 acre tract as follows:

N 89° 23' 38" E, 405.50 feet to a point for an angle point.

N 89° 25' 58" E, 858.03 feet to a point for an angle point.

S 62° 26' 18" E, 74.61 feet to a point for the easternmost northeast corner of the 391.262 acre tract and the herein described tract.

Thence, in a southerly direction with the easternmost east line of the 391.262 acre tract as follows:

S 04° 41' 29" W, 1095.75 feet to a point for an angle point.

S 04° 36' 26" W, 459.19 feet to a point for an angle point.

S 04° 49' 09" W, 843.40 feet to a point for an angle point.

S 05° 36' 24" W, 501.16 feet to a point for an angle point.

S 05° 23' 25" W, 848.09 feet to a point for an angle point.

S 04° 06' 59" W, 703.93 feet to a point for an angle point.

S 13° 57' 35" W, 119.70 feet to a point for the easternmost southeast corner of the 391.262 acre tract and the herein described tract.

Thence, N 86° 05' 25" W, 736.10 feet with the easternmost south line of the 391.262 acre tract to a point for an interior corner of the 391.262 acre tract and the herein described tract.

Thence, S 19° 54' 35" W, 607.70 feet with the southernmost east line of the 391.262 acre tract to a point in the northeast right-of-way line Dowdy Road for the southernmost southeast corner of the 391.262 acre tract and the herein described tract.

Thence, in a westerly direction with the northeast, the north and the northwest right-of-way line Dowdy Road and the southwest, south and southeast line of the of the 391.262 acre tract and the 251.468 acre tract as follows:

N 70° 30' 16" W, 755.54 feet to a point for an angle point.

N 69° 05' 26" W, 503.83 feet to a point for an angle point.

N 68° 45' 04" W, 353.18 feet to a point for an angle point.

N 77° 00' 24" W, 96.51 feet to a point for an angle point.

N 85° 04' 56" W, 81.52 feet to a point for an angle point.

S 82° 47' 06" W, 100.40 feet to a point for an angle point.

S 76° 58' 29" W, 90.59 feet to a point for an angle point.

S 67° 51' 26" W, 46.21 feet to the Place of Beginning and containing 391.0 acres of land more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 4759 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Quintanilla called up with senate amendments for consideration at this time,

HB 4759, A bill to be entitled An Act relating to the creation of the Tornillo Management District; providing authority to impose a tax and issue bonds.

Representative Quintanilla moved to concur in the senate amendments to **HB 4759**.

The motion to concur in the senate amendments to **HB 4759** prevailed by (Record 1391): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless;

Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Driver; Kuempel; Lewis.

Absent — Bonnen; Crabb; Ritter; Truitt.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 4759** in SECTION 1 of the bill, in proposed Section 3845.155(b), Special District Local Laws Code, (house engrossed version, page 8, lines 10-11), by striking "for which ad valorem tax revenue may be used" and substituting "that is an authorized use of hotel occupancy tax revenue under Chapter 351, Tax Code".

HB 2932 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Vaught called up with senate amendments for consideration at this time,

HB 2932, A bill to be entitled An Act relating to including in the computerized criminal history system certain forensic DNA test results that indicate the person committed another offense.

Representative Vaught moved to concur in the senate amendments to **HB 2932**.

The motion to concur in the senate amendments to **HB 2932** prevailed by (Record 1392): 141 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kolkhorst; Legler; Leibowitz; Lucio; Madden; Maldonado; Marquez; Martinez; Martinez Fischer;

McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Dutton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Driver; Kuempel; Lewis.

Absent — Kleinschmidt; Laubenberg; Mallory Caraway.

Senate Committee Substitute

CSHB 2932, A bill to be entitled An Act relating to including in the law enforcement information system information indicating that criminal defendants have committed certain additional offenses.

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

SECTION 1. Chapter 411, Government Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. CENTRAL INDEX OF CERTAIN ADDITIONAL
OFFENSES SUSPECTED TO HAVE BEEN COMMITTED BY CRIMINAL
DEFENDANTS

Sec. 411.0601. DEFINITION. In this subchapter, "criminal justice agency" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

Sec. 411.0602. ESTABLISHMENT OF CENTRAL INDEX; ENTRY OF INFORMATION. (a) In the law enforcement information system maintained by the department, the bureau of identification and records shall establish and maintain a central index to collect and disseminate information regarding additional offenses that forensic DNA test results indicate may have been committed by a defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only.

(b) Information relating to a defendant described by Subsection (a) may be entered in the central index only if the information is based on forensic DNA test results indicating that the DNA profile of the defendant cannot be excluded as a donor to the DNA profile of a person suspected to have committed an offense, regardless of whether the defendant has been or will be arrested for or charged with that offense. The information must be:

- (1) submitted in the form of an affidavit signed by a representative of an investigating criminal justice agency and approved by a district judge; and
- (2) accompanied by a set of the defendant's fingerprints.

Sec. 411.0603. CONFIDENTIALITY AND DISSEMINATION OF INFORMATION IN CENTRAL INDEX. (a) Information maintained by the department in the central index established under this subchapter is confidential. The department may not disseminate the information except as otherwise provided by this section.

(b) On proper inquiry, the department shall disseminate to a criminal justice agency the information collected under Section 411.0602. The criminal justice agency may disseminate the information to any other criminal justice agency if the dissemination of that information is for a criminal justice purpose.

(c) A criminal justice agency or an employee of a criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under Section 411.0602 if that collection, use, or dissemination is performed in accordance with rules adopted by the director.

Sec. 411.0604. RULES. The director shall adopt rules to implement and enforce this subchapter.

Sec. 411.0605. RIGHT TO REQUEST NOTICE OF ENTRY IN CENTRAL INDEX. (a) A defendant described by Section 411.0602(a) may submit to the bureau of identification and records a request to determine whether the bureau has entered information relating to the defendant in the central index established under Section 411.0602. The bureau shall respond to the request not later than the 10th business day after the date the bureau receives the request.

(b) Before responding to a request under Subsection (a), the bureau may require reasonable written verification of the identity of the defendant submitting the request, including written verification of an address, date of birth, driver's license number, state identification card number, or social security number.

Sec. 411.0606. RIGHT TO REQUEST REVIEW OF ENTRY IN CENTRAL INDEX. (a) On receipt by the bureau of identification and records of a written request that is submitted by a defendant described by Section 411.0602(a), that is accompanied by a set of the defendant's fingerprints, and that alleges that the bureau may have entered inaccurate information relating to the defendant in the central index established under Section 411.0602, the head of the bureau or that person's designee and the head of the department's crime laboratory in Austin each shall review the information to determine whether there is a high likelihood that the information is accurate.

(b) If after review the head of the bureau or that person's designee or the head of the department's crime laboratory in Austin determines there is not a high likelihood that the information relating to the defendant is accurate, the bureau shall:

(1) promptly remove that information from the central index; and

(2) notify other appropriate divisions of the department, the investigating criminal justice agency, and the defendant of the bureau's determination and the removal of the information.

(c) If after review the head of the bureau or that person's designee and the head of the department's crime laboratory in Austin jointly determine there is a high likelihood that the information relating to the defendant is accurate, the bureau shall notify the defendant of that determination.

SECTION 2. (a) Not later than December 1, 2009, the public safety director of the Department of Public Safety of the State of Texas shall adopt the rules required by Section 411.0604, Government Code, as added by this Act.

(b) The change in law made by this Act in adding Subchapter D-1, Chapter 411, Government Code, applies to the inclusion of forensic DNA test results in the central index required to be established under that subchapter, regardless of whether the test results were obtained before, on, or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2009.

**HB 2908 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Paxton called up with senate amendments for consideration at this time,

HB 2908, A bill to be entitled An Act relating to the regulation of property tax lenders.

Representative Paxton 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 2908**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2908**: Paxton, chair; Isett, Giddings, P. King, and Menendez.

**HB 3635 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Geren called up with senate amendments for consideration at this time,

HB 3635, A bill to be entitled An Act relating to administration of a trust with cotrustees.

Representative Geren moved to concur in the senate amendments to **HB 3635**.

The motion to concur in the senate amendments to **HB 3635** prevailed by (Record 1393): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett;

Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Driver; Kuempel; Lewis.

Absent — Burnam; Deshotel; McClendon; Orr.

Senate Committee Substitute

CSHB 3635, A bill to be entitled An Act relating to administration of a trust with cotrustees.

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

SECTION 1. Sections 113.085(c) and (d), Property Code, are amended to read as follows:

(c) A cotrustee shall participate in the performance of a trustee's function unless the cotrustee:

(1) is unavailable to perform the function because of absence, illness, suspension under this code or other law, disqualification, if any, under this code, disqualification under other law, or other temporary incapacity; or

(2) has delegated the performance of the function to another trustee in accordance with the terms of the trust or applicable law, has communicated the delegation to all other cotrustees, and has filed the delegation in the records of the trust.

(d) If a cotrustee is unavailable to participate in the performance of a trustee's function for a reason described by Subsection (c)(1) and prompt action is necessary to achieve the efficient administration or purposes of the trust or to avoid injury to the trust property or a beneficiary, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

SECTION 2. Section 113.085, Property Code, as amended by this Act, applies only to a trust existing on or after September 1, 2009, regardless of the date the trust was created.

SECTION 3. This Act takes effect September 1, 2009.

HB 4778 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gattis called up with senate amendments for consideration at this time,

HB 4778, A bill to be entitled An Act relating to the creation of the Northwest Williamson County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

Representative Gattis moved to concur in the senate amendments to **HB 4778**.

The motion to concur in the senate amendments to **HB 4778** prevailed by (Record 1394): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Driver; Kuempel; Lewis.

Absent — Harless.

Senate Committee Substitute

CSHB 4778, A bill to be entitled An Act relating to the creation of the Northwest Williamson County Municipal Utility District No. 1; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8349 to read as follows:

CHAPTER 8349. NORTHWEST WILLIAMSON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8349.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Northwest Williamson County Municipal Utility District No. 1.

Sec. 8349.002. NATURE OF DISTRICT. The district is a municipal utility district created under and essential to accomplish the purposes of Section 59, Article XVI, and Section 52, Article III, Texas Constitution.

Sec. 8349.003. CONFIRMATION ELECTION REQUIRED. (a) The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

(b) If the creation of the district is not confirmed at a confirmation election before September 1, 2013:

(1) the district is dissolved September 1, 2013, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Williamson County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2016.

Sec. 8349.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8349.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8349.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) All land and other property in the district will benefit from the improvements and services to be provided by the district.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, or improvement of macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, bridges, and appurtenances, in aid of those roads.

Sec. 8349.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose an assessment or tax; or

(4) legality or operation.

[Sections 8349.007-8349.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8349.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Directors serve staggered four-year terms.

Sec. 8349.052. INITIAL DIRECTORS. (a) The initial board consists of:

- (1) Kevin Boscamp;
- (2) Ken Willey;
- (3) Trip Leon;
- (4) Bill Woodall; and
- (5) Bruce Hollingsworth.

(b) Unless the initial board agrees otherwise, the initial directors shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

(c) This section expires September 1, 2016.

[Sections 8349.053-8349.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8349.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8349.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8349.103. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, bridges, and appurtenances, in aid of those roads.

(b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the Texas Commission on Environmental Quality as required by Section 54.234, Water Code.

Sec. 8349.104. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8349.103 unless:

(1) the municipality or county that will operate and maintain the road has approved the plans and specifications of the road project; or

(2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

(c) The district's construction, repair, and maintenance of streets under this section must meet all applicable construction standards and regulations of Williamson County.

Sec. 8349.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any resolution that is adopted by the governing body of a municipality under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8349.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

- (1) a road project authorized by Section 8349.103; or
- (2) a recreational facility as defined by Section 49.462, Water Code.

Sec. 8349.107. REGIONAL WASTE DISPOSAL POWERS AND DUTIES. The district has the powers and duties applicable to a district under Chapter 30, Water Code.

Sec. 8349.108. WASTEWATER TREATMENT FACILITY DESIGN APPROVAL. The district must obtain the approval of the Brazos River Authority for the design of a district wastewater treatment facility.

Sec. 8349.109. WASTEWATER SERVICE PROVIDERS. Only the Brazos River Authority or a provider approved by the Brazos River Authority may provide wastewater service in the district.

Sec. 8349.110. COMPLIANCE WITH FEBRUARY 2005 AGREEMENT. The district shall comply with the terms of the "Agreement Regarding Sewer Services Areas and Customers" among the Lower Colorado River Authority, the Brazos River Authority, the City of Georgetown, the City of Liberty Hill, and the Chisholm Trail Special Utility District dated February 1, 2005.

[Sections 8349.111-8349.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8349.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by revenue or contract payments from a source other than ad valorem taxes.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes. An ad valorem tax rate imposed by the district may not exceed the rate approved at the election.

Sec. 8349.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8349.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8349.153-8349.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8349.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8349.202. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, at a rate not to exceed the rate approved at an election held under Section 8349.151, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

Sec. 8349.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. The Northwest Williamson County Municipal Utility District No. 1 initially includes all the territory contained in the following area:

Tract I

BEING 129.95 acres of the James Northcross Survey, Abstract No. 478, in Williamson County, Texas; part of the tract called 162.755 acres (less exceptions) which is described in a deed to DEC Circle C Ranch Ltd. of record in Doc. 2000085838, Official Records of Williamson County, Texas. This tract was surveyed on the ground in December of 2004, by Williams F. Forest, Jr., Registered Professional Land Surveyor No. 1847.

BEGINNING at an iron pin which was set for the lower Northeast corner of the said 162.755 acre tract, and for a corner of a property which is described in a deed to K.W. Daniels of record in Doc. 1998037189.

THENCE along the fenced East line of the said 162.755 acre tract, S 18 deg. 55 min. 37 sec. E 1635.48 feet to a pipe post fence corner found at the most Northerly East corner of an 18.34 acre tract conveyed to The Mike Konle Trust in Doc. 2001088810.

THENCE along the fenced boundary of the said 162.755 acre tract; S 69 deg. 43 min. 45 sec. W 1164.54 feet to a pipe post found at the Northeast corner of 34.74 acre tract owned by C.D. Sherwood and described in Vol. 594, Pg. 531; S 69 deg. 49 min. 40 sec. W 1203.87 feet to an iron pin found at a fence corner; and S 14 deg. 11 min. 49 sec. E 1164.86 feet to an iron pin found at a fence corner.

THENCE with the North line of the 0.72 acre exception tract described in Doc. 2000085838, finding iron pins at bends in the fence as follows; S 39 deg. 14 min. 11 sec. W 160.52 feet; S 22 deg. 54 min. 47 sec. W 211.26 feet; and S 00 deg. 24 min. 34 sec. E 211.57 feet to a nail found in the concrete base of a fence corner post. An iron pin found stands N 70 deg. 19 min. 01 sec. E 2.44 feet.

THENCE with the North line of County Road 289, S 71 deg. 31 min. 37 sec. W 323.55 feet to an iron pin found.

THENCE with the boundary of the 9.5 acre tract conveyed to Deborah E. Ivicic in Doc. 1998018246, N 19 deg. 05 min. 07 sec. W 991.53 feet to an iron pin found; and S 71 deg. 05 min. 12 sec. W 401.03 feet to an iron pin set in the East line of the 14 acres conveyed to a D.W. Anderson in Doc. 1998010248.

THENCE N 12 deg. 54 min. 12 sec. E 2944.388 feet to and iron pin found.

THENCE with the North boundary of the said 162.755 acre tract, finding pipe post fence corners as follows; N 72 deg. 33 min. 58 sec. E 331.83 feet; S 16 deg. 51 min. 12 sec. E 147.920 feet; and N 72 deg. 41 min. 18 sec. E 1656.79 feet to the POINT OF BEGINNING.

Tract II

BEING 9.50 acre of the James Northcross Survey, Abstract No. 478, in Williamson County, Texas; part of the tract called 9.5 acres as described in a Correction Deed to Deborah Elizabeth Ivicic, of record in Doc. 1998018246, Official Records of Williamson County, Texas. This tract was surveyed on the ground in December of 2004, by William F. Forest, Jr., Registered Professional Land surveyor No. 1847.

BEGINNING at an iron pin which was found in the North line of County Road 289, at the Southwest corner of the said Deborah Ivicic 9.5 acre tract and at the Southeast corner of a 6.68 acre tract.

THENCE with the West line of the said 9.5 acre Ivicic tract, N 19 deg. 05 min. 48 sec. W 965.73 feet to an iron pin set in the East line of a 14 acre tract which is described in a deed to Daniel W. Anderson of record in Doc. 1998018248.

THENCE with the East line of the Anderson 14 acres, N 12 deg. 54 min. 12 sec. E 30.93 feet to an iron pint set.

THENCE with the North line of the Deborah Ivicic 9.5 acres, N 70 deg. 05 min. 12 sec. E 401.03 feet to and iron pin found.

THENCE with the East boundary of the Ivicic 9.5 acres, S 19 deg. 05 min. 07 sec. E 991.53 feet to an iron pin found.

THENCE with the north Line of County Road 289, S 71 deg. 26 min. 57 sec. W 24.90 feet to an iron pin found; and S 70 deg. 59 min. 36 sec. W 392.32 feet to the POINT OF BEGINNING.

TRACT III

BEING 6.68 acres of the James Northcross Survey, Abstract No. 478, in Williamson County, Texas; part of the tract called 162.775 acres (less exceptions) which is described in a deed to DEC Circle C Ranch Ltd. of record in Doc. 2000085838, Official Records of Williamson County, Texas. This tract was surveyed on the ground in December of 2004, by William F. Forest, Jr., Registered Professional Land Surveyor No. 1847.

BEGINNING at an iron pin which was found in the North line of County Road 289, at the Southeast corner of the 14.00 acre exception tract which is described in Doc. 2000085838 (the same 14.00 acre tract which is described in a

deed to Daniel W. Anderson of record in Doc. 1998018248). A nail found in the concrete base of a fence corner post (at the Southwest corner of the said 162.755 acres) stands S 70 deg. 58 min. 03 sec. W 174.52 feet.

THENCE with the East line of the said 14.00 acre tract, N 12 deg. 54 min. 12 sec. E 1137.98 feet to an iron pin set in the West line of the 9.5 acre Exception tract that is described in Doc. 2000085838 and as conveyed by a Correction Deed to Deborah E. Ivicic in Doc. 1998018246. An iron pin found stands N 19 deg. 05 min. 48 sec. W 26.28 feet.

THENCE with the West line of said 9.5 Deborah Ivicic tract, S 19 deg. 05 min. 48 sec. E 965.73 feet to an iron pin found.

THENCE with the North line of County Road 289, S 70 deg. 58 min. W 603.04 feet to the POINT OF BEGINNING.

TRACT IV

BEING 13.99 acres of the James Northcross Survey, Abstract No. 478, in Williamson County, Texas. This tract is the same tract which is called 14 acres and described in a deed to Daniel W. Anderson of record in Doc. 1998018248, Official Records of Williamson County, Texas. This tract was surveyed on the ground in December of 2004, by William F. Frost, Jr., Registered Professional Land Surveyor No. 1847.

BEGINNING at a nail found in the concrete base of a fence corner post in the North line of County Road 289, at the Southwest corner of said 14.00 acre Anderson tract.

THENCE with the West line of said 14.00 acre tract, N 12 deg. 54 min. 15 sec. E 4119.77 feet to an iron pin found at a fence corner.

THENCE with the North boundary of the said 14 acre tract, N 72 deg. 39 min. 14 sec. E 171.38 feet to an iron pin found.

THENCE S 12 deg. 54 min. 12 sec. W passing iron pins set on line, continuing in all 4113.79 feet to an iron pin found.

THENCE S 70 deg. 58 min. 03 sec. W 174.52 feet to the POINT OF BEGINNING.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 4799 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gattis called up with senate amendments for consideration at this time,

HB 4799, A bill to be entitled An Act relating to the creation of the Seven Oaks Ranch Municipal Utility District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

Representative Gattis moved to concur in the senate amendments to **HB 4799**.

The motion to concur in the senate amendments to **HB 4799** prevailed by (Record 1395): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Driver; Kuempel; Lewis.

Absent — Burnam; Dunnam; Gutierrez; Martinez Fischer; Shelton.

Senate Committee Substitute

CSHB 4799, A bill to be entitled An Act relating to the creation of the Seven Oaks Ranch Municipal Utility District; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8347 to read as follows:

CHAPTER 8347. SEVEN OAKS RANCH MUNICIPAL UTILITY DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8347.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Director" means a board member.
- (3) "District" means the Seven Oaks Ranch Municipal Utility District.

Sec. 8347.002. NATURE OF DISTRICT. The district is a municipal utility district created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8347.003. CONFIRMATION ELECTION REQUIRED. (a) The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

(b) If the creation of the district is not confirmed at a confirmation election before September 1, 2013:

(1) the district is dissolved September 1, 2013, except that the district shall:

- (A) pay any debts incurred;
- (B) transfer to Williamson County any assets that remain after the payment of debts; and
- (C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2016.

Sec. 8347.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8347.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8347.005. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. All land and other property in the district will benefit from the improvements and services to be provided by the district.

Sec. 8347.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bond for a purpose for which the district is created or to pay the principal of and interest on the bond;
- (3) right to impose an assessment or tax; or
- (4) legality or operation.

[Sections 8347.007-8347.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8347.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8347.052, directors serve staggered four-year terms.

Sec. 8347.052. INITIAL DIRECTORS. (a) The initial board consists of:

- (1) Edward Rathgeber;
- (2) R. Tim Mitchell;
- (3) Mike Wittenberg;
- (4) Marcos Canchola; and
- (5) Bob Brent.

(b) Unless the initial board agrees otherwise, the initial directors shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

(c) This section expires September 1, 2016.

[Sections 8347.053-8347.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8347.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8347.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8347.103. REGIONAL WASTE DISPOSAL POWERS AND DUTIES. The district has the powers and duties applicable to a district under Chapter 30, Water Code.

Sec. 8347.104. COMPLIANCE WITH MUNICIPAL CONSENT RESOLUTION. The district shall comply with all applicable requirements of any resolution, adopted by the governing body of a municipality under Section 54.016, Water Code, that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8347.105. WASTEWATER TREATMENT FACILITY DESIGN APPROVAL. The district must obtain the approval of the Brazos River Authority for the design of any district wastewater treatment facility.

Sec. 8347.106. WASTEWATER SERVICE PROVIDERS. Only the Brazos River Authority or a provider approved by the Brazos River Authority may provide wastewater service in the district.

Sec. 8347.107. COMPLIANCE WITH FEBRUARY 2005 AGREEMENT. The district shall comply with the terms of the "Agreement Regarding Sewer Services Areas and Customers" among the Lower Colorado River Authority, the Brazos River Authority, the City of Georgetown, the City of Liberty Hill, and the Chisholm Trail Special Utility District dated February 1, 2005.

Sec. 8347.108. STREET REPAIR AND MAINTENANCE. (a) After September 1, 2019, the district, at the district's expense, shall repair and maintain any streets in the district.

(b) A district's repair and maintenance of streets under this section must meet all applicable construction standards and regulations of Williamson County.

Sec. 8347.109. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for a recreational facility as defined by Section 49.462, Water Code.

[Sections 8347.110-8347.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8347.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by revenue or contract payments from a source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) An ad valorem tax rate imposed by the district may not exceed the rate approved at the election.

Sec. 8347.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8347.151, the district may impose an operation and maintenance tax on taxable property in the district as provided by Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8347.153-8347.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8347.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8347.202. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, at a rate not to exceed the rate approved at an election held under Section 8347.151, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The Seven Oaks Ranch Municipal Utility District initially includes all the territory contained in the following area:

DESCRIPTION FOR JAY ALAN LANSDALE ET. UX. - ROBERT D. WUNSCH, TRUSTEE

BEING 35.00 acres of the William Ashworth Survey, Abstract No. 24, in Williamson County, Texas. This tract is the same property called 35 acres as described in a deed to Jay A. Lansdale, et. ux., of record in Doc. 2004025768, Official Records of Williamson County, Texas (ORWCT). This tract was surveyed on the ground in April of 2008, by William F. Forest, Jr., Registered Professional Land Surveyor No. 1847. Survey note: The bearing basis for this survey is the State Plane Coordinate System, Grid North, Texas Central Zone.

BEGINNING at an iron pin which was found in the curved South line of State Highway 29, at the Northwest corner of a 49.99 acre tract which is described in a deed to River Chase Subdivision II Ltd. of record in Doc. 2007104313 (ORWCT), and at the Northeast corner of the said 35 ac. property of Jay A. Lansdale.

THENCE along or near the general line of an existing fence, with the East boundary Lansdale and the West boundary of the said 49.99 acre tract, S 20 deg. 32 min. 40 sec. E at 2468.65 feet pass an iron pin found, continuing an additional (L10) 126.38 feet, in all 2595.03 feet to the approximate center of the San Gabriel River.

THENCE upstream with the approximate center of the River, and with the lower North boundary of a 137.21 acre property which is described in a deed to River Chase Subdivision II Ltd. (Doc. 2008004193 ORWCT), as follows; (L9) S 81 deg. 42 min. 13 sec. W 225.43 feet; (L8) N 85 deg. 25 min. 07 sec. W 260.32 feet; and N 70 deg. 09 min. 07 sec. W 154.29 feet.

THENCE with the East boundary of the reserve of a tract of 0.93 ac. as conveyed to Robert Scruggs (2092/414 ORWCT); less 0.255 acre as conveyed by Court Judgment to David Kelley, et. ux. Cause 82-180C, (L23) N 20 deg. 36 min. 51 sec. W 133.22 feet to an iron pin found at the Southeast corner of the said 0.255 ac. Kelley tract.

THENCE with the boundary of the property conveyed to Jay A. Lansdale, (L24) S 74 deg. 15 min. 31 sec. W 36.49 feet to an iron pin set.

THENCE with the common boundary between Lansdale and Scruggs, N 20 deg. 07 min. 50 sec. W 331.71 feet to an iron pin found at the Southeast corner of a 14.558 acre property conveyed to Henry and Patricia Blum (1618/75).

THENCE with the common boundary between Lansdale and Blum finding iron pins in a fence line as follows; (L25) N 20 deg. 10 min. 26 sec. W 44.99 feet; N 07 deg. 00 min. 16 sec. W 131.76 feet; N 18 deg. 33 min. 47 sec. W 416.90 feet; and continuing with a line that departs the fence, N 20 deg. 56 min. 52 sec. W 706.17 feet.

THENCE with an unfenced boundary finding iron pins that are West of the fence, following the East line of the 13.83 acre property which is described in a deed to Albert and Cynthia Garcia (2476/920); N 21 deg. 02 min. 33 sec. W 419.30 feet to an iron pin found; and continuing with the East line of the property

of William C. and Catherine Carrizales-Pintor (3.37 ac. Doc. 9624329 ORWCT), N 20 deg. 57 min. 29 sec. W 629.07 feet to an iron pin set Northerly from an iron pin found which stands S 20 deg. 57 min. 29 sec. E 0.88 feet.

THENCE with the South boundary of S.H. 29 and the North boundary of Jay Lansdale, finding concrete right-of-way monuments as follows; (L26) S 53 deg. 59 min. 35 sec. E 96.86 feet; and (L27) S 41 deg. 57 min. 59 sec. E 95.73 feet to the beginning of a curve to the left having a radius of 697.27 feet; continuing with the arc of the curve 592.49 feet, the chord bears S 78 deg. 25 min. 45 sec. E 574.83 feet to the POINT OF BEGINNING.

* * * * *

DESCRIPTION FOR RIVER CHASE SUBDIVISION II LTD.

BEING 49.99 acres of the William Ashworth Survey, Abstract No. 24, in Williamson County, Texas. This tract is the same 49.99 acre property which is described in a deed to River Chase Subdivision II Ltd. of record in Doc. 2007104313, Official Records of Williamson County, Texas (ORWCT). This tract was surveyed on the ground in December of 2008, under the supervision of William F. Forest, Jr., Registered Professional Land Surveyor No. 1847. Survey note: The bearing basis for this survey is the State Plane Coordinate System, Grid North, Texas Central Zone. Line codes used herein are in agreement with the survey plat prepared this date.

BEGINNING at an iron pin which was found in the curved South line of State Highway 29, at the Northwest corner of the said 49.99 acre property and at the Northeast corner of the 35 ac. property conveyed to Waterstone Land and Cattle Co. L.P. as described in Doc. 2008050683 (ORWCT).

THENCE with the South line of State Highway 29, (C1) 54.10 feet with the arc of a curve to the left having a radius of 697.27 feet; the chord bears N 75 deg. 00 min. 18 sec. E 54.09 feet to an iron pin found at the end of the curve; N 68 deg. 44 min. 48 sec. E 417.01 feet to a concrete right-of-way marker found; and N 73 deg. 18 min. 54 sec. E 328.98 feet to an iron pin found.

THENCE with the East line of the said 49.99 acre tract and the upper West line of the 137.21 acre tract which is described in a deed to River Chase Subdivision II Ltd. (Doc. 2008004193), S 20 deg. 32 min. 29 sec. E at 2748.66 feet pass an iron pin found; continuing (L16) S 20 deg. 32 min. 29 sec. E an additional 116.99 feet to the approximate center of the San Gabriel River, continuing in all 2865.65 feet.

THENCE upstream with the approximate center of the River and the South boundary of the said tract called 49.99 acres, following the boundary of the said 137.21 acres, (L15) S 78 deg. 19 min. 05 sec. W 61.75 feet; (L14) N 85 deg. 06 min. 10 sec. W 108.27 feet; (L13) N 81 deg. 53 min. 40 sec. W 106.23 feet; (L12) N 89 deg. 43 min. 10 sec. W 440.07 feet; and (L11) S 81 deg. 42 min. 20 sec. W 138.73 feet.

THENCE with the West line of the said tract called 49.99 acres and with the East line of the 35 acre tract conveyed to Waterstone Land and Cattle Co. L.P. (L10) N 20 deg. 32 min. 40 sec. W at 126.38 feet pass an iron pin found on the North bank of a waterway; continuing N 20 deg. 32 min. 40 sec. W an additional 2468.65 feet, continuing in all 2595.03 feet to the POINT OF BEGINNING.

* * * * *

DESCRIPTION FOR DAVID L. KELLEY, TRUSTEE - ROBERT D. WUNSCH, TRUSTEE

BEING 137.21 acres of the William Ashworth Survey, Abstract No. 24, in Williamson County, Texas. This tract is part of the property which was described in a deed to David L. Kelley, Trustee of the David L. Kelley Asset Liquidating Trust as set out in Doc. 2002001651 of the Official Records of Williamson County, Texas (ORWCT). This tract was surveyed on the ground in October of 2007, by William F. Forest, Jr., Registered Professional Land Surveyor No. 1847. Survey note: The bearing basis for this survey is the State Plane Coordinate System, Grid North, Texas Central Zone. Line numbers utilized herein correlate to the attached survey plat prepared this date.

BEGINNING at an iron pin which was found in the West line of the property conveyed to Sam A. Easley Jr. as described in Vol. 221, Pg. 55 (Deed Records), and in the East boundary of the 100 acre property conveyed to Gladys Townsend as described in Doc. 2003078951 (ORWCT). This corner exists at the Southwest corner of Tract 1 called 375.88 acres (formerly 821/499) as described in the said Correction Deed to David L. Kelley, at the Northwest corner of the 433.04 acre tract conveyed to L. Kotrla Property, LLC. of record in Doc. 2005094096 (ORWCT) and at the Southwest corner of the 108.91 acre Tract 4 described in said Kelley deed (Tract 4 is an exception tract out of Tract 1).

THENCE along or near the general line of an existing fence, N 20 deg. 06 min. 11 sec. W 469.98 feet with the East line of Townsend to an iron pin found; continuing with the East line of the 483.20 acre tract conveyed to Wallace Seggern as described in Vol. 742, Pg. 295 (Deed Records); setting iron pins in the fence line as follows; (L1) N 18 deg. 58 min. 54 sec. W 122.43 feet; (L2) N 33 deg. 28 min. 04 sec. W 92.26 feet; N 20 deg. 25 min. 40 sec. W 338.43 feet; and (L3) N 22 deg. 29 min. 25 sec. W 106.13 feet to an iron pin found; continuing with the common line of Seggern, with a line that departs the fence, as follows; (L4) N 15 deg. 01 min. 45 sec. E 45.37 feet to a pipe found; and (L5) N 20 deg. 17 min. 05 sec. W 219.29 feet to an iron pin set in the fence line, continuing along or near the East side of the fence with the West line of the said 108.91 acre Kelley tract, N 19 deg. 50 min. 50 sec. W 345.41 feet to an iron pin set 1.5 feet East of the fence; N 20 deg. 12 min. 18 sec. W 1142.13 feet to an iron pin set; departing the West line of the 108.91 acre Tract 4 and continuing with the West line of the said 375.88 acre tract and its common line with Seggern, (L6) N 20 deg. 12 min. 18 sec. W 165.97 feet to the approximate center of the channel of the San Gabriel River.

THENCE downstream with the South line of the 35 acre tract conveyed to Jay A. Lansdale (Doc. 2004025768) and with the approximate center of the river, as follows; (L7) S 70 deg. 09 min. 07 sec. E 203.33 feet; (L8) S 85 deg. 25 min. 07 sec. E 260.32 feet; (L9) N 81 deg. 42 min. 13 sec. E 225.43 feet; continuing with the South line of the 50 acre tract conveyed to Round Rock Hydromulch, Inc. as described in Doc. 2004018474 (ORWCT); (L11) N 81 deg. 42 min. 20

sec. E 138.73 feet; (L12) S 89 deg. 43 min. 10 sec. E 440.07 feet; (L13) S 81 deg. 53 min. 40 sec. E 106.23 feet; (L14) S 85 deg. 06 min. 10 sec. E 108.27 feet; and (L15) N 78 deg. 19 min. 05 sec. E 61.75 feet.

THENCE with the East boundary of the said 50 acre Hydromulch tract, (L16) N 20 deg. 32 min. 29 sec. W 116.99 feet to an iron pin found on the North bank of the river; and N 20 deg. 32 min. 29 sec. W 2748.66 feet to an iron pin found.

THENCE with the South line of State Highway 29, N 73 deg. 18 min. 19 sec. E 422.98 feet to an iron pin set at the Northeast corner of the said 375.88 acre tract. This corner is the Northeast corner of the 224.18 acre property partitioned to Dorothy Aline Edwards as described in Vol. 582, Pg. 291, Deed Records.

THENCE with the common boundary between Kelly (Edwards) and Clare C. Mashburn (563/68), with a line that departs the existing fence, S 19 deg. 58 min. 13 sec. E 3445.88 feet to an iron pin found.

THENCE with the boundary of the Easley Sloan Cemetery (Doc. 2007079512), (L17) S 17 deg. 25 min. 25 sec. W 162.99 feet to an iron pin found; and (L18) S 73 deg. 28 min. 54 sec. E 125.17 feet to an iron pin found. An iron pin found at the Southeast corner of the Cemetery stands (L19) S 66 deg. 25 min. 32 sec. E 13.69 feet.

THENCE with the East line of the said 108.91 acre tract and the West line of the Clare Mashburn property, with a line that does not follow area fencing, S 19 deg. 59 min. 28 sec. E 1658.10 feet to an iron pin set. Most of this line follows the West line of a 30 foot wide easement to the Easley Sloan Cemetery (see covenant 563/68).

THENCE with the North boundary of the 100.08 acre property conveyed to Oak Stump, LLC. as described in Doc. 2003094213 (ORWCT), S 69 deg. 59 min. 39 sec. W 482.83 feet to an iron pin found at a fence corner; continuing along or near an existing fence, with the North boundary of the said 433.04 acre Kotrla tract, S 69 deg. 59 min. 40 sec. W 1321.01 feet to the POINT OF BEGINNING.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect September 1, 2009.

**HB 3785 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Callegari called up with senate amendments for consideration at this time,

HB 3785, A bill to be entitled An Act relating to the powers and duties of a navigation district or port authority.

Representative Callegari moved to concur in the senate amendments to **HB 3785**.

The motion to concur in the senate amendments to **HB 3785** prevailed by (Record 1396): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McCleendon; McReynolds; Menendez; Merritt; Miklos; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Driver; Kuempel; Lewis.

Absent — Dukes; Miller, D.

STATEMENT OF VOTE

When Record No. 1396 was taken, my vote failed to register. I would have voted yes.

D. Miller

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3785** (engrossed version) as follows:

(1) In the recital to SECTION 8 of the bill (page 7, line 20), strike "60.412(a)" and substitute "60.412".

(2) In the recital to SECTION 8 of the bill, between "amended" and "to" (page 7, line 20), insert "by amending Subsection (a) and adding Subsection (c)".

(3) In SECTION 8 of the bill, immediately following amended Section 60.412(a), Water Code (page 9, between lines 7 and 8), insert the following:

(c) A district or port authority shall comply with Chapter 2254, Government Code, in procuring professional services.

**HB 4435 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Allen called up with senate amendments for consideration at this time,

HB 4435, A bill to be entitled An Act relating to the requirement for participation by certain principals in the school leadership pilot program for principals.

Representative Allen moved to concur in the senate amendments to **HB 4435**.

The motion to concur in the senate amendments to **HB 4435** prevailed by (Record 1397): 123 Yeas, 21 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Berman; Bolton; Branch; Brown, B.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Corte; Crabb; Creighton; Crownover; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hancock; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Laubenberg; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley.

Nays — Aycock; Bohac; Bonnen; Brown, F.; Christian; Craddick; Darby; Flynn; Hamilton; Hardcastle; Harless; Jackson; Kleinschmidt; Kolkhorst; Legler; Madden; Parker; Phillips; Sheffield; Shelton; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Driver; Kuempel; Lewis.

Absent — Harper-Brown.

Senate Committee Substitute

CSHB 4435, A bill to be entitled An Act relating to the requirement for participation by certain principals in the school leadership pilot program for principals.

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

SECTION 1. Section 11.203(d), Education Code, is amended to read as follows:

(d) A principal who was employed as a principal at a campus that was [of a campus] rated academically unacceptable during the preceding school year [as well as any person employed to replace that principal,] shall participate in the program and complete the program requirements not later than a date determined by the commissioner.

SECTION 2. Section 11.203(d), Education Code, as amended by this Act, applies only to a principal employed at a school that is rated academically unacceptable during the 2008-2009 school year.

SECTION 3. It is the intent of the legislature that the passage of **HB 3**, Acts of the 81st Legislature, Regular Session, 2009, with any amendments to Section 11.203(d), Education Code, and the amendments made by this Act shall be harmonized, if possible, as provided by Section 311.025(b), Government Code, so that effect may be given to each. If amendments made to Section 11.203(d), Education Code, by **HB 3**, Acts of the 81st Legislature, Regular Session, 2009, and the amendments to Section 11.203(d), Education Code, made by this Act are irreconcilable, it is the intent of the legislature that **HB 3**, Acts of the 81st Legislature, Regular Session, 2009, prevail, regardless of the relative dates of enactment of this Act and **HB 3**, Acts of the 81st Legislature, Regular Session, 2009, but only to the extent that any differences are irreconcilable.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

(Driver now present)

HB 4456 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Driver called up with senate amendments for consideration at this time,

HB 4456, A bill to be entitled An Act relating to the definition of a switchblade knife for purposes of the offense of prohibited weapons.

Representative Driver moved to concur in the senate amendments to **HB 4456**.

The motion to concur in the senate amendments to **HB 4456** prevailed by (Record 1398): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero;

Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McCleendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Flores; Pickett.

Senate Committee Substitute

CSHB 4456, A bill to be entitled An Act relating to the definition of a switchblade knife for purposes of the offense of prohibited weapons.

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

SECTION 1. Section 46.01(11), Penal Code, is amended to read as follows:

(11) "Switchblade knife" means any knife that has a blade that folds, closes, or retracts into the handle or sheath[?] and that[-

~~[(A)]~~ opens automatically by pressure applied to a button or other device located on the handle[?] or

~~[(B)]~~ opens or releases a blade from the handle or sheath by the force of gravity or by the application of centrifugal force. The term does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife.

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

SECTION 3. This Act takes effect September 1, 2009.

HB 4461 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Smithee called up with senate amendments for consideration at this time,

HB 4461, A bill to be entitled An Act relating to confidentiality of certain information maintained by the Texas Department of Insurance.

Representative Smithee moved to concur in the senate amendments to **HB 4461**.

The motion to concur in the senate amendments to **HB 4461** prevailed by (Record 1399): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Crownover; Flores; McReynolds.

Senate Committee Substitute

CSHB 4461, A bill to be entitled An Act relating to confidentiality of certain information maintained by the Texas Department of Insurance.

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

SECTION 1. Chapter 36, Insurance Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. INVESTIGATION FILES

Sec. 36.251. DEFINITION. In this subchapter, "investigation file" means any information collected, assembled, or maintained by or on behalf of the department with respect to an investigation conducted under this code or other law. The term does not include information or material acquired by the department that is:

(1) relevant to an investigation by the insurance fraud unit; and

(2) subject to Section 701.151.

Sec. 36.252. INVESTIGATION FILES CONFIDENTIAL. (a) Information or material acquired by the department that is relevant to an investigation is not a public record for the period that the department determines is relevant to further or complete an investigation.

(b) Investigation files are not open records for purposes of Chapter 552, Government Code, except as specified herein.

Sec. 36.253. DISCLOSURE OF CERTAIN INFORMATION NOT REQUIRED. The department is not required to disclose under this subchapter:

(1) information that is:

(A) an attorney-client communication; or

(B) an attorney work product; or

(2) other information protected by a recognized privilege, a statute, an administrative rule, the Texas Rules of Civil Procedure, or the Texas Rules of Evidence.

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, 2009.

HB 673 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Solomons called up with senate amendments for consideration at this time,

HB 673, A bill to be entitled An Act relating to certain services provided by the office of injured employee counsel under the workers' compensation program of this state.

Representative Solomons moved to concur in the senate amendments to **HB 673**.

The motion to concur in the senate amendments to **HB 673** prevailed by (Record 1400): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Elkins; Weber.

STATEMENT OF VOTE

When Record No. 1400 was taken, I was in the house but away from my desk. I would have voted yes.

Weber

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 673** with the following changes:

(1) On page 1, lines 13 thru 14, strike "makes unreasonable demands for office services or for" and insert the following: "requests";

(2) On page 1, line 21, between "notify" and "the", insert the following: "and cooperate with";

(3) On page 1, line 22, between "authority" and "if", insert the following: "and the Department of Insurance, Fraud Unit";

(4) On page 3, line 15, between "notify" and "appropriate", insert "and cooperate with"

HB 3768 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Paxton called up with senate amendments for consideration at this time,

HB 3768, A bill to be entitled An Act relating to title insurance coverage of property transferred into an inter vivos trust.

Representative Paxton 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 3768**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3768**: Paxton, chair; Hughes, Gonzalez Toureilles, Kleinschmidt, and P. King.

HB 1138 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Shelton called up with senate amendments for consideration at this time,

HB 1138, A bill to be entitled An Act relating to information required on pharmacy benefit cards.

Representative Shelton moved to concur in the senate amendments to **HB 1138**.

The motion to concur in the senate amendments to **HB 1138** prevailed by (Record 1401): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Callegari; Driver; Gallego; Hughes; Hunter; Isett.

STATEMENTS OF VOTE

When Record No. 1401 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

When Record No. 1401 was taken, I was in the house but away from my desk. I would have voted yes.

Hunter

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1138** (House engrossed version) between SECTION 2 and SECTION 3 of the bill (page 3, between lines 26 and 27), by inserting the following new SECTION 3, and renumbering the following SECTIONS accordingly:

SECTION 3. Section 1369.154, Insurance Code, is amended to read as follows:

Sec. 1369.154. RULES. (a) The commissioner shall adopt rules as necessary to implement this subchapter.

(b) Rules adopted by the commissioner must be consistent with national standards established by the Workgroup for Electronic Data Interchange or by other similar organizations recognized by the commissioner.

**HB 1841 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kleinschmidt called up with senate amendments for consideration at this time,

HB 1841, A bill to be entitled An Act relating to the creation of the XS Ranch Municipal Utility District; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

Representative Kleinschmidt moved to concur in the senate amendments to **HB 1841**.

The motion to concur in the senate amendments to **HB 1841** prevailed by (Record 1402): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Senate Committee Substitute

CSHB 1841, A bill to be entitled An Act relating to the creation of the XS Ranch Municipal Utility District; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8306 to read as follows:

CHAPTER 8306. XS RANCH MUNICIPAL UTILITY DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8306.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

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

(3) "Director" means a board member.

(4) "District" means the XS Ranch Municipal Utility District.

Sec. 8306.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8306.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8306.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8306.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located, including the City of Bastrop, has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8306.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8306.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8306.007-8306.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8306.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8306.052, directors serve staggered four-year terms.

Sec. 8306.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Mark Engels;

(2) Mark Oldemeyer;

(3) James Michael Sulester, Jr.;

(4) William Faust; and

(5) Don Montague.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8306.003; or

(2) the fourth anniversary of the effective date of the Act creating this

chapter.

(c) If permanent directors have not been elected under Section 8306.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8306.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8306.053-8306.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8306.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8306.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8306.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8306.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8306.105. COMPLIANCE WITH MUNICIPAL ORDINANCE OR RESOLUTION. (a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) Land in the district that is located in the City of Bastrop's extraterritorial jurisdiction is subject to municipal ordinances applicable to extraterritorial areas, unless the municipality's governing body waives compliance.

Sec. 8306.106. CONTRACT WITH CERTAIN MUNICIPALITIES REQUIRED. (a) The district may not exercise the powers and duties of a municipal utility district under this chapter unless the district enters into a written contract with any municipality in whose extraterritorial jurisdiction the district is wholly or partly located that:

(1) provides for the continuation of the extraterritorial status of the district or the district's annexation by the municipality;

(2) ensures that any development in the district occurs in a manner that furthers the health, safety, and welfare of the residents of the district; and

(3) includes other terms and consideration that the municipality determines to be reasonable and appropriate.

(b) A contract under this section may be renewed or extended for successive periods not to exceed 15 years.

(c) If the district does not enter into a contract under this section before the later of September 1, 2009, or the 30th day after the effective date of the Act creating this chapter, the board, at the board's sole discretion, may adopt an order dissolving the district if the district has no assets or obligations. If an order dissolving the district is adopted under this subsection, an original or certified copy of the order must be filed with the commission and in the real property records of any county in which the district is located.

Sec. 8306.107. EFFECT OF CHAPTER ON CITY OF BASTROP. Nothing in this chapter abrogates, diminishes, or otherwise alters any rights, powers, privileges, or functions of the City of Bastrop provided by the general law of this state, including Chapter 42, Local Government Code, and Chapter 54, Water Code, related to the creation of special districts in its extraterritorial jurisdiction.

Sec. 8306.108. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 8306.103; or

(2) a recreational facility as defined by Section 49.462, Water Code.

Sec. 8306.109. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if:

(1) the district has no outstanding bonded debt;

(2) the district is not imposing ad valorem taxes; and

(3) the requirements of Subsection (i) are satisfied.

(b) This chapter applies to any new district created by the division of the district, and a new district has all the powers and duties of the district.

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act creating this chapter.

(d) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section 8306.003 to confirm the district's creation.

(f) An order dividing the district shall:

(1) name each new district;

(2) include the metes and bounds description of the territory of each new district;

(3) appoint temporary directors for each new district; and

(4) provide for the division of assets and liabilities between or among the new districts.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8306.003.

(i) If the district is located wholly or partly in the corporate limits or the extraterritorial jurisdiction of a municipality, the district may not divide under this section unless the municipality by resolution or ordinance first consents to the division of the district. If the district is not located wholly or partly in the corporate limits or the extraterritorial jurisdiction of a municipality, the district may not divide under this section unless the commissioners court of each county in which the district is wholly or partly located first adopts a resolution or order in support of the division of the district.

(j) Any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

[Sections 8306.110-8306.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8306.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8306.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8306.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8306.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8306.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8306.154-8306.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8306.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8306.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8306.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. The XS Ranch Municipal Utility District initially includes all the territory contained in the following area:

A DESCRIPTION OF 2902.685 ACRES IN THE, THE ISAAC HARRIS SURVEY NO. 2, ABSTRACT NO. 38, THE LEMAN BARKER SURVEY NO. 3, ABSTRACT NO. 6, THE S.M. WILLIAMS SURVEY NO. 4, ABSTRACT NO. 71, THE JOSIAH WILBARGER SURVEY NO. 5, ABSTRACT NO. 70, IN BASTROP COUNTY, TEXAS, CONSISTING OF:

PART OF A 5566.770 ACRE TRACT (TRACT ONE-D), PART OF A 507.061 ACRE TRACT (TRACT ONE-C), PART OF A 19.149 ACRE TRACT (TRACT FIVE), PART OF A 54.912 ACRE TRACT (TRACT SIX), PART OF A 92.556 ACRE TRACT (TRACT SEVEN), PART OF A 160.346 ACRE TRACT (TRACT EIGHT), AND PART OF A 112.676 ACRE TRACT (TRACT NINE), ALL OF A 2.064 ACRE (TRACT TWO-A), ALL OF A 6.114 ACRE TRACT (TRACT TWO-B), CONVEYED TO XS RANCH FUND VI, L.P. IN A

SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DATED DECEMBER 19, 2006 AND RECORDED IN DOCUMENT NO. 200619026 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS;
PART OF A 200.00 ACRE TRACT CONVEYED TO XS RANCH FUND VI, L.P. IN A SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DATED DECEMBER 19, 2006 AND RECORDED IN DOCUMENT NO. 200619025 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS;
(THE 200.00 ACRE TRACT LIES WITHIN THE 5566.770 ACRE TRACT)
PART OF A 758.026 ACRE TRACT AND PART OF A 1164.571 ACRE TRACT CONVEYED TO XS RANCH FUND VI, L.P. IN A SPECIAL WARRANTY DEED DATED JUNE 4, 2007 AND RECORDED IN DOCUMENT NO. 200708067 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS;
PART OF A 885.050 ACRE TRACT CONVEYED TO XS RANCH FUND VI, L.P. IN A SPECIAL WARRANTY DEED DATED NOVEMBER 9, 2007 AND RECORDED IN DOCUMENT NO. 200716605 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS;
AND ALL OF A 1.604 ACRE TRACT CONVEYED TO XS RANCH FUND VI, L.P. IN A SPECIAL WARRANTY DEED DATED DECEMBER 22, 2008 AND RECORDED IN DOCUMENT NO. 200816524 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS;
EXCLUDING THE PORTION OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY (100' WIDTH, 5.595 AC.), WITHIN THE HEREIN DESCRIBED TRACT;
SAID 2902.685 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:
BEGINNING at a 1/2" rebar found in the west right-of-way line of State Highway No. 95 (100' right-of-way width), for the northernmost corner of the 2.064 acre tract;
THENCE South 04°45'50" West, with the west right-of-way line of State Highway No. 95, a distance of 2204.79 feet to a 1/2" iron pipe found for the southeast corner of the said 6.114 acre tract, being also the northeast corner of an apparent 100' wide railroad reservation described in Volume 1387, Page 49 of the Deed Records of Bastrop County, Texas;
THENCE South 38°26'28" West, with the south line of the 6.114 acre tract and the north line of said railroad strip, crossing the Union Pacific 100' right-of-way, a distance of 632.19 feet to a calculated point in the west line of the Union Pacific 100' right-of-way, being also in the east line of the said 5566.770 acre tract;
THENCE South 07°14'40" West, with the west line of the 100' right-of-way and the east line of the 5566.770 acre tract, a distance of 702.55 feet to a 5/8" rebar found for the northeast corner of a 90.021 acre tract described in Volume 280, Page 26 of the Deed Records of Bastrop County, Texas, for an angle point in the east line of the 5566.770 acre tract;
THENCE with the common line of the 5566.770 acre tract and the 90.021 acre tract, the following two (2) courses:

1. South $41^{\circ}59'17''$ West, a distance of 3559.00 feet to a 1/2" rebar with cap set;

2. South $48^{\circ}00'02''$ East, a distance of 1696.00 feet to a 1/2" rebar with cap set in the west line of a 100.714 acre tract described in Volume 276, Page 639 of the Deed Records of Bastrop County, Texas;

THENCE South $41^{\circ}50'22''$ West with the common line of the 5566.770 acre tract and the 100.714 acre tract, a distance of 2626.45 feet to a calculated point;

THENCE over and across the 5566.770 acre tract, the following twenty-three (23) courses:

1. North $67^{\circ}20'47''$ West, a distance of 1033.52 feet to a calculated point;

2. South $59^{\circ}02'10''$ West, a distance of 246.73 feet to a calculated point;

3. North $51^{\circ}53'33''$ West, a distance of 1645.53 feet to a calculated point;

4. North $03^{\circ}48'51''$ West, a distance of 381.67 feet to a calculated point;

5. North $56^{\circ}27'50''$ West, a distance of 840.67 feet to a calculated point;

6. North $49^{\circ}26'19''$ East, a distance of 1289.96 feet to a calculated point;

7. North $10^{\circ}57'15''$ West, a distance of 534.42 feet to a calculated point;

8. North $54^{\circ}51'57''$ East, a distance of 279.40 feet to a calculated point;

9. South $74^{\circ}44'42''$ East, a distance of 578.94 feet to a calculated point;

10. North $85^{\circ}24'00''$ East, a distance of 738.63 feet to a calculated point;

11. North $65^{\circ}54'29''$ East, a distance of 1140.23 feet to a calculated point;

12. North $27^{\circ}07'17''$ West, a distance of 389.83 feet to a calculated point;

13. North $43^{\circ}07'42''$ East, a distance of 916.04 feet to a calculated point;

14. North $07^{\circ}23'10''$ West, a distance of 360.23 feet to a calculated point;

15. North $28^{\circ}42'49''$ East, a distance of 1078.89 feet to a calculated point;

16. North $87^{\circ}11'37''$ East, a distance of 421.70 feet to a calculated point;

17. North $16^{\circ}31'05''$ West, a distance of 1395.30 feet to a calculated point;

18. With a curve to the right, having a radius of 1600.00 feet, a delta angle of $35^{\circ}22'30''$, an arc length of 987.86 feet, and a chord which bears South $75^{\circ}05'01''$ West, a distance of 972.24 feet to a calculated point;

19. North $87^{\circ}13'44''$ West, a distance of 714.34 feet to a calculated point;

20. With a curve to the left, having a radius of 900.00 feet, a delta angle of $13^{\circ}33'08''$, an arc length of 212.88 feet, and a chord which bears South $85^{\circ}59'42''$ West, a distance of 212.38 feet to a calculated point;

21. South $79^{\circ}13'08''$ West, a distance of 476.34 feet to a calculated point;

22. With a curve to the right, having a radius of 700.00 feet, a delta angle of $73^{\circ}16'03''$, an arc length of 895.13 feet, and a chord which bears North $64^{\circ}08'51''$ West, a distance of 835.38 feet to a calculated point;

23. North $27^{\circ}30'49''$ West, a distance of 466.30 feet to a 1/2" rebar with cap set for the northeast corner of a 772.304 acre tract described in Volume 819, Page 733 of the Deed Records of Bastrop County, Texas;

THENCE, with the common line of the 5566.770 acre tract and the 772.304 acre tract, the following three (3) courses:

1. North $47^{\circ}23'16''$ West, a distance of 3253.08 feet to a fence corner post found;

2. South $44^{\circ}09'12''$ West, a distance of 409.37 feet to a fence corner post found;

3. North $46^{\circ}44'34''$ West, a distance of 1200.96 feet to a fence corner post found;

THENCE over and across the 5566.770 acre tract, the 758.026 acre tract, and the 160.346 acre tract the following twenty-three (23) courses:

1. South $65^{\circ}45'02''$ West, a distance of 660.48 feet to a calculated point;
2. With a curve to the right, having a radius of 900.00 feet, a delta angle of $42^{\circ}24'14''$, an arc length of 666.08 feet, and a chord which bears South $86^{\circ}57'09''$ West, a distance of 650.98 feet to a calculated point;
3. North $71^{\circ}50'44''$ West, a distance of 500.53 feet to a calculated point;
4. With a curve to the left, having a radius of 1900.00 feet, a delta angle of $18^{\circ}28'28''$, an arc length of 612.64 feet, and a chord which bears North $81^{\circ}04'58''$ West, a distance of 609.99 feet to a calculated point;
5. South $89^{\circ}40'48''$ West, a distance of 664.30 feet to a calculated point;
6. With a curve to the right, having a radius of 1600.00 feet, a delta angle of $38^{\circ}47'12''$, an arc length of 1083.13 feet, and a chord which bears North $70^{\circ}55'36''$ West, a distance of 1062.57 feet to a calculated point;
7. North $51^{\circ}32'00''$ West, a distance of 641.28 feet to a calculated point;
8. With a curve to the left, having a radius of 1100.00 feet, a delta angle of $74^{\circ}20'28''$, an arc length of 1427.24 feet, and a chord which bears North $88^{\circ}42'14''$ West, a distance of 1329.22 feet to a calculated point;
9. South $54^{\circ}07'33''$ West, a distance of 431.02 feet to a calculated point;
10. With a curve to the left, having a radius of 900.00 feet, a delta angle of $58^{\circ}45'19''$, an arc length of 922.93 feet, and a chord which bears South $24^{\circ}44'53''$ West, a distance of 883.01 feet to a calculated point;
11. South $04^{\circ}37'46''$ East, a distance of 806.43 feet to a calculated point;
12. With a curve to the right, having a radius of 1100.00 feet, a delta angle of $29^{\circ}21'45''$, an arc length of 563.72 feet, and a chord which bears South $10^{\circ}03'06''$ West, a distance of 557.57 feet to a calculated point;
13. South $24^{\circ}43'59''$ West, a distance of 380.75 feet to a calculated point;
14. South $56^{\circ}24'48''$ East, a distance of 1809.63 feet to a calculated point;
15. South $03^{\circ}40'04''$ West, a distance of 1811.55 feet to a calculated point;
16. North $82^{\circ}56'00''$ East, a distance of 816.20 feet to a calculated point;
17. South $25^{\circ}05'01''$ East, a distance of 428.88 feet to a calculated point;
18. North $41^{\circ}37'32''$ East, a distance of 617.85 feet to a calculated point;
19. South $55^{\circ}50'25''$ East, a distance of 1176.41 feet to a calculated point;
20. South $35^{\circ}32'16''$ West, a distance of 1595.04 feet to a calculated point;
21. South $27^{\circ}24'37''$ West, a distance of 492.18 feet to a calculated point;
22. South $72^{\circ}48'51''$ West, a distance of 779.06 feet to a calculated point;
23. South $41^{\circ}15'30''$ East, a distance of 530.59 feet to a 1/2" rebar with cap set in a southeast line of the 5566.770 acre tract, being in the west line of the 772.304 acre tract;

THENCE with said line, the following two (2) courses:

1. South $40^{\circ}53'50''$ West, a distance of 1367.20 feet to a 1/2" rebar with cap set;

2. South $46^{\circ}37'37''$ East, a distance of 483.43 feet to a 5/8" rebar found for the northwest corner of a 200 acre save and except tract described in Volume 819, Page 733 of the Deed Records of Bastrop County, Texas;

THENCE South $36^{\circ}09'41''$ West, with the west line of the 200 acre tract and a southeast line of the 5566.770 acre tract, a distance of 1437.09 feet to a calculated point;

THENCE over and across the 5566.770 acre tract, the following nine (9) courses:

1. North $53^{\circ}50'19''$ West, a distance of 703.41 feet to a calculated point;
2. With a curve to the left, having a radius of 1500.00 feet, a delta angle of $122^{\circ}12'39''$, an arc length of 3199.47 feet, and a chord which bears North $83^{\circ}24'25''$ West, a distance of 2626.53 feet to a calculated point;
3. South $35^{\circ}29'15''$ West, a distance of 204.11 feet to a calculated point;
4. With a curve to the right, having a radius of 1700.00 feet, a delta angle of $37^{\circ}13'26''$, an arc length of 1104.45 feet, and a chord which bears South $54^{\circ}05'58''$ West, a distance of 1085.13 feet to a calculated point;
5. South $72^{\circ}42'41''$ West, a distance of 218.56 feet to a calculated point;
6. With a curve to the left, having a radius of 500.00 feet, a delta angle of $64^{\circ}27'29''$, an arc length of 562.50 feet, and a chord which bears South $40^{\circ}28'56''$ West, a distance of 533.31 feet to a calculated point;
7. South $08^{\circ}15'12''$ West, a distance of 227.20 feet to a calculated point;
8. With a curve to the right, having a radius of 1150.00 feet, a delta angle of $76^{\circ}43'42''$, an arc length of 1540.04 feet, and a chord which bears South $46^{\circ}37'03''$ West, a distance of 1427.51 feet to a calculated point;
9. South $29^{\circ}29'11''$ West, a distance of 993.51 feet to a calculated point in the south line of the 5566.770 acre tract, being also the gradient boundary for the north bank of the Colorado River;

THENCE with the south and west lines of the 5566.770 acre tract, being also the gradient boundary for the north bank and east bank of the Colorado River, the following seventeen (17) courses:

1. North $61^{\circ}57'52''$ West, a distance of 178.15 feet to a calculated point;
2. North $56^{\circ}48'32''$ West, a distance of 172.52 feet to a calculated point;
3. North $34^{\circ}12'07''$ West, a distance of 315.00 feet to a calculated point;
4. North $17^{\circ}49'08''$ West, a distance of 194.48 feet to a calculated point;
5. North $00^{\circ}42'03''$ West, a distance of 330.38 feet to a calculated point;
6. North $05^{\circ}51'25''$ East, a distance of 216.57 feet to a calculated point;
7. North $34^{\circ}17'46''$ East, a distance of 328.17 feet to a calculated point;
8. North $78^{\circ}35'08''$ East, a distance of 86.26 feet to a calculated point;
9. North $25^{\circ}28'50''$ East, a distance of 805.50 feet to a calculated point;
10. North $19^{\circ}28'15''$ East, a distance of 922.47 feet to a calculated point;
11. North $19^{\circ}50'23''$ East, a distance of 477.86 feet to a calculated point;
12. North $21^{\circ}15'22''$ East, a distance of 606.54 feet to a calculated point;
13. North $23^{\circ}34'42''$ East, a distance of 654.28 feet to a calculated point;
14. North $17^{\circ}12'19''$ East, a distance of 788.35 feet to a calculated point;
15. North $16^{\circ}03'41''$ East, a distance of 419.54 feet to a calculated point;
16. North $21^{\circ}34'10''$ East, a distance of 234.05 feet to a calculated point;
17. North $09^{\circ}53'29''$ East, a distance of 465.10 feet to a calculated point;

THENCE over and across the 5566.770 acre tract, the 200.00 acre XS Ranch Fund tract, and the said 92.556 acre tract, the following thirty-six (36) courses:

1. South 88°55'07" East, a distance of 374.38 feet to a calculated point;
2. South 24°24'39" East, a distance of 920.75 feet to a calculated point;
3. South 79°09'15" East, a distance of 1405.31 feet to a calculated point;
4. North 37°48'57" East, a distance of 547.00 feet to a calculated point;
5. North 78°13'54" East, a distance of 790.57 feet to a calculated point;
6. South 85°25'34" East, a distance of 743.88 feet to a calculated point;
7. North 25°05'23" East, a distance of 584.78 feet to a calculated point;
8. With a curve to the right, having a radius of 3100.00 feet, a delta angle of 45°46'39", an arc length of 2476.80 feet, and a chord which bears North 42°01'18" West, a distance of 2411.45 feet to a calculated point;
9. North 19°07'58" West, a distance of 656.27 feet to a calculated point;
10. With a curve to the right, having a radius of 1100.00 feet, a delta angle of 76°28'22", an arc length of 1468.17 feet, and a chord which bears North 19°06'13" East, a distance of 1361.60 feet to a calculated point;
11. North 57°20'24" East, a distance of 242.50 feet to a calculated point;
12. North 37°30'15" West, a distance of 500.90 feet to a calculated point;
13. South 57°45'27" West, a distance of 478.16 feet to a calculated point;
14. South 27°19'56" West, a distance of 623.35 feet to a calculated point;
15. South 42°59'51" West, a distance of 629.53 feet to a calculated point;
16. South 70°39'55" West, a distance of 375.85 feet to a calculated point;
17. South 22°59'19" West, a distance of 223.04 feet to a calculated point;
18. South 17°47'02" East, a distance of 692.62 feet to a calculated point;
19. South 30°57'50" West, a distance of 290.24 feet to a calculated point;
20. North 69°13'40" West, a distance of 385.96 feet to a calculated point;
21. North 40°36'05" West, a distance of 516.27 feet to a calculated point;
22. North 13°39'40" East, a distance of 922.05 feet to a calculated point;
23. North 70°31'47" East, a distance of 653.33 feet to a calculated point;
24. North 18°06'14" West, a distance of 340.39 feet to a calculated point;
25. South 68°59'25" West, a distance of 919.78 feet to a calculated point;
26. North 24°46'31" West, a distance of 445.42 feet to a calculated point;
27. North 63°26'06" East, a distance of 1168.67 feet to a calculated point;
28. South 82°49'32" East, a distance of 896.76 feet to a calculated point;
29. North 14°02'10" East, a distance of 153.92 feet to a calculated point;
30. North 67°58'22" West, a distance of 879.26 feet to a calculated point;
31. North 12°12'02" West, a distance of 471.06 feet to a calculated point;
32. North 87°14'27" West, a distance of 517.02 feet to a calculated point;
33. South 06°23'14" West, a distance of 838.95 feet to a calculated point;
34. South 66°53'37" West, a distance of 507.35 feet to a calculated point;
35. North 22°22'48" West, a distance of 686.34 feet to a calculated point;
36. North 53°53'58" West, a distance of 1429.66 feet to a calculated point in the centerline of Wilbarger Creek, being the southwest line of the 5566.770 acre tract, and the northeast line of a 120.01 acre tract described in Volume 1023, Page 237 of the Deed Records of Travis County, Texas;

THENCE with the centerline of Wilbarger Creek, being the southwest line of the 5566.770 acre tract, and the northeast line of the 120.01 acre tract, the following nine (9) courses:

1. North $06^{\circ}03'43''$ West, a distance of 397.88 feet to a calculated point;
2. North $67^{\circ}16'36''$ West, a distance of 108.33 feet to a calculated point;
3. South $75^{\circ}45'13''$ West, a distance of 428.01 feet to a calculated point;
4. North $79^{\circ}09'13''$ West, a distance of 537.38 feet to a calculated point;
5. North $50^{\circ}52'06''$ West, a distance of 392.75 feet to a calculated point;
6. North $39^{\circ}13'33''$ West, a distance of 286.04 feet to a calculated point;
7. North $37^{\circ}23'11''$ West, a distance of 329.57 feet to a calculated point;
8. North $46^{\circ}00'34''$ West, a distance of 289.79 feet to a calculated point;
9. North $42^{\circ}25'33''$ West, a distance of 290.86 feet to a calculated point;

THENCE over and across the 5566.770 acre tract, the 54.912 acre tract, the 885.050 acre tract, the 19.149 acre tract, the 758.026 acre tract, the 507.061 acre tract, the 112.676 acre tract, and the 1164.571 acre tract, the following forty (40) courses:

1. North $09^{\circ}08'59''$ East, a distance of 1504.58 feet to a calculated point;
2. North $72^{\circ}10'52''$ West, a distance of 1581.36 feet to a calculated point;
3. North $17^{\circ}49'08''$ East, a distance of 445.94 feet to a calculated point;
4. North $47^{\circ}07'16''$ East, a distance of 498.98 feet to a calculated point;
5. North $37^{\circ}02'18''$ West, a distance of 1145.83 feet to a calculated point;
6. North $15^{\circ}11'43''$ East, a distance of 470.98 feet to a calculated point;
7. North $90^{\circ}00'00''$ East, a distance of 230.06 feet to a calculated point;
8. South $30^{\circ}57'50''$ East, a distance of 752.54 feet to a calculated point;
9. South $88^{\circ}50'34''$ East, a distance of 555.63 feet to a calculated point;
10. South $10^{\circ}36'04''$ East, a distance of 1067.53 feet to a calculated point;
11. South $22^{\circ}24'35''$ West, a distance of 608.05 feet to a calculated point;
12. South $72^{\circ}10'52''$ East, a distance of 518.87 feet to a calculated point;
13. North $19^{\circ}55'06''$ East, a distance of 778.72 feet to a calculated point;
14. North $88^{\circ}46'47''$ East, a distance of 377.41 feet to a calculated point;
15. South $37^{\circ}05'34''$ East, a distance of 822.20 feet to a calculated point;
16. South $11^{\circ}34'03''$ West, a distance of 1499.22 feet to a calculated point;
17. South $58^{\circ}11'35''$ East, a distance of 2102.28 feet to a calculated point;
18. North $35^{\circ}16'52''$ East, a distance of 1115.32 feet to a calculated point;
19. South $57^{\circ}36'43''$ East, a distance of 1363.00 feet to a calculated point;
20. North $71^{\circ}33'54''$ East, a distance of 1095.63 feet to a calculated point;
21. With a curve to the left, having a radius of 850.00 feet, a delta angle of $36^{\circ}17'42''$, an arc length of 538.45 feet, and a chord which bears North $53^{\circ}25'03''$ East, a distance of 529.49 feet to a calculated point;
22. North $35^{\circ}16'12''$ East, a distance of 522.93 feet to a calculated point;
23. With a curve to the right, having a radius of 650.00 feet, a delta angle of $43^{\circ}22'31''$, an arc length of 492.08 feet, and a chord which bears North $56^{\circ}57'27''$ East, a distance of 480.41 feet to a calculated point;
24. With a curve to the left, having a radius of 850.00 feet, a delta angle of $45^{\circ}59'56''$, an arc length of 682.41 feet, and a chord which bears North $55^{\circ}38'44''$ East, a distance of 664.23 feet to a calculated point;

25. With a curve to the right, having a radius of 650.00 feet, a delta angle of $15^{\circ}53'36''$, an arc length of 180.30 feet, and a chord which bears North $40^{\circ}35'34''$ East, a distance of 179.73 feet to a calculated point;
26. North $48^{\circ}32'22''$ East, a distance of 243.99 feet to a calculated point;
27. South $87^{\circ}53'37''$ East, a distance of 705.41 feet to a calculated point;
28. North $40^{\circ}45'57''$ East, a distance of 2136.64 feet to a calculated point;
29. With a curve to the left, having a radius of 1900.00 feet, a delta angle of $22^{\circ}14'16''$, an arc length of 737.44 feet, and a chord which bears North $29^{\circ}38'49''$ East, a distance of 732.82 feet to a calculated point;
30. With a curve to the right, having a radius of 1600.00 feet, a delta angle of $12^{\circ}12'03''$, an arc length of 340.71 feet, and a chord which bears North $24^{\circ}37'42''$ East, a distance of 340.07 feet to a calculated point;
31. North $62^{\circ}06'07''$ West, a distance of 218.71 feet to a calculated point;
32. North $79^{\circ}22'49''$ West, a distance of 1163.84 feet to a calculated point;
33. North $52^{\circ}01'42''$ West, a distance of 606.47 feet to a calculated point;
34. North $25^{\circ}58'28''$ West, a distance of 1517.59 feet to a calculated point;
35. North $65^{\circ}15'38''$ West, a distance of 1309.58 feet to a calculated point;
36. North $36^{\circ}31'44''$ West, a distance of 651.51 feet to a calculated point;
37. North $07^{\circ}31'14''$ West, a distance of 1224.45 feet to a calculated point;
38. North $32^{\circ}33'00''$ West, a distance of 946.65 feet to a calculated point;
39. North $61^{\circ}27'44''$ East, a distance of 1606.89 feet to a calculated point;
40. South $47^{\circ}43'25''$ East, a distance of 806.32 feet to a $5/8''$ rebar found in a westerly line of the 1164.571 acre tract, for the southwest corner of a 408.48 acre tract described in Volume 1564, Page 319 and Volume 248, Page 498 of the Deed Records of Bastrop County, Texas;

THENCE South $47^{\circ}43'25''$ East, with the south line of the 408.48 acre tract and a northeasterly line of the 1164.571 acre tract, a distance of 1928.39 feet to a calculated point;

THENCE over and across the 1164.571 acre tract and the 507.061 acre tract, the following three (3) courses:

1. South $38^{\circ}42'49''$ West, a distance of 493.11 feet to a calculated point;
2. South $46^{\circ}27'01''$ East, a distance of 1528.76 feet to a calculated point;
3. South $81^{\circ}28'08''$ East, a distance of 962.75 feet to a calculated point in the north line of the 507.061 acre tract, being the south line of the 408.48 acre tract;

THENCE South $48^{\circ}19'36''$ East, with the north line of the 507.061 acre tract, being the south line of the 408.48 acre tract, a distance of 781.94 feet to a $1/2''$ rebar with cap set for an angle point in said line;

THENCE over and across the 507.061 acre tract, the 160.346 acre tract, and the 5566.770 acre tract, and the 100' Union Pacific Railroad right-of-way, the following twenty-one (21) courses:

1. South $11^{\circ}34'55''$ East, a distance of 515.81 feet to a calculated point;
2. South $52^{\circ}07'30''$ East, a distance of 512.21 feet to a calculated point;
3. South $25^{\circ}49'14''$ West, a distance of 1563.95 feet to a calculated point;
4. South $02^{\circ}08'03''$ West, a distance of 752.59 feet to a calculated point;
5. South $18^{\circ}10'41''$ West, a distance of 924.32 feet to a calculated point;

6. South 23°40'42" East, a distance of 1281.46 feet to a calculated point;
7. South 15°04'07" West, a distance of 604.81 feet to a calculated point;
8. South 33°58'48" East, a distance of 1016.87 feet to a calculated point;
9. South 76°54'29" East, a distance of 794.08 feet to a calculated point;
10. North 26°05'59" East, a distance of 1877.13 feet to a calculated point;
11. North 58°17'55" East, a distance of 448.82 feet to a calculated point;
12. South 73°24'46" East, a distance of 1652.34 feet to a calculated point;
13. South 62°01'14" East, a distance of 3502.95 feet to a calculated point;
14. South 43°06'43" East, a distance of 1021.63 feet to a calculated point;
15. South 89°02'43" East, a distance of 1421.13 feet to a calculated point;
16. North 76°17'35" East, a distance of 499.72 feet to a calculated point;
17. South 86°25'25" East, a distance of 949.14 feet to a calculated point;
18. South 57°27'00" East, a distance of 330.12 feet to a calculated point;
19. South 30°45'46" East, a distance of 289.38 feet to a calculated point;
20. South 06°58'52" West, a distance of 584.55 feet to a calculated point;
21. South 82°47'11" East, a distance of 661.94 feet to a 1/2" rebar with cap set in the east line of the 100' Union Pacific Railroad right-of-way, being also in the west line of the 2.064 acre tract;

THENCE with the east line of the 100' Union Pacific Railroad right-of-way, being also the west line of the 2.064 acre tract, with a curve to the left, having a radius of 1482.37 feet, a delta angle of 01°16'18", an arc length of 32.90 feet, and a chord which bears North 06°36'10" East, a distance of 32.90 feet to a 1/2" rebar with cap set for the northwest corner of the 2.064 acre tract;

THENCE North 42°01'01" East, with the north line of the 2.064 acre tract, a distance of 232.14 feet to the POINT OF BEGINNING, containing 2908.28 acres of land, gross acreage, save and except 5.595 acres within the Union Pacific Railroad right-of-way, for a net acreage of 2902.685 acres more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

RESOLUTIONS ADOPTED

Representative Corte moved to suspend all necessary rules to take up and consider at this time **HR 2663**, **HR 2666**, **HR 2824**, and **HR 2870**.

The motion prevailed.

The following resolutions were laid before the house:

HR 2663 (by Orr), In memory of U.S. Army Corporal Thomas Layton Hilbert of Venus.

HR 2666 (by Gallego), In memory of U.S. Army Private Oscar Saucedo, Jr., of Del Rio.

HR 2824 (by Fletcher), In memory of U.S. Marine Corps Staff Sergeant Archie A. Taylor of Tomball.

HR 2870 (by Hancock), In memory of Texas Army National Guard Captain Robert Vallejo II of Richland Hills.

The resolutions were unanimously adopted by a rising vote.

RECESS

At 12:36 p.m., the speaker announced that the house would stand recessed until 1:05 p.m. today.

AFTERNOON SESSION

The house met at 1:05 p.m. and was called to order by the speaker.

**HB 4311 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

HB 4311, A bill to be entitled An Act relating to the naming of certain Texas Department of Transportation property in Val Verde County.

Representative Gallego moved to concur in the senate amendments to **HB 4311**.

The motion to concur in the senate amendments to **HB 4311** prevailed by (Record 1403): 132 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.;

Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Aycock; Bonnen; Crownover; Davis, Y.; Edwards; Eiland; Eissler; Flores; Giddings; Hamilton; McClendon; Moody; Parker; Taylor.

STATEMENTS OF VOTE

When Record No. 1403 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

When Record No. 1403 was taken, I was temporarily out of the house chamber. I would have voted yes.

Moody

When Record No. 1403 was taken, my vote failed to register. I would have voted yes.

Parker

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 4311** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 201, Transportation Code, is amended by adding Subchapter Y to read as follows:

SUBCHAPTER Y. DEPARTMENT BUILDING NAMES

Sec. 201.2001. HONORABLE HILARY B. DORAN TRANSPORTATION BUILDING. The building in which, on June 1, 2009, is located the office of the area engineer for Val Verde County is designated as the Honorable Hilary B. Doran Transportation Building.

SECTION 2. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.072 to read as follows:

Sec. 225.072. LOOP 79 IN VAL VERDE COUNTY. (a) In recognition of the cooperation between the department and Val Verde County, the designation of Loop 79 in Val Verde County shall be made by the Commissioners Court of Val Verde County.

(b) The department shall design and construct markers to be placed along Loop 79 in Val Verde County indicating the highway number, the designation of the loop, and any other appropriate information.

(c) The department shall erect a marker at each end of the loop and at intermediate sites along the loop that the department determines are appropriate.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**SB 328 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Phillips, the house granted the request of the senate for the appointment of a Conference Committee on **SB 328**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 328**: Phillips, chair; Peña, Moody, Gattis, and Fletcher.

**SB 333 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Jackson, the house granted the request of the senate for the appointment of a Conference Committee on **SB 333**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 333**: Jackson, chair; Christian, Kent, Miklos, and Fletcher.

**SB 472 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Deshotel, the house granted the request of the senate for the appointment of a Conference Committee on **SB 472**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 472**: Deshotel, chair; Thibaut, Solomons, Hopson, and Darby.

**SB 1009 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Harper-Brown, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1009**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1009**: Harper-Brown, chair; Coleman, Marquez, Morrison, and J. Davis.

**SB 1219 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Deshotel, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1219**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1219**: Deshotel, chair; Eissler, Allen, Patrick, and Hochberg.

**SB 408 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hughes, the house granted the request of the senate for the appointment of a Conference Committee on **SB 408**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 408**: Hughes, chair; Anderson, Jackson, Hunter, and Smithee.

**HB 4471 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 4471, A bill to be entitled An Act relating to the professional nursing shortage reduction program.

Representative Kolkhorst moved to concur in the senate amendments to **HB 4471**.

The motion to concur in the senate amendments to **HB 4471** prevailed by (Record 1404): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Eiland.

Senate Committee Substitute

CSHB 4471, A bill to be entitled An Act relating to the professional nursing shortage reduction program.

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

SECTION 1. Section 61.9621, Education Code, is amended to read as follows:

Sec. 61.9621. DEFINITION [~~DEFINITIONS~~]. In this subchapter, "professional nursing program" means an educational program offered by a public or private institution of higher education for preparing students for initial licensure as registered nurses.

SECTION 2. Section 61.9623(a), Education Code, is amended to read as follows:

(a) A grant from the professional nursing shortage reduction program to a professional nursing program or other entity involved with a professional nursing program in the preparation of students for initial licensure as registered nurses must be:

(1) expended exclusively on costs related to:

(A) enrolling additional students;

(B) nursing faculty enhancement in accordance with Section 61.96231;

(C) encouraging innovation in the recruitment and retention of students, including the recruitment and retention of Spanish-speaking and bilingual students; or

(D) identifying, developing, or implementing innovative methods to make the most effective use of limited professional nursing program faculty, instructional or clinical space, and other resources, including:

(i) sharing curriculum and administrative or instructional personnel, facilities, and responsibilities between two or more professional nursing programs located in the same region of this state; and

(ii) using preceptors or part-time faculty to provide clinical instruction in order to address the need for qualified faculty to accommodate increased student enrollment in the professional nursing program;

(2) contingent on the professional nursing program's having been approved as a professional nursing program by the board or the Texas Board of Nursing, as appropriate~~[-by September 1, 2001]~~;

(3) contingent on the professional nursing program's not being on probation with the Texas Board of Nursing or other accrediting body; and

(4) if granted to increase enrollments, contingent on the professional nursing program's ability to enroll additional students, including having the necessary classroom space and clinical slots.

SECTION 3. Subchapter Z, Chapter 61, Education Code, is amended by adding Sections 61.96232, 61.96233, and 61.9629 to read as follows:

Sec. 61.96232. GRANTS TO INCREASE NUMBER OF GRADUATES: APPLICATION PROCESS. (a) The board by rule shall establish a process under which a public or private institution of higher education that offers a professional nursing program may apply for a grant under this subchapter and the commissioner of higher education, contingent on appropriations of money for the grants, selects one or more applicants to receive a grant based on criteria

established by board rule. The criteria must include the institution's agreement that the institution's professional nursing program will enroll additional students or graduate additional students prepared for initial licensure as registered nurses.

(b) The process established under Subsection (a) may authorize the commissioner of higher education to accept a joint application from multiple institutions that agree to cooperate on a regional or joint basis for their professional nursing programs to enroll additional students or graduate additional students prepared for initial licensure as registered nurses.

(c) The application for a grant under this section must require the institution applying for a grant to:

(1) state the number of additional students that the institution's professional nursing program intends to enroll or graduate;

(2) identify benchmarks for determining adequate progress toward enrolling or graduating those additional students;

(3) state the amount of grant money requested; and

(4) describe a proposed payment schedule for distribution of the grant money to the institution seeking the grant.

(d) The commissioner of higher education may negotiate changes to the application before approving the application.

(e) If a professional nursing program fails to enroll or graduate the number of additional students stated in the approved application or does not meet a benchmark identified in the approved application, the commissioner of higher education may:

(1) require the institution offering the professional nursing program to return any unearned grant money awarded to the program under this subchapter;

(2) withhold future grant awards that would otherwise be made under this subchapter in accordance with the approved application;

(3) renegotiate the terms of the approved application; or

(4) rescind approval of the application.

(f) The board may appoint an advisory committee to advise the commissioner of higher education and the board on implementation of this section. The board may assign to the committee the responsibility for evaluating applications and recommending to the commissioner applications for approval.

Sec. 61.96233. NEW PROFESSIONAL NURSING PROGRAMS. (a) The board shall adopt rules for permitting newly established professional nursing programs to participate in and receive grant awards under the program established under this subchapter.

(b) The rules the board adopts under Subsection (a) must include:

(1) a process for ensuring that newly established professional nursing programs are treated equitably with established programs in the award of grants under this subchapter; and

(2) a method for calculating increases in enrollment or graduates if grants are awarded based on such increases.

Sec. 61.9629. CONTINUED ELIGIBILITY OF PROGRAMS TO RECEIVE GRANTS. Notwithstanding Section 61.9621, a professional nursing program offered by an entity other than a public or private or independent

institution of higher education that was eligible to receive grants from a program under this subchapter before September 1, 2009, remains eligible to receive a grant from such a program if the entity meets all criteria for a grant other than the criterion of being a program offered by an institution of higher education.

SECTION 4. The Texas Higher Education Coordinating Board may adopt initial rules for the administration of Sections 61.96232 and 61.96233, Education Code, as added by this Act, at the coordinating board's first meeting after the effective date of this Act. For that purpose, the coordinating board may adopt the rules in the manner provided by law for emergency rules.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 2888 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Martinez called up with senate amendments for consideration at this time,

HB 2888, A bill to be entitled An Act relating to recipients of financial assistance administered by the Texas Department of Housing and Community Affairs.

Representative Martinez 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 2888**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2888**: Martinez, chair; Villarreal, Gonzalez Toureilles, Swinford, and Hardcastle.

**HB 2854 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hughes called up with senate amendments for consideration at this time,

HB 2854, A bill to be entitled An Act relating to license plates created by the Texas Department of Transportation for professional firefighters.

Representative Hughes 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 2854**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2854**: Hughes, chair; Harper-Brown, Pickett, Anderson, and Frost.

**HB 1659 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative P. King called up with senate amendments for consideration at this time,

HB 1659, A bill to be entitled An Act relating to creating an exception to the offense of unlawful installation of a tracking device.

Representative P. King 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 1659**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1659**: P. King, chair; Lewis, Frost, Driver, and Vo.

**HB 4767 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Homer called up with senate amendments for consideration at this time,

HB 4767, A bill to be entitled An Act relating to the designation of days, weeks, and months for recognition by concurrent resolution of the legislature.

Representative Homer moved to concur in the senate amendments to **HB 4767**.

The motion to concur in the senate amendments to **HB 4767** prevailed by (Record 1405): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Burnam; Legler; Miller, S.; Pitts; Smith, W.

STATEMENT OF VOTE

When Record No. 1405 was taken, I was in the house but away from my desk. I would have voted yes.

Legler

Senate Committee Substitute

CSHB 4767, A bill to be entitled An Act relating to the designation of days, weeks, and months for recognition by concurrent resolution of the legislature.

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

SECTION 1. The heading to Chapter 391, Government Code, is amended to read as follows:

CHAPTER 391. RESOLUTIONS FOR STATE SYMBOLS, ~~[AND]~~ PLACE DESIGNATIONS, AND RECOGNITION DAYS, WEEKS, AND MONTHS

SECTION 2. Section 391.001, Government Code, is amended to read as follows:

Sec. 391.001. EFFECT OF CHAPTER. (a) This chapter governs the designation of state symbols, ~~and~~ place designations, and days, weeks, and months for recognition made by the legislature by resolution approved by each house of the legislature.

(b) This chapter does not affect the designation of:

(1) a state symbol or a place designation made by:

(A) ~~[(+)]~~ resolution before September 1, 2001; or

(B) ~~[(=)]~~ statute; or

(2) a day, week, or month for recognition made by:

(A) resolution before September 1, 2009; or

(B) statute.

SECTION 3. Chapter 391, Government Code, is amended by adding Section 391.004 to read as follows:

Sec. 391.004. DESIGNATING DAYS, WEEKS, OR MONTHS FOR RECOGNITION. (a) In this section, "date designation" means the special observance authorized by the legislature that annually recognizes and honors a culturally or historically significant day, week, or month in the state.

(b) The legislature may assign more than one designation to a day, week, or month.

(c) Before the legislature may designate a day, week, or month for recognition, the legislature must be presented with information related to the historical or cultural significance of the day, week, or month to be recognized by persons supporting the designation.

(d) A designation of a day, week, or month for recognition expires on the 10th anniversary of the date the legislature finally passes the resolution making the designation. This subsection does not prevent the legislature from redesignating a day, week, or month for recognition during or after the 10-year period.

SECTION 4. Sections 391.002(c) and 391.003(f), Government Code, are repealed.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 2845 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Riddle called up with senate amendments for consideration at this time,

HB 2845, A bill to be entitled An Act relating to the certification of and disciplinary actions against emergency medical services personnel.

Representative Riddle moved to concur in the senate amendments to **HB 2845**.

The motion to concur in the senate amendments to **HB 2845** prevailed by (Record 1406): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Crabb; Dunnam; Hardcastle; King, S.; Rios Ybarra; Solomons.

Senate Committee Substitute

CSHB 2845, A bill to be entitled An Act relating to the certification of and disciplinary actions against emergency medical services personnel.

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

SECTION 1. Section 53.002, Occupations Code, is amended to read as follows:

Sec. 53.002. APPLICABILITY OF CHAPTER. This chapter does not apply to:

(1) the Supreme Court of Texas, a person licensed under the court's authority on behalf of the judicial department of government, or an applicant for a license issued under the court's authority on behalf of the judicial department of government;

(2) a peace officer or an applicant for a license as a peace officer described by Article 2.12, Code of Criminal Procedure; ~~or~~

(3) an applicant for certification as emergency medical services personnel under Chapter 773, Health and Safety Code; or

(4) a person who:

(A) is licensed by the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~, the Texas State Board of Pharmacy, the State Board of Dental Examiners, or the State Board of Veterinary Medical Examiners; and

(B) has been convicted of a felony under Chapter 481 or 483 or Section 485.033, Health and Safety Code.

SECTION 2. Section 773.050, Health and Safety Code, is amended by amending Subsections (b), (c), (d), (e), and (f) and adding Subsection (h) to read as follows:

(b) The executive commissioner ~~[board]~~ by rule shall establish minimum standards for:

(1) staffing an advanced life-support emergency medical services vehicle, a mobile intensive-care unit, or a specialized emergency medical services vehicle;

(2) emergency medical services personnel certification and performance, including provisional certification, certification, decertification, recertification, suspension, emergency suspension, and probation;

(3) the approval of courses and training programs, the certification of program instructors, examiners, and course coordinators for emergency medical services personnel training, and the revocation and probation of an approval or certification;

(4) examinations of emergency medical services personnel;

(5) medical supervision of basic and advanced life-support systems;

(6) granting, suspending, and revoking a license for emergency medical services providers; and

(7) emergency medical services vehicles.

(c) The executive commissioner ~~[board]~~ shall consider the education, training, criminal background, and experience of allied health professionals in adopting the minimum standards for emergency medical services personnel certification and may establish criteria for interstate reciprocity of emergency

medical services personnel. Each out-of-state application for certification must be accompanied by a nonrefundable fee of not more than \$120. The executive commissioner [board] may also establish criteria for out-of-country emergency medical services personnel certification. Each out-of-country application for certification must be accompanied by a nonrefundable fee of not more than \$180.

(d) The executive commissioner [board] may not adopt a rule that requires any system, service, or agency to provide advanced life-support or staffing beyond basic life-support levels except for providers of:

- (1) advanced life-support emergency medical services;
- (2) mobile intensive care; or
- (3) specialized emergency medical services.

(e) The executive commissioner [board] shall adopt minimum standards for recognition of first responder organizations.

(f) The executive commissioner [board] shall recognize, prepare, or administer continuing education programs for certified personnel. A certificate holder must participate in the programs to the extent required by the executive commissioner [board] to remain certified.

(h) The department may provide a prescreening criminal history record check for an emergency medical services personnel applicant to determine the applicant's eligibility to receive certification before enrollment in the educational and training requirements mandated by the executive commissioner. The department may charge a reasonable fee for the costs associated with prescreening to each applicant who requests prescreening.

SECTION 3. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Sections 773.0614, 773.0615, 773.0616, and 773.0617 to read as follows:

Sec. 773.0614. AUTHORITY TO REVOKE, SUSPEND, DISQUALIFY FOR, OR DENY CERTIFICATION OF EMERGENCY MEDICAL SERVICES PERSONNEL FOR CERTAIN CRIMINAL OFFENSES. (a) In addition to the grounds under Section 773.061, the commissioner may suspend or revoke a certificate, disqualify a person from receiving a certificate, or deny a person the opportunity to take a certification examination on the grounds that the person has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, an offense that directly relates to the duties and responsibilities of emergency medical services personnel.

(b) For purposes of Subsection (a), the department may not consider offenses for which points are assessed under Section 708.052, Transportation Code.

(c) A certificate holder's certificate shall be revoked if the certificate holder is convicted of or placed on deferred adjudication community supervision or deferred disposition for:

(1) an offense listed in Sections 3g(a)(1)(A) through (H), Article 42.12, Code of Criminal Procedure; or

(2) an offense, other than an offense described by Subdivision (1), committed on or after September 1, 2009, for which the person is subject to registration under Chapter 62, Code of Criminal Procedure.

Sec. 773.0615. FACTORS CONSIDERED IN SUSPENSION, REVOCATION, OR DENIAL OF CERTIFICATE. (a) In determining whether an offense directly relates to the duties and responsibilities of emergency medical services personnel under Section 773.0614(a), the commissioner shall consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring certification to engage in emergency medical services;
- (3) the extent to which certification might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of emergency medical services personnel.

(b) In determining the fitness to perform the duties and discharge the responsibilities of emergency medical services personnel for a person who has been convicted of, or placed on deferred adjudication community supervision or deferred disposition for, a crime the commissioner shall consider, in addition to the factors listed in Subsection (a):

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated, after release, or since imposition of community supervision or deferred adjudication; and
- (6) other evidence of the person's fitness, including letters of recommendation from:

(A) prosecutors, law enforcement officers, correctional officers, or community supervision officers who prosecuted, arrested, or had custodial or other responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; and

(C) any other person in contact with the person.

(c) The applicant or certificate holder has the responsibility, to the extent possible, to obtain and provide to the commissioner the recommendations of the persons required by Subsection (b)(6).

(d) In addition to providing evidence related to the factors under Subsection (b), the applicant or certificate holder shall furnish proof in the form required by the department that the applicant or certificate holder has:

- (1) maintained a record of steady employment;
- (2) supported the applicant's or certificate holder's dependents;
- (3) maintained a record of good conduct; and

(4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant or certificate holder has been convicted, been placed on community supervision, or received deferred adjudication.

Sec. 773.0616. PROCEEDINGS GOVERNED BY ADMINISTRATIVE PROCEDURE ACT; GUIDELINES. (a) A proceeding before the commissioner to consider the issues under Section 773.0615 is governed by Chapter 2001, Government Code.

(b) The executive commissioner shall issue guidelines relating to the commissioner's decision-making under Sections 773.0614 and 773.0615. The guidelines must state the reasons a particular crime is considered to relate to emergency medical services personnel and include any other criterion that may affect the decisions of the commissioner.

(c) The executive commissioner shall file the guidelines with the secretary of state for publication in the Texas Register.

(d) The department annually shall issue any amendments to the guidelines.

Sec. 773.0617. NOTICE AND REVIEW OF SUSPENSION, REVOCATION, DISQUALIFICATION FOR, OR DENIAL OF CERTIFICATION. (a) If the commissioner suspends or revokes a certification, denies a person a certificate, or denies the opportunity to be examined for a certificate under Section 773.0614, the commissioner shall notify the person in writing of:

(1) the reason for the suspension, revocation, denial, or disqualification;

(2) the review procedure provided by Subsection (b); and

(3) the earliest date the person may appeal the action of the commissioner.

(b) A person whose certificate has been suspended or revoked or who has been denied a certificate or the opportunity to take an examination and who has exhausted the person's administrative appeals may file an action in the district court in Travis County for review of the evidence presented to the commissioner and the decision of the commissioner.

(c) The petition for an action under Subsection (b) must be filed not later than the 30th day after the date the commissioner's decision is final.

SECTION 4. Not later than January 1, 2010, the executive commissioner of the Health and Human Services Commission shall issue the guidelines required by Section 773.0616(b), Health and Safety Code, as added by this Act.

SECTION 5. The changes in law made by this Act to Chapter 773, Health and Safety Code, apply only to an application for certification or renewal of certification of emergency medical services personnel submitted on or after January 1, 2010.

SECTION 6. This Act takes effect September 1, 2009.

HB 3502 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Pickett called up with senate amendments for consideration at this time,

HB 3502, A bill to be entitled An Act relating to waiver of certain statutory rights in connection with a purchase of or loan secured by real property.

Representative Pickett moved to concur in the senate amendments to **HB 3502**.

The motion to concur in the senate amendments to **HB 3502** prevailed by (Record 1407): 143 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycoc; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — King, T.; Phillips.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — King, S.

STATEMENT OF VOTE

I was shown voting no on Record No. 1407. I intended to vote yes.

Phillips

Senate Committee Substitute

CSHB 3502, A bill to be entitled An Act relating to acknowledgements required of a purchaser of residential real property in connection with the receipt of a seller's disclosure notice regarding the property.

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

SECTION 1. Section 5.008(b), Property Code, as amended by Chapters 448 (**HB 271**), 1051 (**HB 2118**), and 1256 (**HB 2819**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE
C O N C E R N I N G T H E P R O P E R T Y
AT _____

(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller ___ is ___ is not occupying the Property.

If unoccupied, how long since Seller has occupied the Property?

1. The Property has the items checked below:

Write Yes (Y), No (N), or Unknown (U).

<input type="checkbox"/> Range	<input type="checkbox"/> Oven	<input type="checkbox"/> Microwave
<input type="checkbox"/> Dishwasher	<input type="checkbox"/> Trash Compactor	<input type="checkbox"/> Disposal
<input type="checkbox"/> Washer/Dryer	<input type="checkbox"/> Window	<input type="checkbox"/> Rain Gutters
<input type="checkbox"/> Hookups	<input type="checkbox"/> Screens	
<input type="checkbox"/> Security System	<input type="checkbox"/> Fire Detection Equipment	<input type="checkbox"/> Intercom System
	<input type="checkbox"/> Smoke Detector	
	<input type="checkbox"/> Smoke Detector - Hearing Impaired	
	<input type="checkbox"/> Carbon Monoxide Alarm	
	<input type="checkbox"/> Emergency Escape Ladder(s)	
<input type="checkbox"/> TV Antenna	<input type="checkbox"/> Cable TV	<input type="checkbox"/> Satellite Dish
	<input type="checkbox"/> Wiring	
<input type="checkbox"/> Ceiling Fan(s)	<input type="checkbox"/> Attic Fan(s)	<input type="checkbox"/> Exhaust Fan(s)
<input type="checkbox"/> Central A/C	<input type="checkbox"/> Central Heating	<input type="checkbox"/> Wall/Window Air Conditioning
<input type="checkbox"/> Plumbing System	<input type="checkbox"/> Septic System	<input type="checkbox"/> Public Sewer System
<input type="checkbox"/> Patio/Decking	<input type="checkbox"/> Outdoor Grill	<input type="checkbox"/> Fences
<input type="checkbox"/> Pool	<input type="checkbox"/> Sauna	<input type="checkbox"/> Spa
		<input type="checkbox"/> Hot Tub
<input type="checkbox"/> Pool Equipment	<input type="checkbox"/> Pool Heater	<input type="checkbox"/> Automatic Lawn Sprinkler System
<input type="checkbox"/> Fireplace(s) & Chimney (Woodburning)		<input type="checkbox"/> Fireplace(s) & Chimney (Mock)

<input type="checkbox"/> Gas Lines (Nat./LP)	<input type="checkbox"/> Gas Fixtures
Garage: <input type="checkbox"/> Attached	<input type="checkbox"/> Not Attached
Garage Door Opener(s): <input type="checkbox"/> Electronic	<input type="checkbox"/> Carport
Water Heater: <input type="checkbox"/> Gas	<input type="checkbox"/> Control(s)
Water Supply: <input type="checkbox"/> City	<input type="checkbox"/> Electric
<input type="checkbox"/> Well <input type="checkbox"/> MUD	<input type="checkbox"/> Co-op
Roof Type: _____	Age: _____(approx)

Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair? Yes No Unknown.

If yes, then describe. (Attach additional sheets if necessary):

2. Does the property have working smoke detectors installed in accordance with the smoke detector requirements of Chapter 766, Health and Safety Code? * Yes No Unknown.

If the answer to the question above is no or unknown, explain. (Attach additional sheets if necessary):

*Chapter 766 of the Health and Safety Code requires one-family or two-family dwellings to have working smoke detectors installed in accordance with the requirements of the building code in effect in the area in which the dwelling is located, including performance, location, and power source requirements. If you do not know the building code requirements in effect in your area, you may check unknown above or contact your local building official for more information. A buyer may require a seller to install smoke detectors for the hearing impaired if: (1) the buyer or a member of the buyer's family who will reside in the dwelling is hearing impaired; (2) the buyer gives the seller written evidence of the hearing impairment from a licensed physician; and (3) within 10 days after the effective date, the buyer makes a written request for the seller to install smoke detectors for the hearing impaired and specifies the locations for installation. The parties may agree who will bear the cost of installing the smoke detectors and which brand of smoke detectors to install.

3. Are you (Seller) aware of any known defects/malfunctions in any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

<input type="checkbox"/> Interior Walls	<input type="checkbox"/> Ceilings	<input type="checkbox"/> Floors
<input type="checkbox"/> Exterior Walls	<input type="checkbox"/> Doors	<input type="checkbox"/> Windows
<input type="checkbox"/> Roof	<input type="checkbox"/> Foundation/ Slab(s)	<input type="checkbox"/> Basement
<input type="checkbox"/> Walls/Fences	<input type="checkbox"/> Driveways	<input type="checkbox"/> Sidewalks
<input type="checkbox"/> Plumbing/Sewers/ Septics	<input type="checkbox"/> Electrical Systems	<input type="checkbox"/> Lighting Fixtures

Other Structural Components (Describe): _____

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

4. Are you (Seller) aware of any of the following conditions?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

- | | |
|---|---|
| <input type="checkbox"/> Active Termites
(includes
wood-destroying insects) | <input type="checkbox"/> Previous Structural
or Roof Repair |
| <input type="checkbox"/> Termite or Wood Rot Damage
Needing Repair | <input type="checkbox"/> Hazardous or Toxic Waste |
| <input type="checkbox"/> Previous Termite Damage | <input type="checkbox"/> Asbestos Components |
| <input type="checkbox"/> Previous Termite
Treatment | <input type="checkbox"/> Urea formaldehyde
Insulation |
| <input type="checkbox"/> Previous Flooding | <input type="checkbox"/> Radon Gas |
| <input type="checkbox"/> Improper Drainage | <input type="checkbox"/> Lead Based Paint |
| <input type="checkbox"/> Water Penetration | <input type="checkbox"/> Aluminum Wiring |
| <input type="checkbox"/> Located in 100-Year
Floodplain | <input type="checkbox"/> Previous Fires |
| <input type="checkbox"/> Present Flood Insurance
Coverage | <input type="checkbox"/> Unplatted Easements |
| <input type="checkbox"/> Landfill, Settling, Soil
Movement, Fault Lines | <input type="checkbox"/> Subsurface
Structure or Pits |
| | <input type="checkbox"/> Previous Use of
Premises for
Manufacture of
Methamphetamine |

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):

5. Are you (Seller) aware of any item, equipment, or system in or on the property that is in need of repair? Yes (if you are aware) No (if you are not aware). If yes, explain (attach additional sheets as necessary).

6. Are you (Seller) aware of any of the following?

Write Yes (Y) if you aware, write No (N) if you are not aware.

- Room additions, structural modifications, or other alterations or repairs made without necessary permits or not in compliance with building codes in effect at that time.
- Homeowners' Association or maintenance fees or assessments.
- Any "common area" (facilities such as pools, tennis courts, walkways, or other areas) co-owned in undivided interest with others.
- Any notices of violations of deed restrictions or governmental ordinances affecting the condition or use of the Property.
- Any lawsuits directly or indirectly affecting the Property.

___ Any condition on the Property which materially affects the physical health or safety of an individual.

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary): _____

7 [6]. If the property is located in a coastal area that is seaward of the Gulf Intracoastal Waterway or within 1,000 feet of the mean high tide bordering the Gulf of Mexico, the property may be subject to the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63, Natural Resources Code, respectively) and a beachfront construction certificate or dune protection permit may be required for repairs or improvements. Contact the local government with ordinance authority over construction adjacent to public beaches for more information.

Date Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice ~~[and acknowledges the property complies with the smoke detector requirements of Chapter 766, Health and Safety Code, or, if the property does not comply with the smoke detector requirements of Chapter 766, the buyer waives the buyer's rights to have smoke detectors installed in compliance with Chapter 766].~~

Date Signature of Purchaser

SECTION 2. The change in law made by this Act to Section 5.008, Property Code, applies only to a notice executed on or after the effective date of this Act. A notice executed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect January 1, 2010.

**HB 4060 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative T. Smith called up with senate amendments for consideration at this time,

HB 4060, A bill to be entitled An Act relating to the period during which a judicial candidate or officeholder may accept political contributions.

Representative T. Smith moved to concur in the senate amendments to **HB 4060**.

The motion to concur in the senate amendments to **HB 4060** prevailed by (Record 1408): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee;

Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Miller, S.; Villarreal.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 4060** (House engrossment) by striking Section 253.153(b) (page 2, lines 12-24) and replacing it with the following:

(b) Subsection (a)(2) does not apply to a political contribution that was made and accepted with the intent that it be used to defray expenses incurred in connection with an election, including the repayment of any debt that is:

(1) incurred directly by the making of a campaign expenditure during the period beginning on the date the application for a place on the ballot or for nomination by convention was required to be filed for the election in which the candidate last appeared on the ballot and ending on the date of that election; and

(2) subject to the restrictions prescribed by Sections 253.162 and 253.1621.

HB 4152 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Rose called up with senate amendments for consideration at this time,

HB 4152, A bill to be entitled An Act relating to certification of an educator in Texas who is certified in another state or country.

Representative Rose moved to concur in the senate amendments to **HB 4152**.

The motion to concur in the senate amendments to **HB 4152** prevailed by (Record 1409): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes;

Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Deshotel; Frost.

Senate Committee Substitute

CSHB 4152, A bill to be entitled An Act relating to certification of an educator in Texas who is certified in another state or country.

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

SECTION 1. Section 21.052, Education Code, is amended by amending Subsection (a) and adding Subsections (e), (f), (g), and (h) to read as follows:

(a) The board may issue a certificate to an educator who applies for a certificate and:

(1) holds:

(A) a degree issued by an institution accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; or

(B) a degree issued by an institution located in a foreign country, if the degree is equivalent to a degree described by Paragraph (A);

(2) holds an appropriate certificate or other credential issued by another state or country; and

(3) performs satisfactorily on:

(A) the examination prescribed under Section 21.048; or

(B) if the educator holds a certificate or other credential issued by another state or country, an examination similar to and at least as rigorous as that described by Paragraph (A) administered to the educator under the authority of that state.

(e) An educator who has submitted all documents required by the board for certification and who receives a certificate as provided by Subsection (a) must perform satisfactorily on the examination prescribed under Section 21.048 not later than the first anniversary of the date the board completes the review of the

educator's credentials and informs the educator of the examination or examinations under Section 21.048 on which the educator must perform successfully to receive a standard certificate.

(f) The board shall post on the board's Internet website the procedures for obtaining a certificate under Subsection (a).

(g) The commissioner shall provide guidance to school districts that employ an educator certified as provided by Subsection (a) on procedures to classify the educator as a highly qualified teacher in a manner consistent with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.).

(h) This subsection applies only to an applicant who holds a certificate or other credential issued by another state in mathematics, science, special education, or bilingual education, or another subject area that the commissioner determines has a shortage of teachers. In any state fiscal year, the board shall accept or reject, not later than the 14th day after the date the board receives the completed application, at least 90 percent of the applications the board receives for a certificate under this subsection, and shall accept or reject all completed applications the board receives under this subsection not later than the 30th day after the date the board receives the completed application. An applicant under this subsection must submit:

(1) a letter of good standing from the state in which the teacher is certified on a form determined by the board;

(2) information necessary to complete a national criminal history record information review; and

(3) an application fee as required by the board.

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, 2009.

HB 4290 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Smithee called up with senate amendments for consideration at this time,

HB 4290, A bill to be entitled An Act relating to retrospective utilization review and utilization review to determine the experimental or investigational nature of a health care service.

Representative Smithee moved to concur in the senate amendments to **HB 4290**.

The motion to concur in the senate amendments to **HB 4290** prevailed by (Record 1410): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias;

Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Edwards; Giddings.

STATEMENT OF VOTE

When Record No. 1410 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

Senate Committee Substitute

CSHB 4290, A bill to be entitled An Act relating to retrospective utilization review and utilization review to determine the experimental or investigational nature of a health care service.

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

SECTION 1. Sections 1305.004(a)(1), (10), and (23), Insurance Code, are amended to read as follows:

(1) "Adverse determination" has the meaning assigned by Chapter 4201 ~~[means a determination, made through utilization review or retrospective review, that the health care services furnished or proposed to be furnished to an employee are not medically necessary or appropriate].~~

(10) "Independent review" means a system for final administrative review by an independent review organization of the medical necessity and appropriateness, or the experimental or investigational nature, of health care services being provided, proposed to be provided, or that have been provided to an employee.

(23) "Screening criteria" means the written policies, medical protocols, and treatment guidelines used by an insurance carrier or a network as part of utilization review ~~[or retrospective review].~~

SECTION 2. Section 1305.053, Insurance Code, is amended to read as follows:

Sec. 1305.053. CONTENTS OF APPLICATION. Each certificate application must include:

(1) a description or a copy of the applicant's basic organizational structure documents and other related documents, including organizational charts or lists that show:

(A) the relationships and contracts between the applicant and any affiliates of the applicant; and

(B) the internal organizational structure of the applicant's management and administrative staff;

(2) biographical information regarding each person who governs or manages the affairs of the applicant, accompanied by information sufficient to allow the commissioner to determine the competence, fitness, and reputation of each officer or director of the applicant or other person having control of the applicant;

(3) a copy of the form of any contract between the applicant and any provider or group of providers, and with any third party performing services on behalf of the applicant under Subchapter D;

(4) a copy of the form of each contract with an insurance carrier, as described by Section 1305.154;

(5) a financial statement, current as of the date of the application, that is prepared using generally accepted accounting practices and includes:

(A) a balance sheet that reflects a solvent financial position;

(B) an income statement;

(C) a cash flow statement; and

(D) the sources and uses of all funds;

(6) a statement acknowledging that lawful process in a legal action or proceeding against the network on a cause of action arising in this state is valid if served in the manner provided by Chapter 804 for a domestic company;

(7) a description and a map of the applicant's service area or areas, with key and scale, that identifies each county or part of a county to be served;

(8) a description of programs and procedures to be utilized, including:

(A) a complaint system, as required under Subchapter I;

(B) a quality improvement program, as required under Subchapter

G; and

(C) the utilization review program [~~and retrospective review programs~~] described in Subchapter H;

(9) a list of all contracted network providers that demonstrates the adequacy of the network to provide comprehensive health care services sufficient to serve the population of injured employees within the service area and maps that demonstrate that the access and availability standards under Subchapter G are met; and

(10) any other information that the commissioner requires by rule to implement this chapter.

SECTION 3. Section 1305.154(c), Insurance Code, is amended to read as follows:

(c) A network's contract with a carrier must include:

(1) a description of the functions that the carrier delegates to the network, consistent with the requirements of Subsection (b), and the reporting requirements for each function;

(2) a statement that the network and any management contractor or third party to which the network delegates a function will perform all delegated functions in full compliance with all requirements of this chapter, the Texas Workers' Compensation Act, and rules of the commissioner or the commissioner of workers' compensation;

(3) a provision that the contract:

(A) may not be terminated without cause by either party without 90 days' prior written notice; and

(B) must be terminated immediately if cause exists;

(4) a hold-harmless provision stating that the network, a management contractor, a third party to which the network delegates a function, and the network's contracted providers are prohibited from billing or attempting to collect any amounts from employees for health care services under any circumstances, including the insolvency of the carrier or the network, except as provided by Section 1305.451(b)(6);

(5) a statement that the carrier retains ultimate responsibility for ensuring that all delegated functions and all management contractor functions are performed in accordance with applicable statutes and rules and that the contract may not be construed to limit in any way the carrier's responsibility, including financial responsibility, to comply with all statutory and regulatory requirements;

(6) a statement that the network's role is to provide the services described under Subsection (b) as well as any other services or functions delegated by the carrier, including functions delegated to a management contractor, subject to the carrier's oversight and monitoring of the network's performance;

(7) a requirement that the network provide the carrier, at least monthly and in a form usable for audit purposes, the data necessary for the carrier to comply with reporting requirements of the department and the division of workers' compensation with respect to any services provided under the contract, as determined by commissioner rules;

(8) a requirement that the carrier, the network, any management contractor, and any third party to which the network delegates a function comply with the data reporting requirements of the Texas Workers' Compensation Act and rules of the commissioner of workers' compensation;

(9) a contingency plan under which the carrier would, in the event of termination of the contract or a failure to perform, reassume one or more functions of the network under the contract, including functions related to:

(A) payments to providers and notification to employees;

(B) quality of care;

(C) utilization review;

~~(D) retrospective review;~~ and

(D) ~~(E)~~ continuity of care, including a plan for identifying and transitioning employees to new providers;

(10) a provision that requires that any agreement by which the network delegates any function to a management contractor or any third party be in writing, and that such an agreement require the delegated third party or management contractor to be subject to all the requirements of this subchapter;

(11) a provision that requires the network to provide to the department the license number of a management contractor or any delegated third party who performs a function that requires a license as a utilization review agent under Chapter 4201 or any other license under this code or another insurance law of this state;

(12) an acknowledgment that:

(A) any management contractor or third party to whom the network delegates a function must perform in compliance with this chapter and other applicable statutes and rules, and that the management contractor or third party is subject to the carrier's and the network's oversight and monitoring of its performance; and

(B) if the management contractor or the third party fails to meet monitoring standards established to ensure that functions delegated to the management contractor or the third party under the delegation contract are in full compliance with all statutory and regulatory requirements, the carrier or the network may cancel the delegation of one or more delegated functions;

(13) a requirement that the network and any management contractor or third party to which the network delegates a function provide all necessary information to allow the carrier to provide information to employees as required by Section 1305.451; and

(14) a provision that requires the network, in contracting with a third party directly or through another third party, to require the third party to permit the commissioner to examine at any time any information the commissioner believes is relevant to the third party's financial condition or the ability of the network to meet the network's responsibilities in connection with any function the third party performs or has been delegated.

SECTION 4. The heading to Subchapter H, Chapter 1305, Insurance Code, is amended to read as follows:

SUBCHAPTER H. UTILIZATION REVIEW [~~RETROSPECTIVE REVIEW~~]

SECTION 5. Section 1305.351, Insurance Code, is amended to read as follows:

Sec. 1305.351. UTILIZATION REVIEW [~~AND RETROSPECTIVE REVIEW~~] IN NETWORK. (a) The requirements of Chapter 4201 apply to utilization review conducted in relation to claims in a workers' compensation health care network. In the event of a conflict between Chapter 4201 and this chapter, this chapter controls.

(b) Any screening criteria used for utilization review [~~or retrospective review~~] related to a workers' compensation health care network must be consistent with the network's treatment guidelines.

(c) The preauthorization requirements of Section 413.014, Labor Code, and commissioner of workers' compensation rules adopted under that section, do not apply to health care provided through a workers' compensation network. If a

network or carrier uses a preauthorization process within a network, the requirements of this subchapter and commissioner rules apply. A network or an insurance carrier may not require preauthorization of treatments and services for a medical emergency.

(d) Notwithstanding Section 4201.152, a utilization review agent or an insurance carrier that uses doctors to perform reviews of health care services provided under this chapter, including utilization review [~~and retrospective review~~], or peer reviews under Section 408.0231(g), Labor Code, may only use doctors licensed to practice in this state.

SECTION 6. Section 1305.353(a), Insurance Code, is amended to read as follows:

(a) The entity performing utilization review [~~or retrospective review~~] shall notify the employee or the employee's representative, if any, and the requesting provider of a determination made in a utilization review [~~or retrospective review~~].

SECTION 7. Sections 4201.002(1) and (13), Insurance Code, are amended to read as follows:

(1) "Adverse determination" means a determination by a utilization review agent that health care services provided or proposed to be provided to a patient are not medically necessary or are experimental or investigational.

(13) "Utilization review" ~~includes~~ means a system for prospective, [~~or~~] concurrent, or retrospective review of the medical necessity and appropriateness of health care services and a system for prospective, concurrent, or retrospective review to determine the experimental or investigational nature of health care services [~~being provided or proposed to be provided to an individual in this state~~]. The term does not include a review in response to an elective request for clarification of coverage.

SECTION 8. Section 4201.051, Insurance Code, is amended to read as follows:

Sec. 4201.051. PERSONS PROVIDING INFORMATION ABOUT SCOPE OF COVERAGE OR BENEFITS. This chapter does not apply to a person who:

(1) provides information to an enrollee about scope of coverage or benefits provided under a health insurance policy or health benefit plan; and

(2) does not determine whether a particular health care service provided or to be provided to an enrollee is:

(A) medically necessary or appropriate; or

(B) experimental or investigational.

SECTION 9. Section 4201.206, Insurance Code, is amended to read as follows:

Sec. 4201.206. OPPORTUNITY TO DISCUSS TREATMENT BEFORE ADVERSE DETERMINATION. Subject to the notice requirements of Subchapter G, before an adverse determination is issued by a utilization review agent who questions the medical necessity or appropriateness, or the experimental or investigational nature, of a health care service [~~issues an adverse~~

determination], the agent shall provide the health care provider who ordered the service a reasonable opportunity to discuss with a physician the patient's treatment plan and the clinical basis for the agent's determination.

SECTION 10. Subchapter G, Chapter 4201, Insurance Code, is amended by adding Section 4201.305 to read as follows:

Sec. 4201.305. NOTICE OF ADVERSE DETERMINATION FOR RETROSPECTIVE UTILIZATION REVIEW. (a) Notwithstanding Sections 4201.302 and 4201.304, if a retrospective utilization review is conducted, the utilization review agent shall provide notice of an adverse determination under the retrospective utilization review in writing to the provider of record and the patient within a reasonable period, but not later than 30 days after the date on which the claim is received.

(b) The period under Subsection (a) may be extended once by the utilization review agent for a period not to exceed 15 days, if the utilization review agent:

(1) determines that an extension is necessary due to matters beyond the utilization review agent's control; and

(2) notifies the provider of record and the patient before the expiration of the initial 30-day period of the circumstances requiring the extension and the date by which the utilization review agent expects to make a determination.

(c) If the extension under Subsection (b) is required because of the failure of the provider of record or the patient to submit information necessary to reach a determination on the request, the notice of extension must:

(1) specifically describe the required information necessary to complete the request; and

(2) give the provider of record and the patient at least 45 days from the date of receipt of the notice of extension to provide the specified information.

(d) If the period for making the determination under this section is extended because of the failure of the provider of record or the patient to submit the information necessary to make the determination, the period for making the determination is tolled from the date on which the utilization review agent sends the notification of the extension to the provider of record or the patient until the earlier of:

(1) the date on which the provider of record or the patient responds to the request for additional information; or

(2) the date by which the specified information was to have been submitted.

(e) If the periods for retrospective utilization review provided by this section conflict with the time limits concerning or related to payment of claims established under Subchapter J, Chapter 843, the time limits established under Subchapter J, Chapter 843, control.

(f) If the periods for retrospective utilization review provided by this section conflict with the time limits concerning or related to payment of claims established under Subchapters C and C-1, Chapter 1301, the time limits established under Subchapters C and C-1, Chapter 1301, control.

(g) If the periods for retrospective utilization review provided by this section conflict with the time limits concerning or related to payment of claims established under Section 408.027, Labor Code, the time limits established under Section 408.027, Labor Code, control.

SECTION 11. Section 4201.401, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The utilization review agent shall comply with the independent review organization's determination regarding the experimental or investigational nature of health care items and services for an enrollee.

SECTION 12. Section 4201.456, Insurance Code, is amended to read as follows:

Sec. 4201.456. OPPORTUNITY TO DISCUSS TREATMENT BEFORE ADVERSE DETERMINATION. Subject to the notice requirements of Subchapter G, before an adverse determination is issued by a specialty utilization review agent who questions the medical necessity or appropriateness, or the experimental or investigational nature, of a health care service [~~issues an adverse determination~~], the agent shall provide the health care provider who ordered the service a reasonable opportunity to discuss the patient's treatment plan and the clinical basis for the agent's determination with a health care provider who is of the same specialty as the agent.

SECTION 13. Section 401.011(38-a), Labor Code, is amended to read as follows:

(38-a) "Retrospective review" means the utilization review process of reviewing the medical necessity and reasonableness of health care that has been provided to an injured employee [~~has the meaning assigned by Chapter 1305, Insurance Code~~].

SECTION 14. Section 408.0043(a), Labor Code, is amended to read as follows:

(a) This section applies to a person, other than a chiropractor or a dentist, who performs health care services under this title as:

- (1) a doctor performing peer review;
- (2) a doctor performing a utilization review of a health care service provided to an injured employee[~~, including a retrospective review~~];
- (3) a doctor performing an independent review of a health care service provided to an injured employee[~~, including a retrospective review~~];
- (4) a designated doctor;
- (5) a doctor performing a required medical examination; or
- (6) a doctor serving as a member of the medical quality review panel.

SECTION 15. Section 408.0044(a), Labor Code, is amended to read as follows:

(a) This section applies to a dentist who performs dental services under this title as:

- (1) a doctor performing peer review of dental services;
- (2) a doctor performing a utilization review of a dental service provided to an injured employee[~~, including a retrospective review~~];

(3) a doctor performing an independent review of a dental service provided to an injured employee~~[-including a retrospective review];~~ or

(4) a doctor performing a required dental examination.

SECTION 16. Section 408.0045(a), Labor Code, is amended to read as follows:

(a) This section applies to a chiropractor who performs chiropractic services under this title as:

(1) a doctor performing peer review of chiropractic services;

(2) a doctor performing a utilization review of a chiropractic service provided to an injured employee~~[-including a retrospective review];~~

(3) a doctor performing an independent review of a chiropractic service provided to an injured employee~~[-including a retrospective review];~~

(4) a designated doctor providing chiropractic services;

(5) a doctor performing a required medical examination; or

(6) a chiropractor serving as a member of the medical quality review panel.

SECTION 17. Section 408.023(h), Labor Code, is amended to read as follows:

(h) Notwithstanding Section 4201.152, Insurance Code, a utilization review agent or an insurance carrier that uses doctors to perform reviews of health care services provided under this subtitle, including utilization review [~~and retrospective review~~], may only use doctors licensed to practice in this state.

SECTION 18. Section 413.031(e-3), Labor Code, is amended to read as follows:

(e-3) Notwithstanding Subsections (d) and (e) of this section or Chapters 4201 and 4202, Insurance Code, a doctor, other than a dentist or a chiropractor, who performs a utilization review or an independent review~~[-including a retrospective review,]~~ of a health care service provided to an injured employee is subject to Section 408.0043. A dentist who performs a utilization review or an independent review~~[-including a retrospective review,]~~ of a dental service provided to an injured employee is subject to Section 408.0044. A chiropractor who performs a utilization review or an independent review~~[-including a retrospective review,]~~ of a chiropractic service provided to an injured employee is subject to Section 408.0045.

SECTION 19. The following laws are repealed:

(1) Section 1305.004(a)(21), Insurance Code;

(2) Section 1305.352, Insurance Code; and

(3) Subchapter K, Chapter 4201, Insurance Code.

SECTION 20. This Act applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2010. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2010, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 21. This Act takes effect September 1, 2009.

**HB 4451 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative McReynolds called up with senate amendments for consideration at this time,

HB 4451, A bill to be entitled An Act relating to continuity of care services for youth with mental illness or mental retardation who are discharged or paroled from the Texas Youth Commission.

Representative McReynolds moved to concur in the senate amendments to **HB 4451**.

The motion to concur in the senate amendments to **HB 4451** prevailed by (Record 1411): 144 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Phillips.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Giddings.

STATEMENT OF VOTE

When Record No. 1411 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

Senate Committee Substitute

CSHB 4451, A bill to be entitled An Act relating to continuity of care services or mental health commitment proceedings for youth with mental illness or mental retardation who are transferred, discharged, or paroled from the Texas Youth Commission.

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

SECTION 1. Section 61.077, Human Resources Code, is amended by adding Subsection (g) to read as follows:

(g) If a child who is mentally ill or mentally retarded is discharged from the commission under Subsection (b), the child is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments under Chapter 614, Health and Safety Code.

SECTION 2. Subchapter E, Chapter 61, Human Resources Code, is amended by adding Section 61.0773 to read as follows:

Sec. 61.0773. TRANSFER OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) The commission may petition the juvenile court that entered the order of commitment for a child for the initiation of mental health commitment proceedings if the child is committed to the commission under a determinate sentence under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code.

(b) A petition made by the commission shall be treated as a motion under Section 55.11, Family Code, and the juvenile court shall proceed in accordance with Subchapter B, Chapter 55, Family Code.

(c) The commission shall cooperate with the juvenile court in any proceeding under this section.

(d) The juvenile court shall credit to the term of the child's commitment to the commission any time the child is committed to an inpatient mental health facility.

(e) A child committed to an inpatient mental health facility as a result of a petition filed under this section may not be released from the facility on a pass or furlough.

(f) If the term of an order committing a child to an inpatient mental health facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered, the inpatient mental health facility shall notify the juvenile court that entered the order of commitment committing the child to the commission. The juvenile court may transfer the child to the custody of the commission, transfer the child to the Texas Department of Criminal Justice, or release the child under supervision, as appropriate.

SECTION 3. Section 614.019, Health and Safety Code, is amended to read as follows:

Sec. 614.019. PROGRAMS FOR JUVENILES. (a) The office, in cooperation with the Texas Commission on Alcohol and Drug Abuse, the Texas Department of Mental Health and Mental Retardation, the Department of Protective and Regulatory Services, the Texas Juvenile Probation Commission, the Texas Youth Commission, and the Texas Education Agency, may establish

and maintain programs, building on existing successful efforts in communities, to address prevention, intervention, and continuity of care for juveniles with mental health and substance abuse disorders.

(b) A child with mental illness who is receiving continuity of care services during parole from the Texas Youth Commission and who is no longer eligible to receive services from a local mental health authority when the child becomes 17 years of age because the child does not meet the requirements of a local service area plan under Section 533.0352(a) may continue to receive continuity of care services from the office until the child completes the child's parole.

(c) A child with mental illness or mental retardation who is discharged from the Texas Youth Commission under Section 61.077, Human Resources Code, may receive continuity of care services from the office for a minimum of 90 days after discharge from the commission and for as long as necessary for the child to demonstrate sufficient stability to transition successfully to mental health or mental retardation services provided by a local mental health or mental retardation authority.

SECTION 4. Section 61.077(g), Human Resources Code, as added by this Act, and Section 614.019, Health and Safety Code, as amended by this Act, apply only to a child who is discharged or paroled from the Texas Youth Commission on or after the effective date of this Act, regardless of when the child was committed to the commission.

SECTION 5. Section 61.0773, Human Resources Code, as added by this Act, applies only to a juvenile committed to the Texas Youth Commission for conduct that occurs on or after the effective date of this Act. Conduct violating the penal law of this state occurs on or after the effective date of this Act if any element of the violation occurs on or after that date. A juvenile committed to the Texas Youth Commission for conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 383 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Heflin called up with senate amendments for consideration at this time,

HB 383, A bill to be entitled An Act relating to county bail bond board meetings in certain counties.

Representative Heflin moved to concur in the senate amendments to **HB 383**.

The motion to concur in the senate amendments to **HB 383** prevailed by (Record 1412): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Bohac; Craddick; Hochberg; Pitts.

STATEMENTS OF VOTE

When Record No. 1412 was taken, my vote failed to register. I would have voted yes.

Bohac

When Record No. 1412 was taken, I was in the house but away from my desk. I would have voted yes.

Craddick

Senate Committee Substitute

CSHB 383, A bill to be entitled An Act relating to county bail bond board meetings in certain counties.

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

SECTION 1. Section 1704.055, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), a [A] board shall meet:

(1) at least once a month; and

(2) at other times at the call of the presiding officer.

(c) A board in a county with a population of less than 50,000 shall meet at least four times each year during the months of January, April, July, and October at the call of the presiding 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, 2009.

**HB 548 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Pickett called up with senate amendments for consideration at this time,

HB 548, A bill to be entitled An Act relating to the impoundment of certain motor vehicles involved in the commission of the offense of racing on a highway.

Representative Pickett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 548**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 548**: Pickett, chair; Guillen, Merritt, T. Smith, and Callegari.

(Harper-Brown in the chair)

**HB 2360 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Farias called up with senate amendments for consideration at this time,

HB 2360, A bill to be entitled An Act relating to the provision by employers of information regarding employee eligibility for the federal earned income tax credit.

Representative Farias moved to concur in the senate amendments to **HB 2360**.

The motion to concur in the senate amendments to **HB 2360** prevailed by (Record 1413): 114 Yeas, 25 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bolton; Bonnen; Branch; Brown, B.; Burnam; Button; Castro; Chavez; Chisum; Cohen; Coleman; Corte; Crabb; Creighton; Crownover; Darby; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Isett; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose;

Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley.

Nays — Anderson; Berman; Brown, F.; Callegari; Christian; Cook; Craddick; Flynn; Hancock; Hardcastle; Hunter; Jones; Laubenberg; Madden; Miller, D.; Miller, S.; Parker; Paxton; Phillips; Riddle; Sheffield; Shelton; Truitt; Weber; Zerwas.

Present, not voting — Mr. Speaker; Driver; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Bohac; Davis, J.; Eiland; Peña; Pitts.

STATEMENTS OF VOTE

When Record No. 1413 was taken, my vote failed to register. I would have voted yes.

Bohac

I was shown voting yes on Record No. 1413. I intended to vote no.

B. Brown

I was shown voting yes on Record No. 1413. I intended to vote no.

Button

I was shown voting yes on Record No. 1413. I intended to vote no.

Darby

I was shown voting present, not voting on Record No. 1413. I intended to vote no.

Driver

I was shown voting yes on Record No. 1413. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1413. I intended to vote no.

Kolkhorst

I was shown voting yes on Record No. 1413. I intended to vote no.

T. Smith

I was shown voting yes on Record No. 1413. I intended to vote no.

Woolley

Senate Committee Substitute

CSHB 2360, A bill to be entitled An Act relating to the provision of information regarding employee eligibility for the federal earned income tax credit.

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

SECTION 1. Title 3, Labor Code, is amended by adding Chapter 104 to read as follows:

CHAPTER 104. INFORMATION REGARDING EARNED INCOME TAX
CREDIT

Sec. 104.001. DEFINITIONS. In this chapter:

(1) "Employee" means an individual who is employed by an employer for compensation.

(2) "Employer" means a person who employs one or more employees.

Sec. 104.002. REQUIRED INFORMATION. (a) Not later than March 1 of each year, each employer shall provide to the employer's employees information regarding general eligibility requirements for the federal earned income tax credit.

(b) An employer may not satisfy the requirements of Subsection (a) solely by posting information in the place of employment. The employer shall provide the required information to the employee:

(1) in person;

(2) electronically at the employee's last known e-mail address;

(3) through a flyer included, in writing or electronically, as a payroll stuffer; or

(4) by mailing the information to the employee at the employee's last known address by United States first class mail.

Sec. 104.003. PROVISION OF ADDITIONAL INFORMATION TO EMPLOYEES. In addition to the information required by Section 104.002, an employer may provide to the employer's employees:

(1) Internal Revenue Service publications relating to the federal earned income tax credit or information prepared by the comptroller under Section 403.025, Government Code, relating to that credit; or

(2) federal income tax forms necessary to claim the federal earned income tax credit.

Sec. 104.004. COMMISSION DUTIES; RULES. (a) The commission periodically shall notify employers regarding the requirement adopted under Section 104.002. The commission shall provide the notice as part of any other periodic notice sent to employers and shall also post the notice on the commission's Internet website.

(b) If the commission adopts rules under Section 301.067 regarding employer requirements under this chapter, each employer shall provide the information required by Section 104.002 in the manner prescribed by those rules.

SECTION 2. Section 301.067, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) The commission may adopt rules as necessary to implement this section, including rules regarding the information that employers must provide under Chapter 104 regarding employee eligibility for the federal earned income tax credit.

SECTION 3. Section 403.025, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The comptroller shall produce and make available to employers, by a written notice and a posting on the comptroller's Internet website, a form that includes information:

(1) regarding the federal earned income tax credit for distribution under Chapter 104, Labor Code; and

(2) explaining the availability of and contact information for local volunteer income tax assistance programs.

SECTION 4. This Act takes effect September 1, 2009.

HB 2779 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Truitt called up with senate amendments for consideration at this time,

HB 2779, A bill to be entitled An Act relating to the regulation of certain mortgage banker employees who are residential mortgage loan originators; providing penalties.

Representative Truitt moved to concur in the senate amendments to **HB 2779**.

The motion to concur in the senate amendments to **HB 2779** prevailed by (Record 1414): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Orr.

Senate Committee Substitute

CSHB 2779, A bill to be entitled An Act relating to the regulation of certain mortgage banker employees who are residential mortgage loan originators; providing penalties.

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

SECTION 1. Section 157.001, Finance Code, is amended to read as follows:

Sec. 157.001. **SHORT TITLE.** This chapter may be cited as the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act.

SECTION 2. Section 157.002, Finance Code, is amended to read as follows:

Sec. 157.002. **DEFINITIONS.** In this chapter:

(1) "Commissioner" means the savings and mortgage lending commissioner.

(2) "Disciplinary action" means any order by the commissioner that requires one or more of the following:

(A) suspension or revocation of a residential mortgage loan originator license under this chapter;

(B) probation of a suspension or revocation of a residential mortgage loan originator license under this chapter on terms and conditions that the commissioner determines appropriate;

(C) a reprimand of a person with a residential mortgage loan originator license under this chapter; or

(D) an administrative penalty imposed on a person holding a residential mortgage loan originator license under this chapter.

(3) "Finance commission" means the Finance Commission of Texas.

(4) "Mortgage banker" means a person who:

(A) accepts an application for a residential mortgage loan or makes a residential mortgage loan; and

(B) is an approved or authorized:

(i) mortgagee with direct endorsement underwriting authority granted by the United States Department of Housing and Urban Development;

(ii) seller or servicer of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(iii) issuer for the Government National Mortgage Association.

(5) "Residential mortgage [~~(3) "Mortgage~~] loan" means a debt secured by a ~~first~~ lien on residential real property designed principally for occupancy by one to four families that is created by a deed of trust, security deed, or other security instrument.

(6) "Residential mortgage loan originator" has the meaning assigned by Section 180.002.

SECTION 3. Section 157.003, Finance Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (b-1) to read as follows:

(b) To register under this chapter, a mortgage banker shall file with the commissioner a statement that contains:

(1) the name and address of the mortgage banker;

(2) the name, address, and telephone number of the representative of the mortgage banker to be contacted regarding a written complaint; ~~[and]~~

(3) a list of the locations in this state at which the person conducts the business of a mortgage banker; and

(4) a list of employees of the mortgage banker who are residential mortgage loan originators.

(b-1) The list of mortgage banker employees required by Subsection (b)(4) must be promptly updated to reflect any changes, and the updated list must be submitted to the commissioner.

(c) An employee of a mortgage banker who is not a residential mortgage loan originator is not required to register or be licensed under this chapter.

(d) Except as provided by Section 157.008(b), the [The] commissioner may not require a mortgage banker to provide information other than information contained in the registration statement.

SECTION 4. Section 157.004, Finance Code, is amended to read as follows:

Sec. 157.004. EXEMPTIONS. This chapter does not apply to:

(1) a federally insured bank, savings bank, savings and loan association, Farm Credit System Institution, or credit union;

(2) a ~~[an affiliate or]~~ subsidiary of a federally insured bank, savings bank, savings and loan association, Farm Credit System Institution, or credit union;

(3) a person licensed as a mortgage broker under Chapter 156; ~~[or]~~

(4) an authorized lender licensed under Chapter 342; or

(5) the state or a governmental agency, political subdivision, or other instrumentality of the state, or an employee of the state or a governmental agency, political subdivision, or instrumentality of the state who is acting within the scope of the person's employment [if:

~~[(A) the authorized lender includes with an application for a mortgage loan a notice that is substantially similar to the notice required by Section 157.007 and provides the method of submitting complaints to the consumer credit commissioner;~~

~~[(B) the authorized lender uses the forms adopted by the Finance Commission of Texas under Section 157.011(b); and~~

~~[(C) the Finance Commission of Texas determines by rule that the consumer credit commissioner may suspend or revoke a license issued under Chapter 342 if the authorized lender engages in unlawful or unfair practices while making a mortgage loan].~~

SECTION 5. Section 157.007, Finance Code, is amended to read as follows:

Sec. 157.007. DISCLOSURE STATEMENT. A mortgage banker shall include the following notice to a residential mortgage loan applicant with an application for a residential mortgage loan:

"COMPLAINTS REGARDING MORTGAGE BANKERS SHOULD BE SENT TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING,
_____ (street address of the Department of

Savings and Mortgage Lending). A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT _____ (telephone number of the Department of Savings and Mortgage Lending's toll-free consumer hotline)."

SECTION 6. Section 157.009(d), Finance Code, is amended to read as follows:

(d) The commissioner may revoke the registration of a mortgage banker after considering a complaint filed under this chapter if the commissioner concludes that the mortgage banker has engaged in an intentional course of conduct to violate federal or state law or has engaged in an intentional course of conduct that constitutes improper, fraudulent, or dishonest dealings or has engaged in a negligent course of conduct exhibited through pattern or practice. The commissioner shall recite the basis of the decision in an order revoking the registration.

SECTION 7. Section 157.011, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 8. Chapter 157, Finance Code, is amended by adding Sections 157.012 through 157.031 to read as follows:

Sec. 157.012. LICENSE REQUIRED FOR CERTAIN EMPLOYEES OF MORTGAGE BANKERS. (a) An employee of a mortgage banker may not act in the capacity of a residential mortgage loan originator unless the employee:

(1) is licensed under this chapter and enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(2) complies with other applicable requirements of Chapter 180 and rules adopted by the finance commission under that chapter.

(b) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(c) To be eligible to be licensed as a residential mortgage loan originator, an employee of a mortgage banker, in addition to the requirements of Subsection (a), must:

(1) satisfy the commissioner as to the employee's good moral character, including the employee's honesty, trustworthiness, and integrity;

(2) not be in violation of this chapter or a rule adopted under this chapter; and

(3) provide the commissioner with satisfactory evidence that the employee meets the qualifications provided by Chapter 180.

Sec. 157.013. APPLICATION FOR LICENSE; FEES. (a) An application for a residential mortgage loan originator license must be:

(1) in writing;

(2) under oath; and

(3) on the form prescribed by the commissioner.

(b) An application for a residential mortgage loan originator license must be accompanied by an application fee in an amount determined by the commissioner, not to exceed \$500.

(c) An application fee under this section is not refundable and may not be credited or applied to any other fee or indebtedness owed by the person paying the fee.

Sec. 157.014. ISSUANCE OF RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE. (a) The commissioner shall issue a residential mortgage loan originator license to an applicant if the commissioner determines that the applicant meets all requirements and conditions for the license.

(b) Each residential mortgage loan originator license must have a unique identifier as provided by Chapter 180.

Sec. 157.015. RENEWAL OF LICENSE. (a) A residential mortgage loan originator license issued under this chapter is valid for one year and may be renewed on or before its expiration date.

(b) Each residential mortgage loan originator license will be renewed for not more than a one-year period expiring December 31 of each calendar year.

(c) An application for renewal of a residential mortgage loan originator license shall meet the requirements of Section 157.013.

(d) An application for renewal of a residential mortgage loan originator license must meet all of the standards and qualifications for license renewal under Chapter 180.

(e) The commissioner shall issue a renewal residential mortgage loan originator license if the commissioner finds that the applicant meets all of the requirements and conditions for the license.

(f) The commissioner may deny the renewal application for a residential mortgage loan originator license for the same reasons and grounds on which the commissioner could have denied an original application for a license.

(g) The commissioner may deny the renewal application for a residential mortgage loan originator license if:

(1) the person seeking the renewal of the residential mortgage loan originator license is in violation of this chapter or Chapter 180, an applicable rule adopted under this chapter or Chapter 180, or any order previously issued to the person by the commissioner;

(2) the person seeking renewal of the residential mortgage loan originator license is in default in the payment of any administrative penalty, fee, charge, or other indebtedness owed under this title;

(3) the person seeking the renewal of the residential mortgage loan originator license is in default on a student loan administered by the Texas Guaranteed Student Loan Corporation, under Section 57.491, Education Code; or

(4) during the current term of the license, the commissioner becomes aware of any fact that would have been grounds for denial of an original license if the fact had been known by the commissioner on the date the license was granted.

Sec. 157.016. RENEWAL AFTER EXPIRATION OF LICENSE; NOTICE. (a) A person whose residential mortgage loan originator license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose residential mortgage loan originator license has not been renewed before January 1 but who is otherwise eligible to renew a license, and does so before March 1, may renew the license by paying the commissioner a reinstatement fee in an amount that is equal to 150 percent of the required renewal fee.

(c) A person whose residential mortgage loan originator license has not been renewed before March 1 may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

(d) Not later than the 60th day before the date a person's residential mortgage loan originator license is scheduled to expire, the commissioner or the commissioner's authorized representative shall send written notice of the impending expiration to the person at the person's last known address according to the official licensing records.

Sec. 157.017. DENIAL OF APPLICATIONS AND RENEWALS. (a) If the commissioner declines or fails to issue or renew a residential mortgage loan originator license, the commissioner shall promptly give written notice to the applicant that the application or renewal, as appropriate, was denied.

(b) Before the applicant or a person requesting the renewal of a residential mortgage loan originator license may appeal a determination to a district court as provided by Section 157.026(d), the applicant or person must file with the commissioner, not later than the 10th day after the date on which notice under Subsection (a) is received, an appeal of the ruling requesting a time and place for a hearing before an administrative law judge designated by the commissioner.

(c) The designated administrative law judge shall set the time and place for a hearing requested under Subsection (b) not later than the 90th day after the date on which the appeal is received. The administrative law judge shall provide at least 10 days' notice of the hearing to the applicant or person requesting the renewal. The time of the hearing may be continued periodically with the consent of the applicant or person requesting the renewal. After the hearing, the commissioner shall enter an order relative to the applicant based on the findings of fact, conclusions of law, and recommendations of the administrative law judge.

(d) If an applicant or person requesting the renewal fails to request a hearing under this section, the commissioner's refusal to issue or renew a license is final and not subject to review by the courts.

(e) A hearing held under this section is governed by Chapter 2001, Government Code. An appeal of a final order issued under this section may be made in accordance with Section 157.026(d).

(f) A person who requests a hearing under this section shall be required to pay a deposit to secure the payment of the costs of the hearing in an amount to be determined by the commissioner not to exceed \$500. The entire deposit shall be refunded to the person if the person prevails in the contested case hearing. If the person does not prevail, any portion of the deposit in excess of the costs of the hearing assessed against that person shall be refunded.

(g) A person whose application for a license has been denied is not eligible to be licensed for a period of two years after the date the denial becomes final, or a shorter period determined by the commissioner after evaluating the specific circumstances of the person's subsequent application. The finance commission may adopt rules to provide conditions for which the commissioner may shorten the time for eligibility for a new license.

Sec. 157.018. PROBATIONARY AND PROVISIONAL LICENSES.

(a) The commissioner may issue probationary and provisional licenses.

(b) The finance commission by rule shall adopt reasonable terms and conditions for probationary and provisional licenses.

Sec. 157.019. MODIFICATION OF LICENSE. (a) Before the 10th day preceding the effective date of an address change, a mortgage banker employee who is a residential mortgage loan originator shall notify the commissioner or authorized designee in writing of the new address.

(b) A person licensed under this chapter must notify the commissioner or the commissioner's authorized designee not later than the 10th day after the date of any change in the person's name for the issuance of an amended license.

Sec. 157.020. ANNUAL CALL REPORT. (a) Each mortgage banker shall file an annual call report with the commissioner or the commissioner's authorized designee on a form prescribed by the commissioner or authorized designee. The report is a statement of condition of the mortgage banker and the mortgage banker's operations, including financial statements and production activity volumes.

(b) The information contained in the call report related to residential mortgage loan origination volume or other trade information is confidential and may not be disclosed by the commissioner or authorized designee.

Sec. 157.021. INSPECTION; INVESTIGATIONS. (a) The commissioner may conduct an inspection of a person licensed as a residential mortgage loan originator as the commissioner determines necessary to determine whether the person is complying with this chapter, Chapter 180, and applicable rules. An inspection under this subsection may include inspection of the books, records, documents, operations, and facilities of the person. The commissioner may request the assistance and cooperation of the mortgage banker in providing needed documents and records. The commissioner may not make a request of the mortgage banker for documents and records unrelated to the person being investigated or inspected. The commissioner may share evidence of criminal activity gathered during an inspection or investigation with any state or federal law enforcement agency.

(b) On the signed written complaint of a person, the commissioner shall investigate the actions and records of a person licensed as a residential mortgage loan originator if the complaint, or the complaint and documentary or other evidence presented in connection with the complaint, provides a reasonable cause. Before commencing an investigation, the commissioner must notify the licensed residential mortgage loan originator in writing of the complaint and that the commissioner intends to investigate the matter.

(c) For reasonable cause, the commissioner at any time may investigate a person licensed as a residential mortgage loan originator to determine whether the person is complying with this chapter, Chapter 180, and applicable rules.

(d) The commissioner may conduct an undercover or covert investigation only if the commissioner, after due consideration of the circumstances, determines that the investigation is necessary to prevent immediate harm and to carry out the purposes of this chapter.

(e) The finance commission by rule shall provide guidelines to govern an inspection or investigation, including rules to:

(1) determine the information and records of the licensed residential mortgage loan originator to which the commissioner may demand access during an inspection or an investigation; and

(2) establish what constitutes reasonable cause for an investigation.

(f) Information obtained by the commissioner during an inspection or an investigation is confidential unless disclosure of the information is permitted or required by other law.

(g) The commissioner may share information gathered during an investigation or inspection with any state or federal agency only if the commissioner determines there is a valid reason for the sharing.

Sec. 157.022. ISSUANCE AND ENFORCEMENT OF SUBPOENA. (a) During an investigation, the commissioner may issue a subpoena that is addressed to a peace officer of this state or other person authorized by law to serve citation or perfect service. The subpoena may require a person to give a deposition, produce documents, or both.

(b) If a person disobeys a subpoena or if a person appearing in a deposition in connection with the investigation refuses to testify, the commissioner may petition a district court in Travis County to issue an order requiring the person to obey the subpoena, testify, or produce documents relating to the matter. The court shall promptly set an application to enforce a subpoena issued under Subsection (a) for hearing and shall cause notice of the application and the hearing to be served on the person to whom the subpoena is directed.

Sec. 157.023. ADMINISTRATIVE PENALTY. (a) The commissioner, after notice and opportunity for a hearing, may impose an administrative penalty on a person licensed as a residential mortgage loan originator under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The amount of the penalty may not exceed \$2,500, and each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter a future violation;

(4) efforts to correct the violation; and

(5) any other matter that justice may require.

(c) The enforcement of the penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the commissioner to contest the affidavit as provided by those rules.

(d) The attorney general may sue to collect the penalty.

(e) An appeal of an administrative penalty under this section is considered to be a contested case under Chapter 2001, Government Code.

Sec. 157.024. DISCIPLINARY ACTION; CEASE AND DESIST ORDER.

(a) The commissioner may order disciplinary action against a licensed residential mortgage loan originator when the commissioner, after notice and opportunity for a hearing, has determined that the person:

(1) obtained a license, including a renewal of a license, under this chapter through a false or fraudulent representation or made a material misrepresentation in an application for a license or for the renewal of a license under this chapter;

(2) published or caused to be published an advertisement related to the business of a residential mortgage loan originator that:

(A) was misleading;

(B) was likely to deceive the public;

(C) in any manner tended to create a misleading impression;

(D) failed to identify as a licensed residential mortgage loan originator the person causing the advertisement to be published; or

(E) violated federal or state law;

(3) while performing an act for which a license under this chapter is required, engaged in conduct that constitutes improper, fraudulent, or dishonest dealings;

(4) entered a plea of nolo contendere to or was convicted of a criminal offense that is a felony or that involves fraud or moral turpitude in a court of this or another state or in a federal court;

(5) failed to use a fee collected in advance of closing a residential mortgage loan for a purpose for which the fee was paid;

(6) failed within a reasonable time to honor a check issued to the commissioner after the commissioner mailed a request for payment by mail to the person's last known business address as reflected in the commissioner's records;

(7) induced or attempted to induce a party to a contract to breach the contract so the person could make a residential mortgage loan;

(8) published or circulated an unjustified or unwarranted threat of legal proceedings in matters related to the person's actions or services as a licensed residential mortgage loan originator;

(9) aided, abetted, or conspired with a person to circumvent the requirements of this chapter;

(10) acted in the dual capacity of a licensed residential mortgage loan originator and real estate broker, salesperson, or attorney in a transaction without the knowledge and written consent of the mortgage applicant or in violation of applicable requirements under federal law;

(11) discriminated against a prospective borrower on the basis of race, color, religion, sex, national origin, ancestry, familial status, or disability;

(12) failed or refused on demand to:

(A) produce a document, book, or record concerning a residential mortgage loan transaction conducted by the licensed residential mortgage loan originator for inspection by the commissioner or the commissioner's authorized personnel or representative;

(B) give the commissioner or the commissioner's authorized personnel or representative free access to the books or records relating to the residential mortgage loan originator's business kept by any other person or any business entity through which the residential mortgage loan originator conducts residential mortgage loan origination activities; or

(C) provide information requested by the commissioner as a result of a formal or informal complaint made to the commissioner;

(13) failed without just cause to surrender, on demand, a copy of a document or other instrument coming into the residential mortgage loan originator's possession that was provided to the residential mortgage loan originator by another person making the demand or that the person making the demand is under law entitled to receive;

(14) disregarded or violated this chapter, a rule adopted under this chapter, or an order issued by the commissioner under this chapter;

(15) provided false information to the commissioner during the course of an investigation or inspection;

(16) paid compensation to a person who is not licensed or exempt under this chapter for acts for which a license under this chapter is required; or

(17) established an association, by employment or otherwise, with a person not licensed or exempt under this chapter who was expected or required to act as a residential mortgage loan originator.

(b) The commissioner may also order disciplinary action against a licensed residential mortgage loan originator, after notice and opportunity for a hearing, if the commissioner, during the current term of the license, becomes aware of any fact that would have been grounds for denial of an original license if the fact had been known by the commissioner on the date the license was granted.

(c) In addition to disciplinary action by the commissioner authorized under Subsections (a) and (b), the commissioner, if the commissioner has reasonable cause to believe that a licensed residential mortgage loan originator has violated or is about to violate this section, may issue without notice and hearing an order to cease and desist continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter.

(d) An order issued under Subsection (c) must contain a reasonably detailed statement of the facts on which the order is made. If a residential mortgage loan originator against whom the order is made requests a hearing, the commissioner

shall set and give notice of a hearing before the commissioner or an administrative law judge. The hearing shall be governed by Chapter 2001, Government Code. Based on the findings of fact, conclusions of law, and recommendations of the administrative law judge, the commissioner by order may find that a violation has occurred or not occurred.

(e) If a hearing is not requested under Subsection (d) not later than the 30th day after the date on which an order is made, the order is considered final and not appealable.

(f) The commissioner, after giving notice, may impose against a residential mortgage loan originator who violates a cease and desist order an administrative penalty in an amount not to exceed \$1,000 for each day of the violation. In addition to any other remedy provided by law, the commissioner may institute in district court a suit for injunctive relief and to collect the administrative penalty. A bond is not required of the commissioner with respect to injunctive relief granted under this subsection.

(g) For purposes of Subsection (a), a residential mortgage loan originator is considered convicted if a sentence is imposed on that person, that person receives community supervision, including deferred adjudication community supervision, or the court defers final disposition of that person's case.

(h) If a residential mortgage loan originator fails to pay an administrative penalty that has become final or fails to comply with an order of the commissioner that has become final, in addition to any other remedy provided under law, the commissioner, on not less than 10 days' notice to the residential mortgage loan originator, may without a prior hearing suspend the residential mortgage loan originator's license. The suspension continues until the residential mortgage loan originator has complied with the administrative order or paid the administrative penalty. During the period of suspension, the residential mortgage loan originator may not originate a residential mortgage loan, as defined by Section 180.002.

(i) An order of suspension under Subsection (h) may be appealed. An appeal is a contested case governed by Chapter 2001, Government Code. A hearing of an appeal of an order of suspension issued under Subsection (h) shall be held not later than the 15th day after the date of receipt of the notice of appeal. The appellant shall be provided at least three days' notice of the time and place of the hearing.

(j) An order revoking the license of a residential mortgage loan originator may provide that the person is prohibited, without previously obtaining written consent of the commissioner, from:

(1) engaging in the business of originating or making residential mortgage loans, as defined by Section 180.002;

(2) otherwise affiliating with a person for the purpose of engaging in the business of originating or making residential mortgage loans, as defined by Section 180.002; and

(3) being an employee, officer, director, manager, shareholder, member, agent, contractor, or processor of a mortgage banker, mortgage broker, or mortgage broker loan officer.

(k) On notice and opportunity for a hearing, the commissioner may suspend the license of a residential mortgage loan originator under this chapter if an indictment or information is filed or returned alleging that the person committed a criminal offense involving fraud, theft, or dishonesty. The suspension continues until the criminal case is dismissed or the person is acquitted.

Sec. 157.025. RESTITUTION. The commissioner may order a residential mortgage loan originator to make restitution for any amount received by that person in violation of this chapter.

Sec. 157.026. HEARINGS AND JUDICIAL REVIEW. (a) The commissioner may employ an enforcement staff to investigate and prosecute complaints made against residential mortgage loan originators licensed under this chapter. The commissioner may employ an administrative law judge to conduct hearings under this section. The commissioner may collect and deposit any court costs assessed under a final order.

(b) If the commissioner proposes to suspend or revoke a license of a residential mortgage loan originator or if the commissioner refuses to issue or renew a license to an applicant for a residential mortgage loan originator license or person requesting a renewal of a residential mortgage loan originator license under this chapter, the applicant or license holder is entitled to a hearing before the commissioner or an administrative law judge who shall make a proposal for decision to the commissioner. The commissioner or administrative law judge shall prescribe the time and place of the hearing. The hearing is governed by Chapter 2001, Government Code.

(c) The commissioner or administrative law judge may issue subpoenas for the attendance of witnesses and the production of records or documents. Process issued by the commissioner or the administrative law judge may extend to all parts of the state and may be served by any person designated by the commissioner or administrative law judge.

(d) An individual aggrieved by a ruling, order, or decision of the commissioner has the right to appeal to a district court in the county in which the hearing was held. An appeal under this subsection is governed by Chapter 2001, Government Code.

Sec. 157.027. CIVIL ACTIONS AND INJUNCTIVE RELIEF. (a) A residential mortgage loan applicant injured by a violation of this chapter by a residential mortgage loan originator may bring an action for recovery of actual monetary damages and reasonable attorney's fees and court costs.

(b) The commissioner, the attorney general, or a residential mortgage loan applicant may bring an action to enjoin a violation of this chapter by a residential mortgage loan originator.

(c) A remedy provided by this section is in addition to any other remedy provided by law.

Sec. 157.028. BURDEN OF PROOF TO ESTABLISH AN EXEMPTION. The burden of proving an exemption in a proceeding or action brought under this chapter is on the person claiming the benefit of the exemption.

Sec. 157.029. RELIANCE ON WRITTEN NOTICES FROM THE COMMISSIONER. A person does not violate this chapter with respect to an action taken or omission made in reliance on a written notice, written interpretation, or written report from the commissioner unless a subsequent amendment to this chapter or a rule adopted under this chapter affects the commissioner's notice, interpretation, or report.

Sec. 157.030. COMPLETION OF RESIDENTIAL MORTGAGE ORIGINATION SERVICES. (a) On disbursement of mortgage proceeds to or on behalf of the residential mortgage loan applicant, the residential mortgage loan originator who assisted the applicant in obtaining the residential mortgage loan is considered to have completed the performance of the loan originator's services for the applicant and owes no additional duties or obligations to the applicant with respect to the loan.

(b) This section does not limit or preclude the liability of a residential mortgage loan originator for:

(1) failing to comply with this chapter or a rule adopted under this chapter;

(2) failing to comply with a provision of or duty arising under an agreement with a residential mortgage loan applicant under this chapter; or

(3) violating any other state or federal law.

Sec. 157.031. UNLICENSED ACTIVITY; OFFENSE. (a) A person commits an offense if the person is an employee of a mortgage banker, is not exempt under this chapter, and acts as a residential mortgage loan originator without first obtaining a license required under this chapter. An offense under this subsection is a Class B misdemeanor. A second or subsequent conviction for an offense under this subsection is a Class A misdemeanor.

(b) If the commissioner has reasonable cause to believe that a person who is not licensed or exempt under this chapter has engaged, or is about to engage, in an act or practice for which a license is required under this chapter, the commissioner may issue, without notice and hearing, an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter. The order must contain a reasonably detailed statement of the facts on which the order is made. The order may assess an administrative penalty in an amount not to exceed \$1,000 per day for each violation and may require a person to pay to a residential mortgage loan applicant any compensation received by the person from the applicant in violation of this chapter. If a person against whom the order is made requests a hearing, the commissioner shall set and give notice of a hearing before the commissioner or an administrative law judge. The hearing shall be governed by Chapter 2001, Government Code. An order under this subsection becomes final unless the person to whom the order is issued requests a hearing not later than the 30th day after the date the order is issued.

(c) If a hearing has not been requested under Subsection (b) not later than the 30th day after the date the order is made, the order is considered final and not appealable. The commissioner, after giving notice, may impose against a person who violates a cease and desist order, an administrative penalty in an amount not

to exceed \$1,000 for each day of a violation. In addition to any other remedy provided by law, the commissioner may institute in district court a suit for injunctive relief and to collect the administrative penalty. A bond is not required of the commissioner with respect to injunctive relief granted under this section.

SECTION 9. The heading to Section 341.103, Finance Code, is amended to read as follows:

Sec. 341.103. REGULATION OF SAVINGS INSTITUTIONS, [~~AND~~] LICENSED MORTGAGE BROKERS AND LOAN OFFICERS, AND REGISTERED MORTGAGE BANKERS AND LICENSED LOAN OFFICERS.

SECTION 10. Section 341.103(a), Finance Code, is amended to read as follows:

(a) The savings and mortgage lending commissioner shall enforce this subtitle relating to the regulation of:

- (1) state savings associations operating under this subtitle;
- (2) state savings banks operating under this subtitle; [~~and~~]
- (3) persons licensed under Chapter 156; and
- (4) persons registered or licensed under Chapter 157.

SECTION 11. An individual is not required to comply with Section 157.012, Finance Code, as added by this Act, until the later of:

- (1) July 31, 2010; or
- (2) a subsequent date that is approved by the secretary of the United States Department of Housing and Urban Development under the authority granted under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 12. This Act takes effect only if **HB 10** or another similar bill of the Regular Session of the 81st Legislature relating to the licensing of residential mortgage loan originators is enacted and becomes law. If **HB 10** or another similar bill of the Regular Session of the 81st Legislature relating to the licensing of residential mortgage loan originators does not become law, this Act does not take effect.

SECTION 13. Except as provided by Section 12 of this Act, this Act takes effect April 1, 2010.

HB 3073 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Geren called up with senate amendments for consideration at this time,

HB 3073, A bill to be entitled An Act relating to charges at closing of certain real property transactions.

Representative Geren moved to concur in the senate amendments to **HB 3073**.

The motion to concur in the senate amendments to **HB 3073** prevailed by (Record 1415): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Morrison.

Senate Committee Substitute

CSHB 3073, A bill to be entitled An Act relating to charges at closing of certain real property transactions.

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

SECTION 1. Chapter 2501, Insurance Code, is amended by adding Section 2501.008 to read as follows:

Sec. 2501.008. THIRD-PARTY CHARGES. A title insurance company, title insurance agent, or direct operation may charge, separate from the title insurance premium, actual costs or a reasonable estimate of costs incurred in connection with a closing and settlement, including:

(1) a charge by a third party for an electronic filing fee; or

(2) a fee of a third party for the provision of an ad valorem tax report.

SECTION 2. This Act applies only to a real property transaction that closes on or after the effective date of this Act. A real property transaction that closes before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect January 1, 2010.

HB 3114 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Raymond called up with senate amendments for consideration at this time,

HB 3114, A bill to be entitled An Act relating to continuing professional education requirements for land surveyors.

Representative Raymond moved to concur in the senate amendments to **HB 3114**.

The motion to concur in the senate amendments to **HB 3114** prevailed by (Record 1416): 143 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Darby.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Shelton.

Senate Committee Substitute

CSHB 3114, A bill to be entitled An Act relating to continuing professional education requirements for land surveyors.

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

SECTION 1. Section 1071.305(a), Occupations Code, is amended to read as follows:

(a) As a condition for renewal of a certificate of registration, the board shall require a registered professional land surveyor to successfully complete continuing professional education courses as prescribed by board rule. The board's rules must provide that the continuing professional education requirement may be met by completing annually not more than ~~eight~~ sixteen hours [~~a calendar day~~] of professional development courses or programs.

SECTION 2. (a) The change in law made by this Act to Section 1071.305, Occupations Code, applies only to a certificate of registration under Chapter 1071, Occupations Code, that expires on or after January 1, 2010. A certificate

of registration that expires before January 1, 2010, is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) The Texas Board of Professional Land Surveying shall adopt rules under Section 1071.305, Occupations Code, as amended by this Act, not later than November 1, 2009.

SECTION 3. This Act takes effect September 1, 2009.

**HB 3224 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Madden called up with senate amendments for consideration at this time,

HB 3224, A bill to be entitled An Act relating to the prosecution and punishment of the offense of arson.

Representative Madden moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3224**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3224**: Madden, chair; Miklos, Moody, Riddle, and Bohac.

**HB 3859 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Herrero called up with senate amendments for consideration at this time,

HB 3859, A bill to be entitled An Act relating to a staffing analysis of the Texas Integrated Eligibility Redesign System (TIERS) and benefits eligibility determination processes and to a pilot project regarding long-term services and supports provided to aged and physically disabled individuals.

Representative Herrero moved to concur in the senate amendments to **HB 3859**.

The motion to concur in the senate amendments to **HB 3859** prevailed by (Record 1417): 91 Yeas, 54 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bolton; Bonnen; Branch; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Creighton; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Keffer; Kent; King, P.; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Pitts;

Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bohac; Brown, B.; Brown, F.; Button; Callegari; Christian; Cook; Corte; Crabb; Craddick; Crownover; Darby; Davis, J.; Driver; Elkins; Fletcher; Flynn; Gattis; Geren; Hancock; Hardcastle; Harless; Hartnett; Hilderbran; Hunter; Isett; Jackson; Jones; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Madden; McCall; Merritt; Miller, D.; Miller, S.; Orr; Otto; Parker; Patrick; Paxton; Phillips; Riddle; Shelton; Smith, T.; Solomons; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1417. I intended to vote no.

P. King

I was shown voting yes on Record No. 1417. I intended to vote no.

Sheffield

I was shown voting yes on Record No. 1417. I intended to vote no.

Taylor

Senate Committee Substitute

CSHB 3859, A bill to be entitled An Act relating to a staffing analysis of the Texas Integrated Eligibility Redesign System (TIERS) and benefits eligibility determination processes.

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

SECTION 1. Subchapter M, Chapter 531, Government Code, as added by Chapter 1110 (**HB 3575**), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Section 531.4551 to read as follows:

Sec. 531.4551. STAFFING ANALYSIS FOR ENHANCED ELIGIBILITY SYSTEM. (a) The commission shall conduct a thorough analysis of staffing needs, including the need for additional state employees and contractor staff, with respect to the enhanced eligibility system and the expansion of the use of the Texas Integrated Eligibility Redesign System (TIERS). The commission shall identify in the analysis:

(1) the number of full-time equivalent positions the commission needs to implement the system in a manner that, if met, will ensure that the system remains fully functional and that no lapses in the provision of health and human services program benefits will occur under the system; and

(2) the number of full-time equivalent positions any contractor would need to perform contracted functions to implement the system in that manner.

(b) In determining the total number of commission and contractor full-time equivalent positions needed as required by Subsection (a), the commission shall consider the number of full-time equivalent positions necessary to comply with:

(1) state and federal requirements related to health and human services program access, including requirements related to timeliness and accuracy of application processing, delivery of expedited services and benefits, and seamless transfers of eligible children between the Medicaid and child health plan programs; and

(2) the commission's performance standards and benchmarks for health and human services programs, including maximum caseload specifications.

SECTION 2. 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 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 2644 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Kent called up with senate amendments for consideration at this time,

HB 2644, A bill to be entitled An Act relating to the designation of the Bankhead Highway as a historic highway.

Representative Kent 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 2644**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2644**: Kent, chair; Anchia, Shelton, Frost, and Marquez.

**HB 4545 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Raymond called up with senate amendments for consideration at this time,

HB 4545, A bill to be entitled An Act relating to the time for filing a petition for judicial review in certain workers' compensation cases.

Representative Raymond moved to concur in the senate amendments to **HB 4545**.

The motion to concur in the senate amendments to **HB 4545** prevailed by (Record 1418): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Hughes; King, S.; Laubenberg; Paxton.

Senate Committee Substitute

CSHB 4545, A bill to be entitled An Act relating to the time for filing a petition for judicial review in certain workers' compensation cases.

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

SECTION 1. Section 410.252(a), Labor Code, is amended to read as follows:

(a) A party may seek judicial review by filing suit not later than the 45th ~~[40th]~~ day after the date on which ~~[the decision of the appeals panel was filed with]~~ the division mailed the party the decision of the appeals panel. For purposes of this section, the mailing date is considered to be the fifth day after the date the decision of the appeals panel was filed with the division.

SECTION 2. The change in law made by this Act applies only to a judicial review proceeding initiated under Subchapter F or G, Chapter 410, Labor Code, on or after the effective date of this Act. A proceeding initiated before that date is governed by the law in effect on the date the proceeding was initiated, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

HB 4828 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 4828, A bill to be entitled An Act relating to the creation of Harris County Improvement District No. 21; providing authority to impose a tax and issue bonds.

Representative Coleman moved to concur in the senate amendments to **HB 4828**.

The motion to concur in the senate amendments to **HB 4828** prevailed by (Record 1419): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Villarreal.

Senate Committee Substitute

CSHB 4828, A bill to be entitled An Act relating to the creation of Harris County Improvement District No. 21; providing authority to impose a tax and issue bonds.

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

SECTION 1. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 21. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3892 to read as follows:

CHAPTER 3892. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 21
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3892.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a board member.

(3) "District" means the Harris County Improvement District No. 21.

Sec. 3892.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 21. The Harris County Improvement District No. 21 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3892.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing Harris County, the City of Houston, the Metropolitan Transit Authority of Harris County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the area of the district.

(c) This chapter and the creation of the district may not be interpreted to relieve Harris County or the City of Houston from providing the level of services provided as of the effective date of the Act creating this chapter to the area in the district or to release the county or the city from the obligations of each entity to provide services to that area. The district is created to supplement and not to supplant the county or city services provided in the area in the district.

Sec. 3892.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Each improvement project or service authorized by this chapter is essential to carry out a public purpose.

(d) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center;

(3) promote the health, safety, welfare, and enjoyment of the public by providing public art and pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty;

(4) promote and benefit commercial development and commercial areas in the district; and

(5) promote and develop public transportation and pedestrian facilities and systems using new and alternative means that are attractive, safe, and convenient, including securing expanded and improved transportation and pedestrian facilities and systems, to:

(A) address the problem of traffic congestion in the district, the need to control traffic and improve pedestrian safety, and the limited availability of money; and

(B) benefit the land and other property in the district and the residents, employers, employees, visitors, and consumers in the district and the public.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3892.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act creating this chapter, as that territory may have been modified under:

(1) Section 3892.251;

(2) Subchapter J, Chapter 49, Water Code; or

(3) other law.

(b) The boundaries and field notes of the district contained in Section 2 of the Act creating this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not in any way affect:

(1) the district's organization, existence, and validity;

(2) the district's right to issue any type of bond, including a refunding bond, for a purpose for which the district is created or to pay the principal of and interest on the bond;

(3) the district's right to impose and collect an assessment or tax; or

(4) the legality or operation of the district or the board.

(c) A description of the district's boundaries shall be filed with the Texas Commission on Environmental Quality. The commission by order may correct a mistake in the description of the district's boundaries.

Sec. 3892.006. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3892.007-3892.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3892.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of 10 voting directors appointed by a majority of the members of the governing body, including the mayor, of the City of Houston. Voting directors serve staggered terms of four years with five directors' terms expiring June 1 of each odd-numbered year.

(b) The board by order or resolution may increase or decrease the number of voting directors on the board, but only if a majority of the voting directors finds that it is in the best interest of the district to do so. The board may not:

- (1) increase the number of voting directors to more than 15; or
- (2) decrease the number of voting directors to fewer than five.

(c) Sections 49.053, 49.054, 49.056, 49.057, 49.058, and 49.060, Water Code, apply to the board.

(d) Subchapter D, Chapter 375, Local Government Code, applies to the board to the extent that subchapter does not conflict with this chapter.

Sec. 3892.052. APPOINTMENT OF DIRECTORS ON INCREASE IN BOARD SIZE. If the board increases the number of directors under Section 3892.051, the board shall appoint eligible persons to fill the new director positions and shall provide for the staggering of terms of the new directors. On expiration of the term of a director appointed under this section, a succeeding director shall be appointed and qualified as provided by Subchapter D, Chapter 375, Local Government Code. The mayor and members of the governing body of the City of Houston shall appoint voting directors from persons recommended by the board. A person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person.

Sec. 3892.053. NONVOTING DIRECTORS. (a) The following persons shall serve as nonvoting directors:

(1) the directors of the following departments of the City of Houston or a person designated by that director:

- (A) parks and recreation;
- (B) planning and development; and
- (C) public works; and

(2) the City of Houston's chief of police.

(b) If a department described by Subsection (a) is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting director. If a department described by Subsection (a) is abolished, the board may appoint a representative of another department that performs duties comparable to the duties performed by the abolished department.

Sec. 3892.054. QUORUM. (a) Except as provided by Subsection (b), six voting directors constitute a quorum of the board.

(b) If the board is composed of an odd number of directors, a majority of the voting directors constitutes a quorum.

(c) Nonvoting directors and vacant director positions are not counted for the purposes of establishing a quorum of the board.

Sec. 3892.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Except as provided by this section:

(1) a voting director may participate in all board votes and decisions;
and

(2) Chapter 171, Local Government Code, governs conflicts of interest for directors.

(b) Section 171.004, Local Government Code, does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if:

(1) a majority of the directors have a similar interest in the same entity;

or

(2) all other similar business or charitable entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that public entity.

(d) For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have substantial interest in a business entity under Section 171.002, Local Government Code.

Sec. 3892.056. COMPENSATION OF VOTING DIRECTORS. Voting directors may receive fees of office and reimbursement of expenses as provided by Section 49.060, Water Code.

Sec. 3892.057. INITIAL VOTING DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Brian Smith</u>
<u>2</u>	<u>Janice Sibley-Reid</u>
<u>3</u>	<u>Zinetta Burney</u>
<u>4</u>	<u>R. Quinn Meads</u>
<u>5</u>	<u>Walter Johnson</u>
<u>6</u>	<u>Anthony Robinson</u>
<u>7</u>	<u>Tariq Gladney</u>
<u>8</u>	<u>Hamilton Rucker</u>
<u>9</u>	<u>Michael Lacston</u>
<u>10</u>	<u>Courtney White</u>

(b) Of the initial directors, the terms of directors serving in positions 1 through 5 expire June 1, 2013, and the terms of directors serving in positions 6 through 10 expire June 1, 2011.

(c) Sections 3892.051(a) and (b) do not apply to the initial directors.

(d) This section expires September 1, 2013.

[Sections 3892.058-3892.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3892.101. DISTRICT POWERS. The district may exercise the powers given to:

(1) a district created under Chapter 375, Local Government Code;

(2) a district by Subchapters H and I, Chapter 49, Water Code;

(3) a corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, and maintain the projects described by that chapter; and

(4) a housing finance corporation created under Chapter 394, Local Government Code, to provide housing or residential development projects in the district.

Sec. 3892.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as, for the same term as, and on the same conditions as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

Sec. 3892.103. AGREEMENTS; GRANTS. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3892.104. ELECTIONS. (a) District elections must be held in the manner provided by Subchapter L, Chapter 375, Local Government Code.

(b) The board may submit multiple purposes in a single proposition at an election.

Sec. 3892.105. CONTRACT FOR LAW ENFORCEMENT AND SECURITY SERVICES. The district may contract with:

(1) Harris County or the City of Houston for the county or city to provide law enforcement and security services in the district for a fee; or

(2) a private entity for the private entity to provide supplemental security services.

Sec. 3892.106. ANNEXATION OR EXCLUSION OF TERRITORY. The district may annex or exclude land from the district in the manner provided by Subchapter C, Chapter 375, Local Government Code.

Sec. 3892.107. APPROVAL BY CITY OF HOUSTON. (a) Except as provided by Subsection (b), the district must obtain the approval of the City of Houston's governing body for:

(1) the issuance of a bond for each improvement project;

(2) the plans and specifications of the improvement project financed by the bond; and

(3) the plans and specifications of any district improvement project related to the use of land owned by the City of Houston, an easement granted by the City of Houston, or a right-of-way of a street, road, or highway.

(b) If the district obtains the approval of the City of Houston's governing body of a capital improvements budget for a period not to exceed five years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the City of Houston.

Sec. 3892.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to an organization that:

(1) enjoys tax-exempt status under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986; and

(2) performs a service or provides an activity consistent with promoting a district purpose.

Sec. 3892.109. ROAD POWERS. The district may exercise powers given to:

(1) a road district created under Chapter 257, Transportation Code; and

(2) a road utility district created under Chapter 441, Transportation

Code.

Sec. 3892.110. AIR RIGHTS; CONSTRUCTION. The district may acquire air rights and may construct improvements on property on which it owns only air rights.

Sec. 3892.111. ADDITIONAL PROPERTY RIGHTS; LEASEHOLDS. The district may construct improvements on property on which it only has a leasehold interest and may own undivided interests in buildings and other improvements.

Sec. 3892.112. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 3892.113-3892.150 reserved for expansion]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3892.151. PUBLIC TRANSIT SYSTEM; PETITION REQUIRED. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

(b) The board may not act under Subsection (a) unless a written petition requesting the action has been filed with the board.

(c) The petition must be signed by:

(1) the owners of property representing a majority of the total assessed value of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located; or

(2) the owners of a majority of the area of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located.

(d) For purposes of Subsection (c), the determination of a majority is based on the property owners along the entire right-of-way of the proposed transit project and may not be calculated on a block-by-block basis.

Sec. 3892.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities, including:

(1) lots, garages, parking terminals, or other structures or accommodations for the parking of motor vehicles; and

(2) equipment, entrances, exits, fencing, and other accessories necessary for safety and convenience in the parking of vehicles.

(b) A parking facility of the district must be either leased to or operated on behalf of the district by a private entity or an entity other than the district. The district's parking facilities are a program authorized by the legislature under Section 52-a, Article III, Texas Constitution, and accomplish a public purpose under that section even if leased or operated by a private entity for a term of years.

Sec. 3892.153. RULES. The district may adopt rules covering its public transit system or its public parking facilities, except that a rule relating to or affecting the use of the public right-of-way or a requirement for off-street parking is subject to all applicable municipal charter, code, or ordinance requirements.

Sec. 3892.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR PARKING FACILITIES. (a) The district may use any of its resources, including revenue, assessments, taxes, and grant or contract proceeds, to pay the cost of acquiring and operating a public transit system or public parking facilities.

(b) The district may set and impose fees, charges, or tolls for the use of the public transit system or the public parking facilities and may issue bonds or notes to finance the cost of these facilities.

(c) Except as provided by Section 3892.151, if the district pays for or finances the cost of acquiring or operating a public transit system or public parking facilities with resources other than assessments, a petition of property owners or a public hearing is not required.

Sec. 3892.155. PAYMENT IN LIEU OF TAXES TO OTHER TAXING UNIT. If the district's acquisition of property for a parking facility that is leased to or operated by a private entity results in the removal from a taxing unit's tax rolls of real property otherwise subject to ad valorem taxation, the district shall pay to the taxing unit in which the property is located, on or before January 1 of each year, as a payment in lieu of taxes, an amount equal to the ad valorem taxes that otherwise would have been imposed for the preceding tax year on that real property by the taxing unit, without including the value of any improvements constructed on the property.

Sec. 3892.156. AGREEMENT WITH RAPID TRANSIT AUTHORITY. (a) In this section, "authority" means a rapid transit authority created under Chapter 451, Transportation Code.

(b) The district and an authority may agree to jointly construct, own, operate, and maintain a transit facility or a parking facility under the terms the authority and district desire.

(c) The agreement may provide that the district and the authority exchange or trade land provided that each party to the agreement receives fair market value. The authority is not required to offer any property that it proposes to trade to the district for sale to the public or for sale to any abutting property owner.

[Sections 3892.157-3892.200 reserved for expansion]

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 3892.201. AUTHORITY TO IMPOSE ASSESSMENTS, AD VALOREM TAXES, AND IMPACT FEES. The district may impose, assess, charge, or collect an assessment, an ad valorem tax, an impact fee, or another fee in accordance with Chapter 49, Water Code, for a purpose specified by Chapter 375, Local Government Code, or as needed to exercise a power or function of the district or to accomplish a purpose or duty for which the district was created.

Sec. 3892.202. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3892.203. ASSESSMENT IN PART OF DISTRICT. An assessment may be imposed on only a part of the district if only that part will benefit from the service or improvement.

Sec. 3892.204. PETITION REQUIRED FOR ASSESSMENT AND FOR FINANCING SERVICES AND IMPROVEMENTS. (a) The board may not impose an assessment or finance a service or improvement project under this chapter unless a written petition requesting the improvement or service has been filed with the board.

(b) The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Harris County; or

(2) at least 25 owners of real property in the district that will be subject to the assessment, if more than 25 persons own real property subject to the assessment in the district according to the most recent certified tax appraisal roll for Harris County.

(c) The board may act upon a petition, required under this section, signed by qualified petitioners prior to or subsequent to the enactment of this chapter.

Sec. 3892.205. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 3892.104, the district may impose an annual ad valorem tax on taxable property in the district to:

(1) administer the district;

(2) maintain and operate the district;

(3) construct or acquire improvements; or

(4) provide a service.

(b) The board shall determine the tax rate.

(c) An owner of real property in the district, except property exempt under the Texas or United States Constitution or under the Tax Code, is liable for the payment of ad valorem taxes imposed by the district on the property.

Sec. 3892.206. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3892.207. PROPERTY OF CERTAIN UTILITIES EXEMPT FROM ASSESSMENT AND IMPACT FEES. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(4) a person who provides the public cable television or advanced telecommunications services.

Sec. 3892.208. USE OF ELECTRICAL OR OPTICAL LINES. (a) The district may impose an assessment to pay the cost of:

(1) burying or removing electrical power lines, telephone lines, cable or fiber-optic lines, or any other type of electrical or optical line;

(2) removing poles and any elevated lines using the poles; and

(3) reconnecting the lines described by Subdivision (2) to the buildings or other improvements to which the lines were connected.

(b) The district may acquire, operate, or charge fees for the use of the district conduits for:

(1) another person's:

(A) telecommunications network;

(B) fiber-optic cable; or

(C) electronic transmission line; or

(2) any other type of transmission line or supporting facility.

(c) The district may not require a person to use a district conduit.

Sec. 3892.209. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds, notes, or other obligations in accordance with Subchapter J, Chapter 375, Local Government Code, payable wholly or partly from assessments, impact fees, revenue, grants, or other money of the district, or any combination of these sources of money, to pay for any authorized district purpose.

(b) In exercising the district's power to borrow, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

Sec. 3892.210. LIMITS ON PARKS AND RECREATION BONDS. Bonds issued to finance parks and recreational facilities may not exceed one percent of the assessed value of the real property in the district according to the most recent certified tax appraisal roll for Harris County.

Sec. 3892.211. TAX AND BOND ELECTIONS. (a) The district shall hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes a maintenance tax or issues bonds payable from ad valorem taxes.

(b) The board may not include more than one purpose in a single proposition at an election to impose a maintenance tax or issue bonds payable from ad valorem taxes.

(c) Section 375.243, Local Government Code, does not apply to the district.

Sec. 3892.212. POWERS OF MUNICIPAL UTILITY DISTRICT TO ESTABLISH DEFINED AREAS AND DESIGNATED PROPERTY; TAXES; BONDS. (a) The district has the powers of a municipal utility district under Subchapter J, Chapter 54, Water Code, including the power to:

(1) implement a plan;

(2) issue bonds; and

(3) impose a tax in a defined area established under that subchapter.

(b) The district may exercise the powers described by Subsection (a) regardless of whether the district is composed of the minimum number of acres provided by Section 54.801, Water Code.

Sec. 3892.213. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, a municipality is not required to pay a bond, note, or other obligation of the district.

Sec. 3892.214. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$50,000.

[Sections 3892.215-3892.250 reserved for expansion]

SUBCHAPTER F. CONSOLIDATION

Sec. 3892.251. CONSOLIDATION WITH MUNICIPAL MANAGEMENT DISTRICT. (a) The district may consolidate with one other municipal management district that adjoins or has a boundary that is within a two-mile

radius of any boundary of the district. The board may consolidate with one other district only if the district to be consolidated has not issued bonds or notes secured by assessments or ad valorem taxes or imposed taxes.

(b) To initiate consolidation, the board of a district shall adopt a resolution proposing a consolidation and deliver a copy of the resolution to the board of each district with which consolidation is proposed.

Sec. 3892.252. TERMS AND CONDITIONS FOR CONSOLIDATION. Not later than the 30th day after districts are consolidated under Section 3892.251, the districts shall enter into an agreement specifying the terms and conditions for consolidation. The terms and conditions for consolidation must include:

- (1) adoption of a name for the consolidated district;
- (2) the number and apportionment of directors to serve on the board of the consolidated district;
- (3) the effective date of the consolidation;
- (4) an agreement on finances for the consolidated district, including disposition of funds, property, and other assets of each district; and
- (5) an agreement on governing the districts during the transition period, including selection of officers.

Sec. 3892.253. NOTICE AND HEARING ON CONSOLIDATION. (a) Each district's board shall publish notice and hold a public hearing in its district regarding the terms and conditions for consolidation of the districts. The board shall publish notice at least once in a newspaper with general circulation in the affected districts at least seven days before the hearing.

(b) After the hearing, each board by resolution must approve the terms and conditions for consolidation by majority vote and enter an order consolidating the districts.

(c) If the board of each involved district adopts a resolution containing the terms and conditions for the consolidation, the involved districts become consolidated.

Sec. 3892.254. GOVERNING CONSOLIDATED DISTRICTS. (a) After two districts are consolidated, they become one district and are governed as one district.

(b) During the period before the terms and conditions of the agreement under Section 3892.252 take effect, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) If one of the districts consolidated into one district under this subchapter had powers at the time the districts were consolidated that the other district being consolidated did not have, the consolidated district may exercise within the original boundaries of each district only the powers that belonged to that original district. In territory annexed into a consolidated district, the district may exercise any of the powers of the original districts.

Sec. 3892.255. DEBTS OF ORIGINAL DISTRICTS. After two districts are consolidated, the consolidated district shall protect the debts and obligations of the original districts and shall ensure that the debts and obligations are not

impaired. If the consolidated district has taxing authority, the debts may be paid by taxes imposed on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

Sec. 3892.256. ASSESSMENT AND COLLECTION OF TAXES. If the consolidated district has taxing authority, the district shall impose and collect taxes on all property in the district uniformly, for maintenance and operation of the district.

Sec. 3892.257. FILING OF ORDER WITH COUNTY CLERK AND EXECUTIVE DIRECTOR. The board shall keep in the records of the consolidated district, recorded in the office of the county clerk in each of the counties in the consolidated district, a consolidation order issued by the board. The board shall file the consolidation order with the executive director of the Texas Commission on Environmental Quality.

[Sections 3892.258-3892.300 reserved for expansion]

SUBCHAPTER G. DISSOLUTION

Sec. 3892.301. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The district may be dissolved as provided by Subchapter M, Chapter 375, Local Government Code, except that Section 375.264, Local Government Code, does not apply to the district. The board may dissolve the district regardless of whether the district has debt.

(b) If the district has debt when it is dissolved, the district shall remain in existence solely for the purpose of discharging its bonds or other obligations according to their terms. The dissolution is effective when all debts have been discharged.

SECTION 2. BOUNDARIES. On the effective date of this Act, the Harris County Improvement District No. 21 includes all territory generally bounded by the following described area:

UNLESS otherwise specified, the boundaries of this district will travel along the centerline of each street included, and each intersection will be the intersection of the centerlines of the streets mentioned.

Beginning at the intersection of Interstate 610 and Cullen Boulevard; thence in a northeasterly direction along Cullen Boulevard to Griggs Road. Thence in a southeasterly direction along Griggs Road until it becomes Long Drive. Thence in a southeasterly direction along Long Drive to Mykawa Road. Thence in a southeasterly direction along Mykawa Road to Interstate 610. Thence in a southwesterly direction on Interstate 610 to Cullen Boulevard to the point of BEGINNING.

SECTION 3. REIMBURSEMENT FOR COST OF CREATION. The Harris County Improvement District No. 21 may reimburse the cost of creating the district from assessments or other revenue created by the district or consolidated district under Section 3892.251, Special District Local Laws Code, as added by this Act.

SECTION 4. LEGISLATIVE FINDINGS. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 5. EFFECTIVE DATE. 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, 2009.

MESSAGE FROM THE SENATE

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

HB 2647 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Kent called up with senate amendments for consideration at this time,

HB 2647, A bill to be entitled An Act relating to the quasi-judicial enforcement of certain health and safety ordinances.

Representative Kent 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 2647**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2647**: Kent, chair; Miklos, Driver, Vaught, and Button.

HB 4715 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Creighton called up with senate amendments for consideration at this time,

HB 4715, A bill to be entitled An Act relating to deadlines for elections to confirm the creation of East Montgomery County Municipal Utility Districts Nos. 8, 9, 10, 11, 12, 13, and 14, Montgomery County Municipal Utility Districts Nos. 100 and 101, and Liberty County Municipal Utility District No. 5.

Representative Creighton moved to concur in the senate amendments to **HB 4715**.

The motion to concur in the senate amendments to **HB 4715** prevailed by (Record 1420): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Edwards; Farabee; Giddings; Hughes; King, S.; Pierson.

STATEMENTS OF VOTE

When Record No. 1420 was taken, I was in the house but away from my desk. I would have voted yes.

Farabee

When Record No. 1420 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

Senate Committee Substitute

CSHB 4715, A bill to be entitled An Act relating to the terms of temporary directors and to deadlines for elections to confirm the creation of East Montgomery County Municipal Utility Districts Nos. 8, 9, 10, 11, 12, 13, and 14, Montgomery County Municipal Utility Districts Nos. 100 and 101, and Liberty County Municipal Utility District No. 5.

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

SECTION 1. Section 8112.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Temporary directors serve until ~~the earlier of:~~
~~[(1)] the date the directors are elected under Section 8112.023[; or~~
~~[(2)] the date this chapter expires under Section 8112.003].~~

(e) If permanent directors have not been elected under Section 8112.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8112.023; or
(2) the fourth anniversary of the date of the appointment or reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 2. Section 8113.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Temporary directors serve until ~~the earlier of:~~
~~[(1)] the date the directors are elected under Section 8113.023[; or~~
~~[(2)] the date this chapter expires under Section 8113.003].~~

(e) If permanent directors have not been elected under Section 8113.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8113.023; or
(2) the fourth anniversary of the date of the appointment or reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 3. Section 8114.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Temporary directors serve until ~~the earlier of:~~
~~[(1)] the date the directors are elected under Section 8114.023[; or~~
~~[(2)] the date this chapter expires under Section 8114.003].~~

(e) If permanent directors have not been elected under Section 8114.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 8114.023; or
- (2) the fourth anniversary of the date of the appointment or

reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 4. Section 8115.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Temporary directors serve until ~~the earlier of:~~

- ~~[(1)] the date the directors are elected under Section 8115.023[; or~~
- ~~[(2) the date this chapter expires under Section 8115.003].~~

(e) If permanent directors have not been elected under Section 8115.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 8115.023; or
- (2) the fourth anniversary of the date of the appointment or

reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 5. Section 8116.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Temporary directors serve until ~~the earlier of:~~

- ~~[(1)] the date the directors are elected under Section 8116.023[; or~~
- ~~[(2) the date this chapter expires under Section 8116.003].~~

(e) If permanent directors have not been elected under Section 8116.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 8116.023; or
- (2) the fourth anniversary of the date of the appointment or

reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 6. Section 8117.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

- (d) Temporary directors serve until ~~the earlier of:~~
~~(1) the date the directors are elected under Section 8117.023;~~
~~(2) the date this chapter expires under Section 8117.003].~~

(e) If permanent directors have not been elected under Section 8117.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 8117.023; or
(2) the fourth anniversary of the date of the appointment or reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 7. Section 8118.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

- (d) Temporary directors serve until ~~the earlier of:~~
~~(1) the date the directors are elected under Section 8118.023;~~
~~(2) the date this chapter expires under Section 8118.003].~~

(e) If permanent directors have not been elected under Section 8118.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 8118.023; or
(2) the fourth anniversary of the date of the appointment or reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 8. Section 8119.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

- (d) Temporary directors serve until ~~the earlier of:~~
~~(1) the date the directors are elected under Section 8119.023;~~

~~[(2) the date this chapter expires under Section 8119.003].~~

(e) If permanent directors have not been elected under Section 8119.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8119.023; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 9. Section 8120.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Temporary directors serve until ~~[the earlier of:~~

~~[(1) the date the directors are elected under Section 8120.023; or~~

~~[(2) the date this chapter expires under Section 8120.003].~~

(e) If permanent directors have not been elected under Section 8120.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8120.023; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 10. Section 8185.021, Special District Local Laws Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Temporary directors serve until ~~[the earlier of:~~

~~[(1) the date the directors are elected under Section 8185.023; or~~

~~[(2) the date this chapter expires under Section 8185.003].~~

(e) If permanent directors have not been elected under Section 8185.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (f) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8185.023; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(f) If Subsection (e) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SECTION 11. Sections 8112.003, 8112.026, 8113.003, 8113.026, 8114.003, 8114.026, 8115.003, 8115.026, 8116.003, 8116.026, 8117.003, 8117.026, 8118.003, 8118.026, 8119.003, 8119.026, 8120.003, 8120.026, 8185.003, and 8185.026, Special District Local Laws Code, are repealed.

SECTION 12. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 13. 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, 2009.

HB 748 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Darby called up with senate amendments for consideration at this time,

HB 748, A bill to be entitled An Act relating to the provision of services to certain individuals with developmental disabilities by a state school or state center.

Representative Darby moved to concur in the senate amendments to **HB 748**.

The motion to concur in the senate amendments to **HB 748** prevailed by (Record 1421): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings;

Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Deshotel; Gutierrez; King, S.

STATEMENT OF VOTE

When Record No. 1421 was taken, my vote failed to register. I would have voted yes.

Deshotel

Senate Committee Substitute

CSHB 748, A bill to be entitled An Act relating to the provision of services to certain individuals with developmental disabilities by a state school or state center.

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

SECTION 1. Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.077 to read as follows:

Sec. 161.077. CONTRACTS FOR SERVICES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES. (a) A person that provides disability services may contract with a state school or state center for the school or center to provide services and resources to support individuals with developmental disabilities, including individuals with dual diagnosis disorders.

(b) Notwithstanding any other law, a state school or state center may provide nonresidential services to support an individual if:

(1) the individual:

(A) is receiving services in a program funded by the department;

(B) meets the eligibility criteria for the intermediate care facility for persons with mental retardation program; and

(C) resides in the area in which the state school or state center is located; and

(2) the provision of services to the individual does not interfere with the provision of services to a resident of the state school or state center.

SECTION 2. 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 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 1259 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 1259, A bill to be entitled An Act relating to hiring outside legal counsel to provide legal services to the Teacher Retirement System of Texas.

Representative Kolkhorst moved to concur in the senate amendments to **HB 1259**.

The motion to concur in the senate amendments to **HB 1259** prevailed by (Record 1422): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Senate Committee Substitute

CSHB 1259, A bill to be entitled An Act relating to hiring outside legal counsel to provide legal services to the Teacher Retirement System of Texas.

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

SECTION 1. Section 825.203, Government Code, is amended to read as follows:

Sec. 825.203. LEGAL REPRESENTATION [~~ADVISER~~]. (a) The attorney general of the state is the legal adviser of the board of trustees. The attorney general shall represent the board in all litigation.

(b) The board may not employ outside legal counsel to provide legal services to the retirement system except as provided by this section and Section 402.0212, regardless of the source of funds to be used to pay the outside counsel. For purposes of this section, "legal services" includes services provided by an attorney regarding ethics and fiduciary responsibilities.

(c) The attorney general shall timely act on a request to approve a contract for outside legal services under Section 402.0212. If the attorney general denies the board's request for approval of a contract for outside legal services:

(1) the attorney general shall provide the board with the reason for the denial; and

(2) the board may select alternative outside legal counsel, subject to approval by the attorney general in accordance with this section and Section 402.0212.

SECTION 2. Section 825.203(c), Government Code, as added by this Act, applies only to a request to approve a contract for outside legal services submitted by the Teacher Retirement System of Texas on or after the effective date of this Act. A request submitted before the effective date of this Act is governed by the law in effect on the date the request was submitted and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HR 2620 - ADOPTED
(by Corte)

Representative Corte moved to suspend all necessary rules to take up and consider at this time **HR 2620**.

The motion prevailed.

The following resolution was laid before the house:

HR 2620, Honoring R. Douglas Leonhard for his service on the San Antonio Water System Board of Trustees.

HR 2620 was adopted.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 45).

HB 2609 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

Representative D. Miller called up with senate amendments for consideration at this time,

HB 2609, A bill to be entitled An Act relating to the prosecution and punishment of the offense of criminal trespass.

Representative D. Miller moved to concur in the senate amendments to **HB 2609**.

The motion to concur in the senate amendments to **HB 2609** prevailed by (Record 1423): 142 Yeas, 1 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Phillips.

Present, not voting — Mr. Speaker; Dukes; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Cook.

Senate Committee Substitute

CSHB 2609, A bill to be entitled An Act relating to the prosecution and punishment of the offense of criminal trespass.

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

SECTION 1. Subsection (a), Section 30.05, Penal Code, is amended to read as follows:

(a) A person commits an offense if the person [he] enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, [of another] without effective consent [~~or he enters or remains in a building of another without effective consent~~] and the person [he]:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

SECTION 2. Subsection (b), Section 30.05, Penal Code, is amended by adding Subdivisions (8), (9), (10), and (11) to read as follows:

(8) "Protected freshwater area" has the meaning assigned by Section 90.001, Parks and Wildlife Code.

(9) "Recognized state" means another state with which the attorney general of this state, with the approval of the governor of this state, negotiated an agreement after determining that the other state:

(A) has firearm proficiency requirements for peace officers; and

(B) fully recognizes the right of peace officers commissioned in this state to carry weapons in the other state.

(10) "Recreational vehicle park" means a tract of land that has rental spaces for two or more recreational vehicles, as defined by Section 522.004, Transportation Code.

(11) "Residential land" means real property improved by a dwelling and zoned for or otherwise authorized for single-family or multifamily use.

SECTION 3. Subsections (d) and (e), Section 30.05, Penal Code, are amended to read as follows:

(d) An offense under this section [~~Subsection (e) is a Class C misdemeanor unless it is committed in a habitation or unless the actor carries a deadly weapon on or about the actor's person during the commission of the offense, in which event it is a Class A misdemeanor. An offense under Subsection (a) is:~~] is:

(1) a Class B misdemeanor, except as provided by Subdivisions (2) and (3);

(2) a Class C misdemeanor, except as provided by Subdivision (3), if the offense is committed:

(A) on agricultural land and within 100 feet of the boundary of the land; or

(B) on residential land and within 100 feet of a protected freshwater area; and

(3) [that the offense is] a Class A misdemeanor if:

(A) [(+) the offense is committed:

(i) [(A)] in a habitation or a shelter center;

(ii) [(B)] on a Superfund site; or

(iii) [(C)] on or in a critical infrastructure facility; or

(B) [(2)] the person [actor] carries a deadly weapon [on or about his person] during the commission of the offense.

(e) It is a defense to prosecution under this section that the actor at the time of the offense was [A person commits an offense if without express consent or if without authorization provided by any law, whether in writing or other form, the person]:

(1) a firefighter or emergency medical services personnel, as defined by Section 773.003, Health and Safety Code, acting in the lawful discharge of an official duty under exigent circumstances [enters or remains on agricultural land of another];

(2) a person who was:

(A) an employee or agent of:

(i) an electric utility, as defined by Section 31.002, Utilities Code;

(ii) a telecommunications provider, as defined by Section 51.002, Utilities Code;

(iii) a video service provider or cable service provider, as defined by Section 66.002, Utilities Code;

(iv) a gas utility, as defined by Section 101.003 or 121.001, Utilities Code; or

(v) a pipeline used for the transportation or sale of oil, gas, or related products; and

(B) performing a duty within the scope of that employment or agency; or

(3) a person who was:

(A) employed by or acting as agent for an entity that had, or that the person reasonably believed had, effective consent or authorization provided by law to enter the property; and

(B) performing a duty within the scope of that employment or agency [is on the agricultural land and within 100 feet of the boundary of the land when apprehended; and

[~~(3) had notice that the entry was forbidden or received notice to depart but failed to do so].~~

SECTION 4. Subsections (c) and (j), Section 30.05, Penal Code, are repealed.

SECTION 5. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 6. This Act takes effect September 1, 2009.

HB 3041 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Farias called up with senate amendments for consideration at this time,

HB 3041, A bill to be entitled An Act relating to a comprehensive schedule of public school reporting requirements.

Representative Farias moved to concur in the senate amendments to **HB 3041**.

The motion to concur in the senate amendments to **HB 3041** prevailed by (Record 1424): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Davis, Y.; Flores; King, S.; McClendon; Pierson; Villarreal.

Senate Committee Substitute

CSHB 3041, A bill to be entitled An Act relating to a comprehensive schedule of public school reporting requirements.

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

SECTION 1. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.037 to read as follows:

Sec. 7.037. REPORTING SCHEDULE. (a) To the extent possible, the Texas Education Agency shall develop and maintain a comprehensive schedule that addresses each reporting requirement generally applicable to a school district, including requirements imposed by a state agency or entity other than the Texas Education Agency, and that specifies the date by which a school district must comply with each requirement.

(b) A state agency that requires a school district to periodically report information to that agency shall provide the Texas Education Agency with information regarding the reporting requirement as necessary to enable the Texas Education Agency to develop and maintain the schedule required by Subsection (a).

(c) The Texas Education Agency shall determine the appropriate format of the schedule required by Subsection (a) and the manner in which the schedule is made readily accessible to school districts.

SECTION 2. This Act takes effect September 1, 2009.

**HB 3072 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Heflin called up with senate amendments for consideration at this time,

HB 3072, A bill to be entitled An Act relating to the transfer of municipal property to economic development corporations by certain municipalities.

Representative Heflin moved to concur in the senate amendments to **HB 3072**.

The motion to concur in the senate amendments to **HB 3072** prevailed by (Record 1425): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Burnam; Gonzalez Toureilles.

Senate Committee Substitute

CSHB 3072, A bill to be entitled An Act relating to the transfer of municipal property to economic development corporations by certain municipalities.

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

SECTION 1. Chapter 253, Local Government Code, is amended by adding Section 253.012 to read as follows:

Sec. 253.012. CONVEYANCE TO ECONOMIC DEVELOPMENT CORPORATION BY CERTAIN MUNICIPALITIES. (a) In this section, "economic development corporation" means a Type A corporation governed by Chapter 504 or a Type B corporation governed by Chapter 505.

(b) This section applies only to a municipality with a population of 20,000 or less.

(c) A municipality may transfer to an economic development corporation, for consideration described by this section, real property or an interest in real property without complying with the notice and bidding requirements of Section 272.001(a) or other law.

(d) Consideration for a transfer authorized by this section is in the form of an agreement between the parties that requires the economic development corporation to use the property in a manner that primarily promotes a public purpose of the municipality. If the economic development corporation at any time fails to use the property in that manner, ownership of the property automatically reverts to the municipality.

(e) The municipality shall transfer the property by an appropriate instrument of transfer. The instrument must include a provision that:

(1) requires the economic development corporation to use the property in a manner that primarily promotes a public purpose of the municipality; and

(2) indicates that ownership of the property automatically reverts to the municipality if the nonprofit organization at any time fails to use the property in that manner.

(f) A municipality may not transfer property to an economic development corporation under this section if the municipality acquired the property through eminent domain.

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, 2009.

HB 3216 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Naishtat called up with senate amendments for consideration at this time,

HB 3216, A bill to be entitled An Act relating to telephone or electronic mail notification to a respondent of a complaint filed with the Texas Ethics Commission.

Representative Naishtat moved to concur in the senate amendments to **HB 3216**.

The motion to concur in the senate amendments to **HB 3216** prevailed by (Record 1426): 141 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb;

Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Phillips.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Gutierrez; Solomons; Villarreal.

Senate Committee Substitute

CSHB 3216, A bill to be entitled An Act relating to telephone or electronic mail notification to a respondent of a complaint filed with the Texas Ethics Commission.

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

SECTION 1. Section 571.123(b), Government Code, is amended to read as follows:

(b) After a complaint is filed, the commission shall immediately attempt to contact and notify the respondent of the complaint by telephone or electronic mail. Not later than the fifth business day after the date a complaint is filed, the commission shall send written notice to the complainant and the respondent. The written notice to the complainant and the respondent must:

(1) state whether the complaint complies with the form requirements of Section 571.122; and

(2) if applicable, include the information required by Section 571.124(e).

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, 2009.

HB 136 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Villarreal called up with senate amendments for consideration at this time,

HB 136, A bill to be entitled An Act relating to providing notification to parents of eligible children of the availability of prekindergarten programs.

Representative Villarreal moved to concur in the senate amendments to **HB 136**.

The motion to concur in the senate amendments to **HB 136** prevailed by (Record 1427): 93 Yeas, 50 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bohac; Bolton; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Corte; Creighton; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hancock; Harless; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Keffer; Kent; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Ortiz; Patrick; Peña; Pickett; Pierson; Pitts; Quintanilla; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Strama; Swinford; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley.

Nays — Anderson; Aycock; Berman; Bonnen; Branch; Brown, B.; Brown, F.; Button; Chisum; Christian; Cook; Crabb; Craddick; Crownover; Darby; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hardcastle; Hilderbran; Isett; Jackson; Jones; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Madden; Merritt; Miller, D.; Morrison; Orr; Otto; Parker; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Solomons; Taylor; Truitt; Weber; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Hughes; Raymond.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1427. I intended to vote yes.

Hilderbran

I was shown voting no on Record No. 1427. I intended to vote yes.

T. Smith

Senate Committee Substitute

CSHB 136, A bill to be entitled An Act relating to providing notification to parents of eligible children of the availability of prekindergarten programs.

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

SECTION 1. Subchapter E, Chapter 29, Education Code, is amended by adding Section 29.1534 to read as follows:

Sec. 29.1534. NOTIFICATION OF PREKINDERGARTEN PROGRAMS.

(a) In this section, "prekindergarten program" includes prekindergarten programs provided by a private entity through a partnership with the school district.

(b) The agency shall develop joint strategies with other state agencies regarding methods to increase community awareness of prekindergarten programs through programs that provide information relating to public assistance programs.

(c) The agency may develop outreach materials for use by school districts to increase community awareness of prekindergarten programs.

(d) Each school district shall report annually to the agency the strategies implemented by the school district to increase community awareness of prekindergarten programs offered by the district. The district shall report the information on a form prescribed by the commissioner. A report required by this subsection may be combined, at the discretion of the commissioner, with another report that the district submits to the agency. Not later than the 90th day after the date the agency receives a report from a school district as required by this subsection, the agency shall post the report on the agency's Internet website. This subsection expires September 1, 2013.

(e) The agency shall provide information to school districts regarding effective methods to communicate to the parent of an eligible child the availability of prekindergarten programs, including information regarding prekindergarten programs through public, private, and nonprofit institutions that provide assistance and support to families with children eligible for prekindergarten programs.

(f) Not later than December 1, 2010, the agency shall prepare and deliver to the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a report detailing strategies developed under Subsection (b) to increase community awareness of prekindergarten programs. This subsection expires January 1, 2011.

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, 2009.

HB 3866 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Naishtat called up with senate amendments for consideration at this time,

HB 3866, A bill to be entitled An Act relating to fire safety inspections.

Representative Naishtat moved to concur in the senate amendments to **HB 3866**.

The motion to concur in the senate amendments to **HB 3866** prevailed by (Record 1428): 144 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver;

Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Phillips.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Senate Committee Substitute

CSHB 3866, A bill to be entitled An Act relating to fire safety inspections.

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

SECTION 1. Subchapter Z, Chapter 419, Government Code, is amended by adding Section 419.908 to read as follows:

Sec. 419.908. FIRE SAFETY INSPECTIONS. (a) Only an individual certified by the commission as a fire inspector may conduct a fire safety inspection required by a state or local law, rule, regulation, or ordinance.

(b) A fire safety inspection required by a state or local law, rule, regulation, or ordinance must be conducted in accordance with:

(1) the most recent local fire code; or

(2) the most recent fire code adopted by the state fire marshal.

(c) This section does not apply to state agency personnel who conduct a life safety code survey of a building or facility in connection with determining whether to issue or renew a license under Chapter 142, 241, 242, 243, 244, 245, 247, 248, 251, 252, 464, 466 or 577, Health and Safety Code, or Chapter 103, Human Resources Code.

SECTION 2. (a) Section 419.908(a), Government Code, as added by this Act, applies only to a fire safety inspection that occurs on or after September 1, 2011. A fire safety inspection that occurs before September 1, 2011, is covered by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(b) Section 419.908(b), Government Code, as added by this Act, applies only to a fire safety inspection that occurs on or after the effective date of this Act. A fire safety inspection that occurs before the effective date of this Act is covered by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

**HB 2438 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative McCall called up with senate amendments for consideration at this time,

HB 2438, A bill to be entitled An Act relating to requirements regarding motor vehicle retail installment transactions.

Representative McCall moved to concur in the senate amendments to **HB 2438**.

The motion to concur in the senate amendments to **HB 2438** prevailed by (Record 1429): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Edwards; Gutierrez; Raymond.

Senate Committee Substitute

CSHB 2438, A bill to be entitled An Act relating to requirements regarding motor vehicle retail installment transactions.

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

SECTION 1. Section 348.001(3), Finance Code, is amended to read as follows:

(3) "Holder" means a person who is:

(A) a retail seller; or

(B) the assignee or transferee of [if] a retail installment contract [or the outstanding balance under the contract is sold or otherwise transferred, the person to whom it is sold or otherwise transferred].

SECTION 2. Section 348.007, Finance Code, is amended by amending Subsection (a) and adding Subsection (a-2) to read as follows:

(a) Except as otherwise provided by this section, each [Each] retail installment transaction is subject to this chapter.

(a-2) A retail installment transaction in which a retail buyer purchases a commercial vehicle is only subject to the following provisions of this chapter:

(1) Subchapter A, except Section 348.0091 or unless expressly stated otherwise;

(2) Subchapter B, except Sections 348.102 and 348.123;

(3) Subchapter C, except Sections 348.204(b), 348.206, 348.209, and 348.210;

(4) Subchapter D;

(5) Subchapter E, except Sections 348.404(d) and 348.407; and

(6) Subchapter F, except Sections 348.504(a)(2), 348.514, 348.516, and 348.517.

SECTION 3. Subchapter A, Chapter 348, Finance Code, is amended by adding Section 348.0091 to read as follows:

Sec. 348.0091. DISCLOSURE OF EQUITY IN TRADE-IN MOTOR VEHICLE. (a) A retail seller may not accept a trade-in motor vehicle for a motor vehicle sold under a retail installment contract unless the retail seller provides to the retail buyer, before the buyer signs the contract, a completed disclosure of trade-in equity form prescribed by this section.

(b) The finance commission shall by rule adopt a standard form for the disclosure of the equity in a retail buyer's trade-in motor vehicle.

(c) The form adopted by the finance commission under Subsection (b), at a minimum, must:

(1) contain:

(A) the name of the retail buyer;

(B) the name, address, and telephone number of the retail seller;

(C) the make, model, year, and vehicle identification number of the trade-in motor vehicle;

(D) the date of the retail installment transaction;

(E) the amount offered by the retail seller to the retail buyer for the trade-in motor vehicle;

(F) the amount the retail buyer owes on the trade-in motor vehicle as of the date of the retail installment transaction;

(G) a statement indicating whether the retail buyer's equity in the trade-in motor vehicle is positive or negative;

(H) a disclosure containing substantially similar words to the following: "If the EQUITY amount is NEGATIVE, the value the retail seller is offering you for your trade-in motor vehicle is less than what you currently owe on your trade-in. The amount of negative equity may be further reduced by the

amount of any cash down payment and manufacturer's rebate and may be included in the amount financed under your retail installment contract as an itemized charge.";

(I) the cash price of the vehicle being purchased under the retail installment transaction; and

(J) the amount financed under the retail installment contract;

(2) include a space for the signature of both the retail seller and retail buyer and the printed name of the retail seller; and

(3) be signed and dated by the retail seller and retail buyer.

(d) The retail seller is solely responsible for the content and delivery of the disclosure form required by Subsection (a). An assignee of a retail installment contract may not be held responsible for a retail seller's failure to comply with the requirements of this section.

(e) This section does not create a private right of action. The commissioner has exclusive jurisdiction to enforce this section.

SECTION 4. Section 348.004(a), Finance Code, is amended to read as follows:

(a) The cash price is the price at which the retail seller offers in the ordinary course of business to sell for cash the goods or services that are subject to the transaction. An advertised price does not necessarily establish a cash price.

SECTION 5. Sections 348.104(b), (c), (d), and (h), Finance Code, are amended to read as follows:

(b) The add-on charge is \$7.50 per \$100 per year on the principal balance for[±

~~(1)~~ a new [~~domestic~~] motor vehicle, other than a heavy commercial vehicle, designated by the manufacturer by a model year that is not earlier than the year in which the sale is made[±~~or~~

~~(2) a new foreign motor vehicle, other than a heavy commercial vehicle].~~

(c) The add-on charge is \$10 per \$100 per year on the principal balance for:

(1) a new [~~domestic~~] motor vehicle not covered by Subsection (b);

(2) a used [~~domestic~~] motor vehicle designated by the manufacturer by a model year that is not more than two years before the year in which the sale is made; or

~~(3) a used foreign motor vehicle that is not more than two years old; or~~

~~(4) a new or used heavy commercial vehicle designated by the manufacturer by a model year that is not more than two years before the year in which the sale is made [old].~~

(d) The add-on charge is \$12.50 per \$100 per year on the principal balance for a used motor vehicle not covered by Subsection (c) that is[±

~~(1) a [~~domestic~~] motor vehicle designated by the manufacturer by a model year that is not more than four years before the year in which the sale is made[±~~or~~~~

~~(2) a foreign motor vehicle that is not more than four years old].~~

(h) For the purpose of a computation under this section, 16 [~~15~~] or more days of a month may be considered a full month.

SECTION 6. Section 348.404, Finance Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) A retail seller, in connection with a retail installment transaction, may:

(1) advance money to retire:

(A) an amount owed against a motor vehicle used as a trade-in or a motor vehicle owned by the buyer that has been declared a total loss by the buyer's insurer; or

(B) the retail buyer's outstanding obligation under a motor vehicle lease contract, a credit transaction for the purchase of a motor vehicle, or another retail installment transaction; and

(2) finance repayment of that money in a retail installment contract.

(d) A retail seller may include money advanced under Subsection (b) in the retail installment contract only if it is included as an itemized charge and may disclose money advanced under Subsection (b) in any manner permitted by 12 C.F.R. Part 226 (Regulation Z) adopted under the Truth in Lending Act (15 U.S.C. Section 1601 et seq.). Section 349.003 does not apply to this subsection. This subsection does not create a private right of action. The commissioner has exclusive jurisdiction to enforce this subsection.

SECTION 7. Section 348.408, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) A retail seller must pay in full the outstanding balance of a vehicle traded in not later than the 25th day after the date that:

(1) the retail installment contract is signed by the retail buyer and the retail buyer receives delivery of the motor vehicle; and

(2) the retail seller receives delivery of the motor vehicle traded in and the necessary and appropriate documents to transfer title from the buyer.

SECTION 8. Section 348.501, Finance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A person who is required to hold a license under this chapter must ensure that each office at which retail installment transactions are made, serviced, held, or collected under this chapter is licensed or otherwise authorized to make, service, hold, or collect retail installment transactions in accordance with this chapter and rules implementing this chapter.

(c) A person may not use any device, subterfuge, or pretense to evade the application of this section.

SECTION 9. Section 348.513(a), Finance Code, is amended to read as follows:

(a) The finance commission may adopt rules to:

(1) enforce this chapter; or

(2) modify the standard form as required by Section 348.0091 to:

(A) conform to the provisions of the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) or a regulation issued under authority of that Act;

(B) address any official commentary or other interpretation by a federal agency relating to the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) or a regulation issued under authority of that Act; or

(C) address a judicial interpretation by a state or federal court relating to the Truth in Lending Act (15 U.S.C. Section 1601 et seq.) or a regulation issued under authority of that Act.

SECTION 10. Sections 348.514(c) and (d), Finance Code, are amended to read as follows:

(c) During an examination or investigation the commissioner or the commissioner's representative may administer oaths and examine any person under oath on any subject pertinent to a matter that the commissioner is authorized or required to consider, investigate, or secure information about under this chapter.

(d) All information relating to the examination or investigation process ~~[Information obtained under this section]~~ is confidential, including:

- (1) information obtained from the license holder;
- (2) the examination report;
- (3) instructions and attachments; and
- (4) correspondence between the license holder and the commissioner or the commissioner's representative relating to an examination or investigation of the license holder.

SECTION 11. The heading to Section 348.517, Finance Code, is amended to read as follows:

Sec. 348.517. LICENSE HOLDER'S RECORDS; DOCUMENT RETENTION REQUIREMENTS.

SECTION 12. Section 348.517(b), Finance Code, is amended to read as follows:

(b) A license holder shall keep the record until the later of:

- (1) the fourth ~~[third]~~ anniversary of the date of the ~~[last payment was made on the]~~ retail installment transaction; or
- (2) the second anniversary of the date on which the final entry is made in the record.

SECTION 13. (a) As soon as practicable after the effective date of this Act, the Finance Commission of Texas shall adopt the form required by Section 348.0091, Finance Code, as added by this Act.

(b) Notwithstanding Section 348.0091, Finance Code, as added by this Act, a retail seller is not required to comply with that section until the Finance Commission of Texas prescribes the form required by that section.

SECTION 14. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Section 348.007, Finance Code, as amended by this Act, takes effect only if **HB 4361** or **SB 1965**, proposed by the 81st Legislature, Regular Session, 2009, relating to the regulation of retail installment contracts for commercial vehicles, is passed and becomes law. If neither bill becomes law, the change in law made by this Act to Section 348.007, Finance Code, has no effect.

HB 2346 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thibaut called up with senate amendments for consideration at this time,

HB 2346, A bill to be entitled An Act relating to the removal of illegally parked vehicles from residential parking permit areas in certain municipalities.

Representative Thibaut moved to concur in the senate amendments to **HB 2346**.

The motion to concur in the senate amendments to **HB 2346** prevailed by (Record 1430): 118 Yeas, 26 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Branch; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Corte; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley.

Nays — Anderson; Bonnen; Brown, B.; Brown, F.; Button; Cook; Crabb; Craddick; Creighton; Fletcher; Gattis; Geren; Hunter; Isett; Jones; Kolkhorst; Legler; Madden; Miller, D.; Miller, S.; Parker; Riddle; Sheffield; Shelton; Weber; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Patrick.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1430. I intended to vote no.

Callegari

I was shown voting yes on Record No. 1430. I intended to vote no.

Hancock

I was shown voting yes on Record No. 1430. I intended to vote no.

Hilderbran

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2346** (engrossed version) as follows:

(1) On page 1, strike lines 5 and 6 and substitute:

SECTION 1. Section 2308.354, Occupations Code, is amended by adding Subsections (c) and (d) to read as follows:

(2) On page 1, between lines 13 and 14, insert:

(d) Subsections (a) and (c) do not apply to a vehicle owned by an electric, gas, water, or telecommunications utility while the vehicle is parked for the purpose of conducting work on a facility of the utility that is located below, above, or adjacent to the street.

HB 2619 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Frost called up with senate amendments for consideration at this time,

HB 2619, A bill to be entitled An Act relating to the nonsubstantive revision of certain local laws concerning special districts, including conforming amendments.

Representative Frost moved to concur in the senate amendments to **HB 2619**.

The motion to concur in the senate amendments to **HB 2619** prevailed by (Record 1431): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2619** as amended by House Committee Amendment No. 1 as follows:

(1) In the recital to SECTION 1.05 of the bill, as amended by item (1) of House Committee Amendment No. 1, strike "and 8848" and substitute "8848, and 8849".

(2) In SECTION 1.05 of the bill, as amended by item (2) of House Committee Amendment No. 1, after added Chapter 8848, Special District Local Laws Code, insert the following:

CHAPTER 8849. LOST PINES GROUNDWATER CONSERVATION
DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8849.001. DEFINITIONS

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POWERS AND DUTIES

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CHAPTER 8849. LOST PINES GROUNDWATER CONSERVATION
DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8849.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Lost Pines Groundwater Conservation District.

(Acts 76th Leg., R.S., Ch. 1331, Sec. 3; Acts 77th Leg., R.S., Ch. 966, Sec. 3.0502(1); Acts 77th Leg., R.S., Ch. 1323, Sec. 2(1); New.)

Sec. 8849.002. NATURE OF DISTRICT. The district is a groundwater conservation district created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution. (Acts 76th Leg., R.S., Ch. 1331, Secs. 1(a) (part), (c).)

Sec. 8849.003. FINDINGS OF PUBLIC USE AND BENEFIT. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the works and projects accomplished by the district under the powers conferred by Section 59, Article XVI, Texas Constitution. (Acts 76th Leg., R.S., Ch. 1331, Sec. 4.)

Sec. 8849.004. DISTRICT TERRITORY. The district's boundaries are coextensive with the boundaries of Bastrop and Lee Counties unless the district's territory has been modified under:

(1) Subchapter J, Chapter 36, Water Code; or

(2) other law. (Acts 76th Leg., R.S., Ch. 1331, Sec. 2(a) (part); Acts 77th Leg., R.S., Ch. 966, Sec. 3.0503; Acts 77th Leg., R.S., Ch. 1323, Sec. 3; New.)

[Sections 8849.005-8849.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8849.051. COMPOSITION OF BOARD; TERMS. (a) The district is governed by a board of 10 directors.

(b) Directors serve staggered four-year terms. (Acts 77th Leg., R.S., Ch. 966, Secs. 3.0506(a), (f); Acts 77th Leg., R.S., Ch. 1323, Secs. 7(a), (f).)

Sec. 8849.052. APPOINTMENT OF DIRECTORS. (a) Five directors are appointed from Bastrop County by the county judge of Bastrop County and five directors are appointed from Lee County by the county judge of Lee County.

(b) Every two years after the initial appointment of directors, the appropriate number of directors shall be appointed. (Acts 77th Leg., R.S., Ch. 966, Secs. 3.0506(b), (e); Acts 77th Leg., R.S., Ch. 1323, Secs. 7(b), (e).)

Sec. 8849.053. BOARD VACANCY. If a vacancy occurs on the board, the board may appoint a director to serve the remainder of the term. (Acts 77th Leg., R.S., Ch. 966, Sec. 3.0506(j); Acts 77th Leg., R.S., Ch. 1323, Sec. 7(j).)

Sec. 8849.054. EXPENSES. A director is entitled to reimbursement for actual reasonable expenses incurred in performing duties as a director. (Acts 77th Leg., R.S., Ch. 966, Sec. 3.0506(k) (part); Acts 77th Leg., R.S., Ch. 1323, Sec. 7(k) (part).)

[Sections 8849.055-8849.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8849.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. The district has the rights, powers, privileges, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. (Acts 77th Leg., R.S., Ch. 966, Sec. 3.0504(a) (part); Acts 77th Leg., R.S., Ch. 1323, Sec. 4(a) (part).)

Sec. 8849.102. AUTHORITY TO EXEMPT CERTAIN WELLS FROM REGULATION. The district may adopt a rule exempting a well that is not capable of producing more than 50,000 gallons of groundwater a day from a permit requirement, a fee, or a restriction on production. (Acts 77th Leg., R.S., Ch. 966, Sec. 3.0504(c); Acts 77th Leg., R.S., Ch. 1323, Sec. 4(e).)

Sec. 8849.103. GROUNDWATER WELLS UNDER JURISDICTION OF RAILROAD COMMISSION. (a) In this section:

(1) "Public utility" means any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision, or agency operating, maintaining, or controlling facilities in this state for providing potable water service for compensation.

(2) "Railroad commission" means the Railroad Commission of Texas.

(b) A groundwater well drilled or operated in the district under a permit issued by the railroad commission is under the exclusive jurisdiction of the railroad commission and is exempt from regulation by the district.

(c) Groundwater produced in an amount authorized by a railroad commission permit may be used in or exported from the district without a permit from the district.

(d) To the extent groundwater production exceeds railroad commission authorization, the holder of the railroad commission permit:

(1) shall apply to the district for the appropriate permit for the excess production; and

(2) is subject to the applicable regulatory fees.

(e) Groundwater produced from a well under the jurisdiction of the railroad commission is generally exempt from water district fees. However, the district may impose a pumping fee or an export fee on groundwater produced from an otherwise exempt mine well that is used for municipal purposes or by a public utility. A fee imposed by the district under this subsection may not exceed the fee imposed on other groundwater producers in the district. (Acts 77th Leg., R.S., Ch. 966, Secs. 3.0502(2), 3.0505; Acts 77th Leg., R.S., Ch. 1323, Secs. 2(2), 5; New.)

Sec. 8849.104. MEMBERSHIP ON CENTRAL CARRIZO-WILCOX COORDINATING COUNCIL. The district is a member of the Central Carrizo-Wilcox Coordinating Council. (Acts 77th Leg., R.S., Ch. 1323, Sec. 10.)

Sec. 8849.105. MANAGEMENT PLAN. The district shall develop or contract to develop a district management plan under Section 36.1071, Water Code, and submit the plan to the Central Carrizo-Wilcox Coordinating Council to be included in the management plan developed by the council. (Acts 77th Leg., R.S., Ch. 1323, Sec. 11.)

Sec. 8849.106. REGIONAL COOPERATION. The district shall:

(1) adopt a management plan detailing proposed efforts of the district to cooperate with other groundwater conservation districts;

(2) participate as needed in coordination meetings with adjacent groundwater conservation districts that share one or more aquifers with the district;

(3) coordinate the collection of data with adjacent groundwater conservation districts in such a way as to achieve relative uniformity of data type and quality;

(4) provide groundwater level information to adjacent groundwater conservation districts;

(5) investigate any groundwater pollution to identify the pollution's source;

(6) notify adjacent groundwater conservation districts and all appropriate agencies of any groundwater pollution detected and the source of the pollution identified;

(7) provide to adjacent groundwater conservation districts annually an inventory of water wells in the district and an estimate of groundwater production in the district; and

(8) include adjacent groundwater conservation districts on mailing lists for district newsletters and information regarding seminars, public education events, news articles, and field days. (Acts 77th Leg., R.S., Ch. 966, Sec. 3.0508.)

[Sections 8849.107-8849.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8849.151. PUMPING FEES. (a) The district may assess regulatory pumping fees for water produced in or exported from the district.

(b) The regulatory pumping fees the district assesses for water for crop or livestock production or other agricultural uses may not exceed 20 percent of the rate applied to water for municipal uses.

(c) Regulatory pumping fees based on the amount of water withdrawn from a well may not exceed:

(1) \$1 for each acre-foot for water used to irrigate agricultural crops; or

(2) 17 cents for each thousand gallons for water used for any other purpose.

(d) Combined regulatory pumping fees for production and export of water may not exceed 17 cents for each thousand gallons for water used. (Acts 77th Leg., R.S., Ch. 966, Sec. 3.0504(b) (part); Acts 77th Leg., R.S., Ch. 1323, Secs. 4(c) (part), (d).)

Sec. 8849.152. TAXES PROHIBITED. The district may not impose a tax. (Acts 77th Leg., R.S., Ch. 966, Sec. 3.0504(b) (part); Acts 77th Leg., R.S., Ch. 1323, Sec. 4(c) (part).)

(3) Strike SECTIONS 2.05 and 2.06 of the bill, as amended by item (3) of House Committee Amendment No. 1, and substitute the following:

SECTION 2.05. Section 1(a), Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

(a) The following groundwater conservation districts are created:

(1) Cow Creek Groundwater Conservation District;

(2) Brazos Valley Groundwater Conservation District;

(3) Crossroads Groundwater Conservation District;

(4) Hays Trinity Groundwater Conservation District;

(5) ~~Lone Wolf Groundwater Conservation District;~~

~~(6) Lost Pines Groundwater Conservation District;~~

~~(7) McMullen Groundwater Conservation District;~~

(6) ~~(8)~~ Middle Pecos Groundwater Conservation District;

(7) ~~(9)~~ Red Sands Groundwater Conservation District;

(8) ~~(10)~~ Refugio Groundwater Conservation District;

- (9) [~~(11)~~] Southeast Trinity Groundwater Conservation District; and
 (10) [~~(12)~~] Texana Groundwater Conservation District.

SECTION 2.06. Section 2(a), Chapter 1331, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

(a) The boundaries of the following groundwater conservation districts are coextensive with county boundaries as follows:

(1) the boundaries of the Cow Creek Groundwater Conservation District are coextensive with the boundaries of Kendall County;

(2) the boundaries of the Brazos Valley Groundwater Conservation District are coextensive with the boundaries of Robertson and Brazos Counties;

(3) the boundaries of the Crossroads Groundwater Conservation District are coextensive with the boundaries of Victoria County;

(4) ~~the boundaries of the Lone Wolf Groundwater Conservation District are coextensive with the boundaries of Mitchell County;~~

~~[(5) the boundaries of the Lost Pines Groundwater Conservation District are coextensive with the boundaries of Bastrop and Lee Counties, but if the voters of only one county confirm the creation of the district under Section 10 of this Act, the boundaries of the district are coextensive with the boundaries of that county;~~

~~[(6)]~~ the boundaries of the McMullen Groundwater Conservation District are coextensive with the boundaries of McMullen County;

(5) [~~(7)~~] the boundaries of the Middle Pecos Groundwater Conservation District are coextensive with the boundaries of Pecos County;

(6) [~~(8)~~] the boundaries of the Refugio Groundwater Conservation District are coextensive with the boundaries of Refugio County; and

(7) [~~(9)~~] the boundaries of the Texana Groundwater Conservation District are coextensive with the boundaries of Jackson County.

(4) In SECTION 3.03 of the bill, in Subdivision (22) of the SECTION, as amended by item (4) of House Committee Amendment No. 1, after the semicolon, strike "and".

(5) In SECTION 3.03 of the bill, in Subdivision (23) of the SECTION, as amended by item (5) of House Committee Amendment No. 1, strike the period and substitute a semicolon.

(6) In SECTION 3.03 of the bill, as amended by item (6) of House Committee Amendment No. 1, add the following:

(24) Part 5, Chapter 966, Acts of the 77th Legislature, Regular Session, 2001; and

(25) Chapter 1323, Acts of the 77th Legislature, Regular Session, 2001.

**HB 2649 - HOUSE REFUSES TO CONCUR
 IN SENATE AMENDMENTS
 CONFERENCE COMMITTEE APPOINTED**

Representative W. Smith called up with senate amendments for consideration at this time,

HB 2649, A bill to be entitled An Act relating to the regulation and practice of engineering.

Representative W. Smith moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2649**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2649**: W. Smith, chair; Callegari, Anderson, Homer, and Harless.

HB 2642 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

Representative Kent called up with senate amendments for consideration at this time,

HB 2642, A bill to be entitled An Act relating to a program to designate historic roads and highways in this state.

Representative Kent moved to concur in the senate amendments to **HB 2642**.

The motion to concur in the senate amendments to **HB 2642** prevailed by (Record 1432): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Anderson; Thompson.

STATEMENT OF VOTE

When Record No. 1432 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

Senate Committee Substitute

CSHB 2642, A bill to be entitled An Act relating to a program to designate historic roads and highways in this state.

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

SECTION 1. Subchapter A, Chapter 442, Government Code, is amended by adding Section 442.025 to read as follows:

Sec. 442.025. TEXAS HISTORIC ROADS AND HIGHWAYS PROGRAM. (a) The commission shall cooperate with the Texas Department of Transportation to establish a program for the identification, designation, interpretation, and marketing of Texas historic roads and highways.

(b) The designation of a road or highway under a program established under this section is not, and may not be considered to be, a designation under the National Historic Preservation Act (16 U.S.C. Section 470 et seq.).

(c) To supplement revenue available for the program, the commission and the Texas Department of Transportation may pursue federal funds dedicated to highway enhancement for the program.

(d) The Texas Department of Transportation is not required to construct or erect a marker under this section unless a grant or donation of funds is made to cover the cost of the design, construction, and erection of the marker. Money received to cover the cost of a marker under this subsection shall be deposited to the credit of the state highway fund.

SECTION 2. This Act takes effect September 1, 2009.

HB 3637 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Hughes called up with senate amendments for consideration at this time,

HB 3637, A bill to be entitled An Act relating to filing fees in civil actions and proceedings, to fees charged on conviction in certain courts, to the preservation of court records, to money paid into the registry of a court in certain counties, and to the appointment of counsel in certain suits.

Representative Hughes 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 3637**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3637**: Hughes, chair; Eiland, Lewis, Smithee, and S. Turner.

**HB 3851 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Eiland called up with senate amendments for consideration at this time,

HB 3851, A bill to be entitled An Act relating to the authority of a political subdivision to suspend statutory deadlines during a disaster.

Representative Eiland moved to concur in the senate amendments to **HB 3851**.

The motion to concur in the senate amendments to **HB 3851** prevailed by (Record 1433): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Anderson; Thompson.

STATEMENT OF VOTE

When Record No. 1433 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

Senate Committee Substitute

CSHB 3851, A bill to be entitled An Act relating to the authority of the governor or a political subdivision to suspend statutory or local deadlines during a disaster.

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

SECTION 1. Section 418.016, Government Code, is amended to read as follows:

Sec. 418.016. SUSPENSION OF CERTAIN [PROCEDURAL] LAWS AND RULES. (a) The governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

(b) On request of a political subdivision, the governor may waive or suspend a deadline imposed by a statute or the orders or rules of a state agency on the political subdivision, including a deadline relating to a budget or ad valorem tax, if the waiver or suspension is reasonably necessary to cope with a disaster.

SECTION 2. Subchapter E, Chapter 418, Government Code, is amended by adding Section 418.1075 to read as follows:

Sec. 418.1075. SUSPENSION OF DEADLINES IMPOSED BY LOCAL LAW. (a) Notwithstanding any other law, a deadline imposed by local law on a political subdivision, including a deadline relating to a budget or ad valorem tax, is suspended if:

(1) the territory of the political subdivision is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and

(2) the presiding officer of the political subdivision or, if there is no presiding officer, the political subdivision's governing body, proclaims the political subdivision is unable to comply with the requirement because of the disaster.

(b) The presiding officer of the political subdivision or, if there is no presiding officer, the political subdivision's governing body, may issue an order ending the suspension of a deadline under this section. A deadline may not be suspended for more than 30 days after the date the presiding officer or governing body, as appropriate, makes the proclamation described by Subsection (a)(2).

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 4642 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Lucio called up with senate amendments for consideration at this time,

HB 4642, A bill to be entitled An Act relating to the Jim Solis Outpatient Clinic.

Representative Lucio moved to concur in the senate amendments to **HB 4642**.

The motion to concur in the senate amendments to **HB 4642** prevailed by (Record 1434): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Anderson; Howard, C.

STATEMENT OF VOTE

When Record No. 1434 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

Senate Committee Substitute

CSHB 4642, A bill to be entitled An Act relating to the Rep. Jim Solis and Colonel H. William "Bill" Card, Jr. Outpatient Clinic.

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

SECTION 1. Subchapter A, Chapter 13, Health and Safety Code, is amended by adding Section 13.007 to read as follows:

Sec. 13.007. REP. JIM SOLIS AND COLONEL H. WILLIAM "BILL" CARD, JR. OUTPATIENT CLINIC. The outpatient clinic operated by the South Texas Health Care System in Harlingen, Texas, is named the Rep. Jim Solis and Colonel H. William "Bill" Card, Jr. Outpatient Clinic in honor of Rep. Jim Solis and Colonel H. William "Bill" Card, Jr.

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, 2009.

**HB 3594 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative McReynolds called up with senate amendments for consideration at this time,

HB 3594, A bill to be entitled An Act relating to the preservation of evidence that contains biological material.

Representative McReynolds moved to concur in the senate amendments to **HB 3594**.

The motion to concur in the senate amendments to **HB 3594** prevailed by (Record 1435): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Anderson; Thompson.

Senate Committee Substitute

CSHB 3594, A bill to be entitled An Act relating to the preservation of evidence that contains biological material.

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

SECTION 1. Article 38.43, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f)(1) This subsection applies only to evidence described by Subsection (b) that was used to prosecute and convict a defendant of an offense under Chapter 19, 21, or 22, Penal Code, if on conviction of the offense the defendant was sentenced to a term of imprisonment of 10 years or more.

(2) In a county with a population less than 100,000, the attorney representing the state, clerk, or other officer in possession of any evidence to which this subsection applies shall ensure the preservation of the evidence by promptly delivering the evidence to the Department of Public Safety for storage in accordance with Section 411.052, Government Code, and department rules.

SECTION 2. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.052 to read as follows:

Sec. 411.052. PRESERVATION OF EVIDENCE CONTAINING BIOLOGICAL MATERIAL. (a) The department:

(1) shall maintain a storage space for the preservation of evidence containing biological material that is delivered to the department under Article 38.43(f), Code of Criminal Procedure; and

(2) may maintain a storage space for the preservation of evidence of a sexual assault or other sex offense.

(b) The department shall adopt rules relating to the delivery, cataloging, and preservation of evidence stored under this section.

SECTION 3. (a) The Department of Public Safety of the State of Texas shall adopt rules as required by Section 411.052(b), Government Code, as added by this Act, not later than November 1, 2009.

(b) The Department of Public Safety of the State of Texas must begin accepting evidence delivered to the department in accordance with Article 38.43, Code of Criminal Procedure, as amended by this Act, and Section 411.052, Government Code, as added by this Act, on January 1, 2010.

SECTION 4. The change in law made by this Act applies to the storage of evidence in the possession of the state during a criminal proceeding that commences on or after January 1, 2010. The storage of evidence in the possession of the state during a criminal proceeding that commences before January 1, 2010, is covered by the law in effect when the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 5. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

SECTION 6. This Act takes effect September 1, 2009.

HB 4827 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 4827, A bill to be entitled An Act relating to the creation of Harris County Improvement District No. 20; providing authority to impose a tax and issue bonds.

Representative Coleman moved to concur in the senate amendments to **HB 4827**.

The motion to concur in the senate amendments to **HB 4827** prevailed by (Record 1436): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Isett.

Senate Committee Substitute

CSHB 4827, A bill to be entitled An Act relating to the creation of Harris County Improvement District No. 20; providing authority to impose a tax and issue bonds.

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

SECTION 1. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 20. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3893 to read as follows:

CHAPTER 3893. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 20

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3893.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a board member.

(3) "District" means the Harris County Improvement District No. 20.

Sec. 3893.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 20. The Harris County Improvement District No. 20 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3893.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing

Harris County, the City of Houston, the Metropolitan Transit Authority of Harris County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the area of the district.

(c) This chapter and the creation of the district may not be interpreted to relieve Harris County or the City of Houston from providing the level of services provided as of the effective date of the Act creating this chapter to the area in the district or to release the county or the city from the obligations of each entity to provide services to that area. The district is created to supplement and not to supplant the county or city services provided in the area in the district.

Sec. 3893.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Each improvement project or service authorized by this chapter is essential to carry out a public purpose.

(d) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center;

(3) promote the health, safety, welfare, and enjoyment of the public by providing public art and pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty;

(4) promote and benefit commercial development and commercial areas in the district; and

(5) promote and develop public transportation and pedestrian facilities and systems using new and alternative means that are attractive, safe, and convenient, including securing expanded and improved transportation and pedestrian facilities and systems, to:

(A) address the problem of traffic congestion in the district, the need to control traffic and improve pedestrian safety, and the limited availability of money; and

(B) benefit the land and other property in the district and the residents, employers, employees, visitors, and consumers in the district and the public.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3893.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act creating this chapter, as that territory may have been modified under:

- (1) Section 3893.251;
- (2) Subchapter J, Chapter 49, Water Code; or
- (3) other law.

(b) The boundaries and field notes of the district contained in Section 2 of the Act creating this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not in any way affect:

- (1) the district's organization, existence, and validity;
- (2) the district's right to issue any type of bond, including a refunding bond, for a purpose for which the district is created or to pay the principal of and interest on the bond;
- (3) the district's right to impose and collect an assessment or tax; or
- (4) the legality or operation of the district or the board.

(c) A description of the district's boundaries shall be filed with the Texas Commission on Environmental Quality. The commission by order may correct a mistake in the description of the district's boundaries.

Sec. 3893.006. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3893.007-3893.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3893.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of five voting directors appointed by a majority of the members of the governing body, including the mayor, of the City of Houston. Voting directors serve staggered terms of four years with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) The board by order or resolution may increase or decrease the number of voting directors on the board, but only if a majority of the voting directors finds that it is in the best interest of the district to do so. The board may not:

- (1) increase the number of voting directors to more than nine; or
- (2) decrease the number of voting directors to fewer than five.

(c) Sections 49.053, 49.054, 49.056, 49.057, 49.058, and 49.060, Water Code, apply to the board.

(d) Subchapter D, Chapter 375, Local Government Code, applies to the board to the extent that subchapter does not conflict with this chapter.

Sec. 3893.052. APPOINTMENT OF DIRECTORS ON INCREASE IN BOARD SIZE. If the board increases the number of directors under Section 3893.051, the board shall appoint eligible persons to fill the new director positions and shall provide for the staggering of terms of the new directors. On expiration of the term of a director appointed under this section, a succeeding director shall be appointed and qualified as provided by Subchapter D, Chapter 375, Local Government Code. The mayor and members of the governing body of the City of Houston shall appoint voting directors from persons recommended by the board. A person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person.

Sec. 3893.053. NONVOTING DIRECTORS. (a) The following persons shall serve as nonvoting directors:

(1) the directors of the following departments of the City of Houston or a person designated by that director:

(A) parks and recreation;

(B) planning and development; and

(C) public works; and

(2) the City of Houston's chief of police.

(b) If a department described by Subsection (a) is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting director. If a department described by Subsection (a) is abolished, the board may appoint a representative of another department that performs duties comparable to the duties performed by the abolished department.

Sec. 3893.054. QUORUM. (a) A majority of the voting directors constitutes a quorum of the board.

(b) Nonvoting directors and vacant director positions are not counted for the purposes of establishing a quorum of the board.

Sec. 3893.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

(a) Except as provided by this section:

(1) a voting director may participate in all board votes and decisions; and

(2) Chapter 171, Local Government Code, governs conflicts of interest for directors.

(b) Section 171.004, Local Government Code, does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if:

(1) a majority of the directors have a similar interest in the same entity;

or

(2) all other similar business or charitable entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that public entity.

(d) For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have substantial interest in a business entity under Section 171.002, Local Government Code.

Sec. 3893.056. COMPENSATION OF VOTING DIRECTORS. Voting directors may receive fees of office and reimbursement of expenses as provided by Section 49.060, Water Code.

Sec. 3893.057. INITIAL VOTING DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Percy Ly Melton</u>
<u>2</u>	<u>Orville Dunk</u>
<u>3</u>	<u>LaMonika Hurst</u>
<u>4</u>	<u>Elizabeth Choate</u>
<u>5</u>	<u>Rebecca Reyes</u>

(b) Of the initial directors, the terms of directors serving in positions 1, 2, and 3 expire June 1, 2013, and the terms of directors serving in positions 4 and 5 expire June 1, 2011.

(c) Sections 3893.051(a) and (b) do not apply to the initial directors.

(d) This section expires September 1, 2013.

[Sections 3893.058-3893.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3893.101. DISTRICT POWERS. The district may exercise the powers given to:

(1) a district created under Chapter 375, Local Government Code;
(2) a district by Subchapters H and I, Chapter 49, Water Code;
(3) a corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, and maintain the projects described by that chapter; and

(4) a housing finance corporation created under Chapter 394, Local Government Code, to provide housing or residential development projects in the district.

Sec. 3893.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as, for the same term as, and on the same conditions as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

Sec. 3893.103. AGREEMENTS; GRANTS. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3893.104. ELECTIONS. (a) District elections must be held in the manner provided by Subchapter L, Chapter 375, Local Government Code.

(b) The board may submit multiple purposes in a single proposition at an election.

Sec. 3893.105. CONTRACT FOR LAW ENFORCEMENT AND SECURITY SERVICES. The district may contract with:

(1) Harris County or the City of Houston for the county or city to provide law enforcement and security services in the district for a fee; or

(2) a private entity for the private entity to provide supplemental security services.

Sec. 3893.106. ANNEXATION OR EXCLUSION OF TERRITORY. The district may annex or exclude land from the district in the manner provided by Subchapter C, Chapter 375, Local Government Code.

Sec. 3893.107. APPROVAL BY CITY OF HOUSTON. (a) Except as provided by Subsection (b), the district must obtain the approval of the City of Houston's governing body for:

(1) the issuance of a bond for each improvement project;

(2) the plans and specifications of the improvement project financed by the bond; and

(3) the plans and specifications of any district improvement project related to the use of land owned by the City of Houston, an easement granted by the City of Houston, or a right-of-way of a street, road, or highway.

(b) If the district obtains the approval of the City of Houston's governing body of a capital improvements budget for a period not to exceed five years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the City of Houston.

Sec. 3893.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to an organization that:

(1) enjoys tax-exempt status under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986; and

(2) performs a service or provides an activity consistent with promoting a district purpose.

Sec. 3893.109. ROAD POWERS. The district may exercise powers given to:

(1) a road district created under Chapter 257, Transportation Code; and

(2) a road utility district created under Chapter 441, Transportation Code.

Sec. 3893.110. AIR RIGHTS; CONSTRUCTION. The district may acquire air rights and may construct improvements on property on which it owns only air rights.

Sec. 3893.111. ADDITIONAL PROPERTY RIGHTS; LEASEHOLDS. The district may construct improvements on property on which it only has a leasehold interest and may own undivided interests in buildings and other improvements.

Sec. 3893.112. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 3893.113-3893.150 reserved for expansion]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3893.151. PUBLIC TRANSIT SYSTEM; PETITION REQUIRED. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

(b) The board may not act under Subsection (a) unless a written petition requesting the action has been filed with the board.

(c) The petition must be signed by:

(1) the owners of property representing a majority of the total assessed value of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located; or

(2) the owners of a majority of the area of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located.

(d) For purposes of Subsection (c), the determination of a majority is based on the property owners along the entire right-of-way of the proposed transit project and may not be calculated on a block-by-block basis.

Sec. 3893.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities, including:

(1) lots, garages, parking terminals, or other structures or accommodations for the parking of motor vehicles; and

(2) equipment, entrances, exits, fencing, and other accessories necessary for safety and convenience in the parking of vehicles.

(b) A parking facility of the district must be either leased to or operated on behalf of the district by a private entity or an entity other than the district. The district's parking facilities are a program authorized by the legislature under Section 52-a, Article III, Texas Constitution, and accomplish a public purpose under that section even if leased or operated by a private entity for a term of years.

Sec. 3893.153. RULES. The district may adopt rules covering its public transit system or its public parking facilities, except that a rule relating to or affecting the use of the public right-of-way or a requirement for off-street parking is subject to all applicable municipal charter, code, or ordinance requirements.

Sec. 3893.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR PARKING FACILITIES. (a) The district may use any of its resources, including revenue, assessments, taxes, and grant or contract proceeds, to pay the cost of acquiring and operating a public transit system or public parking facilities.

(b) The district may set and impose fees, charges, or tolls for the use of the public transit system or the public parking facilities and may issue bonds or notes to finance the cost of these facilities.

(c) Except as provided by Section 3893.151, if the district pays for or finances the cost of acquiring or operating a public transit system or public parking facilities with resources other than assessments, a petition of property owners or a public hearing is not required.

Sec. 3893.155. PAYMENT IN LIEU OF TAXES TO OTHER TAXING UNIT. If the district's acquisition of property for a parking facility that is leased to or operated by a private entity results in the removal from a taxing unit's tax rolls of real property otherwise subject to ad valorem taxation, the district shall pay to the taxing unit in which the property is located, on or before January 1 of each year, as a payment in lieu of taxes, an amount equal to the ad valorem taxes that otherwise would have been imposed for the preceding tax year on that real property by the taxing unit, without including the value of any improvements constructed on the property.

Sec. 3893.156. AGREEMENT WITH RAPID TRANSIT AUTHORITY.

(a) In this section, "authority" means a rapid transit authority created under Chapter 451, Transportation Code.

(b) The district and an authority may agree to jointly construct, own, operate, and maintain a transit facility or a parking facility under the terms the authority and district desire.

(c) The agreement may provide that the district and the authority exchange or trade land provided that each party to the agreement receives fair market value. The authority is not required to offer any property that it proposes to trade to the district for sale to the public or for sale to any abutting property owner.

[Sections 3893.157-3893.200 reserved for expansion]

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 3893.201. AUTHORITY TO IMPOSE ASSESSMENTS, AD VALOREM TAXES, AND IMPACT FEES. The district may impose, assess, charge, or collect an assessment, an ad valorem tax, an impact fee, or another fee in accordance with Chapter 49, Water Code, for a purpose specified by Chapter 375, Local Government Code, or as needed to exercise a power or function of the district or to accomplish a purpose or duty for which the district was created.

Sec. 3893.202. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3893.203. ASSESSMENT IN PART OF DISTRICT. An assessment may be imposed on only a part of the district if only that part will benefit from the service or improvement.

Sec. 3893.204. PETITION REQUIRED FOR ASSESSMENT AND FOR FINANCING SERVICES AND IMPROVEMENTS. (a) The board may not impose an assessment or finance a service or improvement project under this chapter unless a written petition requesting the improvement or service has been filed with the board.

(b) The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Harris County; or

(2) at least 25 owners of real property in the district that will be subject to the assessment, if more than 25 persons own real property subject to the assessment in the district according to the most recent certified tax appraisal roll for Harris County.

(c) The board may act upon a petition, required under this section, signed by qualified petitioners prior to or subsequent to the enactment of this chapter.

Sec. 3893.205. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 3893.104, the district may impose an annual ad valorem tax on taxable property in the district to:

(1) administer the district;

(2) maintain and operate the district;

(3) construct or acquire improvements; or

(4) provide a service.

(b) The board shall determine the tax rate.

(c) An owner of real property in the district, except property exempt under the Texas or United States Constitution or under the Tax Code, is liable for the payment of ad valorem taxes imposed by the district on the property.

Sec. 3893.206. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3893.207. PROPERTY OF CERTAIN UTILITIES EXEMPT FROM ASSESSMENT AND IMPACT FEES. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(4) a person who provides the public cable television or advanced telecommunications services.

Sec. 3893.208. USE OF ELECTRICAL OR OPTICAL LINES. (a) The district may impose an assessment to pay the cost of:

(1) burying or removing electrical power lines, telephone lines, cable or fiber-optic lines, or any other type of electrical or optical line;

(2) removing poles and any elevated lines using the poles; and

(3) reconnecting the lines described by Subdivision (2) to the buildings or other improvements to which the lines were connected.

(b) The district may acquire, operate, or charge fees for the use of the district conduits for:

(1) another person's:

(A) telecommunications network;

(B) fiber-optic cable; or

(C) electronic transmission line; or

(2) any other type of transmission line or supporting facility.

(c) The district may not require a person to use a district conduit.

Sec. 3893.209. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds, notes, or other obligations in accordance with Subchapter J, Chapter 375, Local Government Code, payable wholly or partly from assessments, impact fees, revenue, grants, or other money of the district, or any combination of these sources of money, to pay for any authorized district purpose.

(b) In exercising the district's power to borrow, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

Sec. 3893.210. LIMITS ON PARKS AND RECREATION BONDS. Bonds issued to finance parks and recreational facilities may not exceed one percent of the assessed value of the real property in the district according to the most recent certified tax appraisal roll for Harris County.

Sec. 3893.211. TAX AND BOND ELECTIONS. (a) The district shall hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes a maintenance tax or issues bonds payable from ad valorem taxes.

(b) The board may not include more than one purpose in a single proposition at an election to impose a maintenance tax or issue bonds payable from ad valorem taxes.

(c) Section 375.243, Local Government Code, does not apply to the district.

Sec. 3893.212. POWERS OF MUNICIPAL UTILITY DISTRICT TO ESTABLISH DEFINED AREAS AND DESIGNATED PROPERTY; TAXES; BONDS. (a) The district has the powers of a municipal utility district under Subchapter J, Chapter 54, Water Code, including the power to:

(1) implement a plan;

(2) issue bonds; and

(3) impose a tax in a defined area established under that subchapter.

(b) The district may exercise the powers described by Subsection (a) regardless of whether the district is composed of the minimum number of acres provided by Section 54.801, Water Code.

Sec. 3893.213. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, a municipality is not required to pay a bond, note, or other obligation of the district.

Sec. 3893.214. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$50,000.

[Sections 3893.215-3893.250 reserved for expansion]

SUBCHAPTER F. CONSOLIDATION

Sec. 3893.251. CONSOLIDATION WITH MUNICIPAL MANAGEMENT DISTRICT. (a) The district may consolidate with one other municipal management district that adjoins or has a boundary that is within a two-mile radius of any boundary of the district. The board may consolidate with one other district only if the district to be consolidated has not issued bonds or notes secured by assessments or ad valorem taxes or imposed taxes.

(b) To initiate consolidation, the board of a district shall adopt a resolution proposing a consolidation and deliver a copy of the resolution to the board of each district with which consolidation is proposed.

Sec. 3893.252. TERMS AND CONDITIONS FOR CONSOLIDATION. Not later than the 30th day after districts are consolidated under Section 3893.251, the districts shall enter into an agreement specifying the terms and conditions for consolidation. The terms and conditions for consolidation must include:

(1) adoption of a name for the consolidated district;

(2) the number and apportionment of directors to serve on the board of the consolidated district;

(3) the effective date of the consolidation;

(4) an agreement on finances for the consolidated district, including disposition of funds, property, and other assets of each district; and

(5) an agreement on governing the districts during the transition period, including selection of officers.

Sec. 3893.253. NOTICE AND HEARING ON CONSOLIDATION. (a) Each district's board shall publish notice and hold a public hearing in its district regarding the terms and conditions for consolidation of the districts. The board shall publish notice at least once in a newspaper with general circulation in the affected districts at least seven days before the hearing.

(b) After the hearing, each board by resolution must approve the terms and conditions for consolidation by majority vote and enter an order consolidating the districts.

(c) If the board of each involved district adopts a resolution containing the terms and conditions for the consolidation, the involved districts become consolidated.

Sec. 3893.254. GOVERNING CONSOLIDATED DISTRICTS. (a) After two districts are consolidated, they become one district and are governed as one district.

(b) During the period before the terms and conditions of the agreement under Section 3893.252 take effect, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) If one of the districts consolidated into one district under this subchapter had powers at the time the districts were consolidated that the other district being consolidated did not have, the consolidated district may exercise within the original boundaries of each district only the powers that belonged to that original district. In territory annexed into a consolidated district, the district may exercise any of the powers of the original districts.

Sec. 3893.255. DEBTS OF ORIGINAL DISTRICTS. After two districts are consolidated, the consolidated district shall protect the debts and obligations of the original districts and shall ensure that the debts and obligations are not impaired. If the consolidated district has taxing authority, the debts may be paid by taxes imposed on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

Sec. 3893.256. ASSESSMENT AND COLLECTION OF TAXES. If the consolidated district has taxing authority, the district shall impose and collect taxes on all property in the district uniformly, for maintenance and operation of the district.

Sec. 3893.257. FILING OF ORDER WITH COUNTY CLERK AND EXECUTIVE DIRECTOR. The board shall keep in the records of the consolidated district, recorded in the office of the county clerk in each of the counties in the consolidated district, a consolidation order issued by the board. The board shall file the consolidation order with the executive director of the Texas Commission on Environmental Quality.

[Sections 3893.258-3893.300 reserved for expansion]

SUBCHAPTER G. DISSOLUTION

Sec. 3893.301. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The district may be dissolved as provided by Subchapter M, Chapter 375, Local Government Code, except that Section 375.264, Local Government Code, does not apply to the district. The board may dissolve the district regardless of whether the district has debt.

(b) If the district has debt when it is dissolved, the district shall remain in existence solely for the purpose of discharging its bonds or other obligations according to their terms. The dissolution is effective when all debts have been discharged.

SECTION 2. BOUNDARIES. On the effective date of this Act, the Harris County Improvement District No. 20 includes all territory generally bounded by the following described area:

UNLESS otherwise specified, the boundaries of this district will travel along the centerline of each street included, and each intersection will be the intersection of the centerlines of the streets mentioned.

BEGINNING at the intersection of Interstate 610 and Mykawa Road; thence in a southeasterly direction along Mykawa Road to the southern boarder of Texas House District 147 (Harris County - Brazoria County border along Clear Creek). Thence in a westerly direction along the southern border of Texas House District 147 to the border edge that runs North and South (east of Cullen Boulevard.). Thence in a northerly direction along the edge of Texas House District 147 that generally runs North and South up to Interstate 610. Thence in an easterly direction along Interstate 610 to Mykawa Road at the point of BEGINNING.

SECTION 3. REIMBURSEMENT FOR COST OF CREATION. The Harris County Improvement District No. 20 may reimburse the cost of creating the district from assessments or other revenue created by the district or consolidated district under Section 3893.251, Special District Local Laws Code, as added by this Act.

SECTION 4. LEGISLATIVE FINDINGS. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 5. EFFECTIVE DATE. 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, 2009.

**HB 4722 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Cohen called up with senate amendments for consideration at this time,

HB 4722, A bill to be entitled An Act relating to the creation of the Harris County Improvement District No. 11; providing authority to impose a tax and issue bonds.

Representative Cohen moved to concur in the senate amendments to **HB 4722**.

The motion to concur in the senate amendments to **HB 4722** prevailed by (Record 1437): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Isett; King, S.; Villarreal.

Senate Committee Substitute

CSHB 4722, A bill to be entitled An Act relating to the creation of the Harris County Improvement District No. 11; providing authority to impose a tax and issue bonds.

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

SECTION 1. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 11. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3878 to read as follows:

CHAPTER 3878. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 11

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3878.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "District" means the Harris County Improvement District No. 11.

Sec. 3878.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 11. The Harris County Improvement District No. 11 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3878.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing Harris County, the City of Houston, the Metropolitan Transit Authority of Harris County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the area of the district.

(c) This chapter and the creation of the district may not be interpreted to relieve Harris County or the City of Houston from providing the level of services provided as of the effective date of this Act to the area in the district or to release the county or the city from the obligations of each entity to provide services to that area. The district is created to supplement and not to supplant the county or city services provided in the area in the district.

Sec. 3878.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Each improvement project or service authorized by this chapter is essential to carry out a public purpose.

(d) The creation of the district is in the public interest and is essential to:
(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center;

(3) promote the health, safety, welfare, and enjoyment of the public by providing public art and pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty;

(4) promote and benefit commercial development and commercial areas in the district; and

(5) promote and develop public transportation and pedestrian facilities and systems using new and alternative means that are attractive, safe, and convenient, including securing expanded and improved transportation and pedestrian facilities and systems, to:

(A) address the problem of traffic congestion in the district, the need to control traffic and improve pedestrian safety, and the limited availability of money; and

(B) benefit the land and other property in the district and the residents, employers, employees, visitors, and consumers in the district and the public.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3878.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under:

(1) Section 3878.251;

(2) Subchapter J, Chapter 49, Water Code; or

(3) other law.

(b) The boundaries and field notes of the district contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not in any way affect:

(1) the district's organization, existence, and validity;

(2) the district's right to issue any type of bond, including a refunding bond, for a purpose for which the district is created or to pay the principal of and interest on the bond;

(3) the district's right to impose and collect an assessment or tax; or

(4) the legality or operation of the district or the board.

(c) A description of the district's boundaries shall be filed with the Texas Commission on Environmental Quality. The commission by order may correct a mistake in the description of the district's boundaries.

Sec. 3878.006. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3878.007-3878.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3878.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of 10 voting directors appointed by a majority of the members of the governing body, including the mayor, of the City of Houston. Voting directors serve staggered terms of four years with five directors' terms expiring June 1 of each odd-numbered year.

(b) The board by order or resolution may increase or decrease the number of voting directors on the board, but only if a majority of the voting directors finds that it is in the best interest of the district to do so. The board may not:

(1) increase the number of voting directors to more than 15; or

(2) decrease the number of voting directors to fewer than five.

(c) Sections 49.053, 49.054, 49.056, 49.057, 49.058, and 49.060, Water Code, apply to the board.

(d) Subchapter D, Chapter 375, Local Government Code, applies to the board to the extent that subchapter does not conflict with this chapter.

Sec. 3878.052. APPOINTMENT OF DIRECTORS ON INCREASE IN BOARD SIZE. If the board increases the number of directors under Section 3878.051, the board shall appoint eligible persons to fill the new director positions and shall provide for the staggering of terms of the new directors. On expiration of the term of a director appointed under this section, a succeeding director shall be appointed and qualified as provided by Subchapter D, Chapter 375, Local Government Code. The mayor and members of the governing body of the City of Houston shall appoint voting directors from persons recommended by the board. A person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person.

Sec. 3878.053. NONVOTING DIRECTORS. (a) The following persons shall serve as nonvoting directors:

(1) the directors of the following departments of the City of Houston or a person designated by that director:

(A) parks and recreation;

(B) planning and development; and

(C) public works; and

(2) the City of Houston's chief of police.

(b) If a department described by Subsection (a) is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting director. If a department described by Subsection (a) is abolished, the board may appoint a representative of another department that performs duties comparable to the duties performed by the abolished department.

Sec. 3878.054. QUORUM. (a) Except as provided by Subsection (b), six voting directors constitute a quorum of the board.

(b) If the board is composed of an odd number of voting directors, a majority of the voting directors constitutes a quorum of the board.

(c) Nonvoting directors and vacant director positions are not counted for the purposes of establishing a quorum of the board.

Sec. 3878.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

(a) Except as provided by this section:

(1) a voting director may participate in all board votes and decisions;
and

(2) Chapter 171, Local Government Code, governs conflicts of interest for directors.

(b) Section 171.004, Local Government Code, does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if:

(1) a majority of the directors have a similar interest in the same entity;
or

(2) all other similar business or charitable entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that public entity.

(d) For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have substantial interest in a business entity under Section 171.002, Local Government Code.

Sec. 3878.056. COMPENSATION OF VOTING DIRECTORS. Voting directors may receive fees of office and reimbursement of expenses as provided by Section 49.060, Water Code.

Sec. 3878.057. INITIAL VOTING DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Claude Wynne</u>
<u>2</u>	<u>Allen Ueckert</u>
<u>3</u>	<u>Randy Mitchmoore</u>
<u>4</u>	<u>Cassie Stinson</u>
<u>5</u>	<u>Trip "Bradshaw" Carter</u>
<u>6</u>	<u>Brandon Dudley</u>
<u>7</u>	<u>E. Joyce Iyamu</u>
<u>8</u>	<u>Marchris Robinson</u>
<u>9</u>	<u>Dennis Murland</u>
<u>10</u>	<u>Robert Jara</u>

(b) Of the initial directors, the terms of directors serving in positions 1 through 5 expire June 1, 2013, and the terms of directors serving in positions 6 through 10 expire June 1, 2011.

(c) Sections 3878.051(a) and (b) do not apply to the initial directors.

(d) This section expires September 1, 2013.

[Sections 3878.058-3878.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3878.101. DISTRICT POWERS. The district may exercise the powers given to:

(1) a district created under Chapter 375, Local Government Code;
(2) a district by Subchapters H and I, Chapter 49, Water Code;
(3) a corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, and maintain the projects described by that section; and

(4) a housing finance corporation created under Chapter 394, Local Government Code, to provide housing or residential development projects in the district.

Sec. 3878.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as, for the same term as, and on the same conditions as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

Sec. 3878.103. AGREEMENTS; GRANTS. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3878.104. ELECTIONS. (a) District elections must be held in the manner provided by Subchapter L, Chapter 375, Local Government Code.

(b) The board may submit multiple purposes in a single proposition at an election.

Sec. 3878.105. CONTRACT FOR LAW ENFORCEMENT AND SECURITY SERVICES. The district may contract with:

(1) Harris County or the City of Houston for the county or city to provide law enforcement and security services in the district for a fee; or

(2) a private entity for the private entity to provide supplemental security services.

Sec. 3878.106. ANNEXATION OR EXCLUSION OF TERRITORY. The district may annex or exclude land from the district in the manner provided by Subchapter C, Chapter 375, Local Government Code.

Sec. 3878.107. APPROVAL BY CITY OF HOUSTON. (a) Except as provided by Subsection (b), the district must obtain the approval of the City of Houston's governing body for:

(1) the issuance of a bond for each improvement project;
(2) the plans and specifications of the improvement project financed by the bond; and

(3) the plans and specifications of any district improvement project related to the use of land owned by the City of Houston, an easement granted by the City of Houston, or a right-of-way of a street, road, or highway.

(b) If the district obtains the approval of the City of Houston's governing body of a capital improvements budget for a period not to exceed five years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the City of Houston.

Sec. 3878.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to an organization that:

(1) enjoys tax-exempt status under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986; and

(2) performs a service or provides an activity consistent with promoting a district purpose.

Sec. 3878.109. ROAD POWERS. The district may exercise powers given to:

(1) a road district created under Chapter 257, Transportation Code; and

(2) a road utility district created under Chapter 441, Transportation Code.

Sec. 3878.110. AIR RIGHTS; CONSTRUCTION. The district may acquire air rights and related easements and may construct improvements on property on which it owns only air rights and related easements.

Sec. 3878.111. ADDITIONAL PROPERTY RIGHTS; LEASEHOLDS. The district may construct improvements on property on which it only has a leasehold interest and may own undivided interests in buildings and other improvements.

Sec. 3878.112. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 3878.113-3878.150 reserved for expansion]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3878.151. PUBLIC TRANSIT SYSTEM; PETITION REQUIRED. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

(b) The board may not act under Subsection (a) unless a written petition requesting the action has been filed with the board.

(c) The petition must be signed by:

(1) the owners of property representing a majority of the total assessed value of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located; or

(2) the owners of a majority of the area of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located.

(d) For purposes of Subsection (c), the determination of a majority is based on the property owners along the entire right-of-way of the proposed transit project and may not be calculated on a block-by-block basis.

Sec. 3878.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY; TAX EXEMPTION. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities, including:

(1) lots, garages, parking terminals, or other structures or accommodations for the parking of motor vehicles; and

(2) equipment, entrances, exits, fencing, and other accessories necessary for safety and convenience in the parking of vehicles.

(b) A parking facility of the district must be either leased to or operated on behalf of the district by a private entity or an entity other than the district. The district's parking facilities are a program authorized by the legislature under Section 52-a, Article III, Texas Constitution, and accomplish a public purpose under that section even if leased or operated by a private entity for a term of years.

(c) The district's public parking facilities and any lease to a private entity are exempt from the payment of ad valorem taxes and state and local sales and use taxes.

Sec. 3878.153. RULES. The district may adopt rules covering its public transit system or its public parking facilities, except that a rule relating to or affecting the use of the public right-of-way or a requirement for off-street parking is subject to all applicable municipal charter, code, or ordinance requirements.

Sec. 3878.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR PARKING FACILITIES. (a) The district may use any of its resources, including revenue, assessments, taxes, and grant or contract proceeds, to pay the cost of acquiring and operating a public transit system or public parking facilities.

(b) The district may set and impose fees, charges, or tolls for the use of the public transit system or the public parking facilities and may issue bonds or notes to finance the cost of these facilities.

(c) Except as provided by Section 3878.151, if the district pays for or finances the cost of acquiring or operating a public transit system or public parking facilities with resources other than assessments, a petition of property owners or a public hearing is not required.

Sec. 3878.155. PAYMENT IN LIEU OF TAXES TO OTHER TAXING UNIT. If the district's acquisition of property for a parking facility that is leased to or operated by a private entity results in the removal from a taxing unit's tax rolls of real property otherwise subject to ad valorem taxation, the district shall pay to the taxing unit in which the property is located, on or before January 1 of each year, as a payment in lieu of taxes, an amount equal to the ad valorem taxes

that otherwise would have been imposed for the preceding tax year on that real property by the taxing unit, without including the value of any improvements constructed on the property.

Sec. 3878.156. AGREEMENT WITH RAPID TRANSIT AUTHORITY.

(a) In this section, "authority" means a rapid transit authority created under Chapter 451, Transportation Code.

(b) The district and an authority may agree to jointly construct, own, operate, and maintain a transit facility or a parking facility under the terms the authority and district desire.

(c) The agreement may provide that the district and the authority exchange or trade land provided that each party to the agreement receives fair market value. The authority is not required to offer any property that it proposes to trade to the district for sale to the public or for sale to any abutting property owner.

[Sections 3878.157-3878.200 reserved for expansion]

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 3878.201. AUTHORITY TO IMPOSE ASSESSMENTS, AD VALOREM TAXES, AND IMPACT FEES. The district may impose, assess, charge, or collect an assessment, an ad valorem tax, an impact fee, or another fee in accordance with Chapter 49, Water Code, for a purpose specified by Chapter 375, Local Government Code, or as needed to exercise a power or function of the district or to accomplish a purpose or duty for which the district was created.

Sec. 3878.202. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3878.203. ASSESSMENT IN PART OF DISTRICT. An assessment may be imposed on only a part of the district if only that part will benefit from the service or improvement.

Sec. 3878.204. PETITION REQUIRED FOR ASSESSMENT AND FOR FINANCING SERVICES AND IMPROVEMENTS. (a) The board may not impose an assessment or finance a service or improvement project under this chapter unless a written petition requesting the improvement or service has been filed with the board.

(b) The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Harris County; or

(2) at least 25 owners of real property in the district that will be subject to the assessment, if more than 25 persons own real property subject to the assessment in the district according to the most recent certified tax appraisal roll for Harris County.

(c) The board may act upon a petition, required under this section, signed by qualified petitioners prior to or subsequent to the enactment of this chapter.

Sec. 3878.205. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 3878.104, the district may impose an annual ad valorem tax on taxable property in the district to:

(1) administer the district;

- (2) maintain and operate the district;
- (3) construct or acquire improvements; or
- (4) provide a service.

(b) The board shall determine the tax rate.

(c) An owner of real property in the district, except property exempt under the Texas or United States Constitution or under the Tax Code, is liable for the payment of ad valorem taxes imposed by the district on the property.

Sec. 3878.206. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

- (1) are a first and prior lien against the property assessed;
- (2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and
- (3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3878.207. PROPERTY OF CERTAIN UTILITIES EXEMPT FROM ASSESSMENT AND IMPACT FEES. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

- (1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;
- (2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;
- (3) a telecommunications provider as defined by Section 51.002, Utilities Code; or
- (4) a person who provides the public cable television or advanced telecommunications services.

Sec. 3878.208. USE OF ELECTRICAL OR OPTICAL LINES. (a) The district may impose an assessment to pay the cost of:

- (1) burying or removing electrical power lines, telephone lines, cable or fiber-optic lines, or any other type of electrical or optical line;
- (2) removing poles and any elevated lines using the poles; and
- (3) reconnecting the lines described by Subdivision (2) to the buildings or other improvements to which the lines were connected.

(b) The district may acquire, operate, or charge fees for the use of the district conduits for:

(1) another person's:

(A) telecommunications network;

(B) fiber-optic cable; or

(C) electronic transmission line; or

(2) any other type of transmission line or supporting facility.

(c) The district may not require a person to use a district conduit.

Sec. 3878.209. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds, notes, or other obligations in accordance with Subchapter J, Chapter 375, Local Government Code, payable wholly or partly from assessments, impact fees, revenue, grants, or other money of the district, or any combination of these sources of money, to pay for any authorized district purpose.

(b) In exercising the district's power to borrow, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

Sec. 3878.210. LIMITS ON PARKS AND RECREATION BONDS. Bonds issued to finance parks and recreational facilities may not exceed one percent of the assessed value of the real property in the district according to the most recent certified tax appraisal roll for Harris County.

Sec. 3878.211. TAX AND BOND ELECTIONS. (a) The district shall hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes a maintenance tax or issues bonds payable from ad valorem taxes.

(b) The board may not include more than one purpose in a single proposition at an election.

(c) Section 375.243, Local Government Code, does not apply to the district.

Sec. 3878.212. POWERS OF MUNICIPAL UTILITY DISTRICT TO ESTABLISH DEFINED AREAS AND DESIGNATED PROPERTY; TAXES; BONDS. (a) The district has the powers of a municipal utility district under Subchapter J, Chapter 54, Water Code, including the power to:

(1) implement a plan;

(2) issue bonds; and

(3) impose a tax in a defined area established under that subchapter.

(b) The district may exercise the powers described by Subsection (a) regardless of whether the district is composed of the minimum number of acres provided by Section 54.801, Water Code.

Sec. 3878.213. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, a municipality is not required to pay a bond, note, or other obligation of the district.

Sec. 3878.214. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$50,000.

[Sections 3878.215-3878.250 reserved for expansion]

SUBCHAPTER F. CONSOLIDATION

Sec. 3878.251. CONSOLIDATION WITH MUNICIPAL MANAGEMENT DISTRICT. (a) The district may consolidate with one other municipal management district that adjoins or has a boundary that is within a two-mile radius of any boundary of the district. The board may consolidate with one other district only if the district to be consolidated has not issued bonds or notes secured by assessments or ad valorem taxes or imposed taxes.

(b) To initiate consolidation, the board of a district shall adopt a resolution proposing a consolidation and deliver a copy of the resolution to the board of each district with which consolidation is proposed.

Sec. 3878.252. TERMS AND CONDITIONS FOR CONSOLIDATION. Not later than the 30th day after districts are consolidated under Section 3878.251, the districts shall enter into an agreement specifying the terms and conditions for consolidation. The terms and conditions for consolidation must include:

- (1) adoption of a name for the consolidated district;
- (2) the number and apportionment of directors to serve on the board of the consolidated district;
- (3) the effective date of the consolidation;
- (4) an agreement on finances for the consolidated district, including disposition of funds, property, and other assets of each district; and
- (5) an agreement on governing the districts during the transition period, including selection of officers.

Sec. 3878.253. NOTICE AND HEARING ON CONSOLIDATION. (a) Each district's board shall publish notice and hold a public hearing in its district regarding the terms and conditions for consolidation of the districts. The board shall publish notice at least once in a newspaper with general circulation in the affected districts at least seven days before the hearing.

(b) After the hearing, each board by resolution must approve the terms and conditions for consolidation by majority vote and enter an order consolidating the districts.

(c) If the board of each involved district adopts a resolution containing the terms and conditions for the consolidation, the involved districts become consolidated.

Sec. 3878.254. GOVERNING CONSOLIDATED DISTRICTS. (a) After two districts are consolidated, they become one district and are governed as one district.

(b) During the period before the terms and conditions of the agreement under Section 3878.252 take effect, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) If one of the districts consolidated into one district under this subchapter had powers at the time the districts were consolidated that the other district being consolidated did not have, the consolidated district may exercise within the

original boundaries of each district only the powers that belonged to that original district. In territory annexed into a consolidated district, the district may exercise any of the powers of the original districts.

Sec. 3878.255. DEBTS OF ORIGINAL DISTRICTS. After two districts are consolidated, the consolidated district shall protect the debts and obligations of the original districts and shall ensure that the debts and obligations are not impaired. If the consolidated district has taxing authority, the debts may be paid by taxes imposed on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

Sec. 3878.256. ASSESSMENT AND COLLECTION OF TAXES. If the consolidated district has taxing authority, the district shall impose and collect taxes on all property in the district uniformly, for maintenance and operation of the district.

Sec. 3878.257. FILING OF ORDER WITH COUNTY CLERK AND EXECUTIVE DIRECTOR. The board shall keep in the records of the consolidated district, recorded in the office of the county clerk in each of the counties in the consolidated district, a consolidation order issued by the board. The board shall file the consolidation order with the executive director of the Texas Commission on Environmental Quality.

[Sections 3878.258-3878.300 reserved for expansion]

SUBCHAPTER G. DISSOLUTION

Sec. 3878.301. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The district may be dissolved as provided by Subchapter M, Chapter 375, Local Government Code, except that Section 375.264, Local Government Code, does not apply to the district. The board may dissolve the district regardless of whether the district has debt.

(b) If the district has debt when it is dissolved, the district shall remain in existence solely for the purpose of discharging its bonds or other obligations according to their terms. The dissolution is effective when all debts have been discharged.

SECTION 2. BOUNDARIES. On the effective date of this Act, the Harris County Improvement District No. 11 includes all territory generally bounded by the following described area:

UNLESS otherwise specified, the boundaries of this district will travel along the centerline of each street included, and each intersection will be the intersection of the centerlines of the streets mentioned.

Beginning at the intersection of the center right of way line of West Dallas and the center right of way line of Montrose Boulevard;

Thence in a southerly direction along the center right of way of Montrose Boulevard to its intersection with the center right of way of Sul Ross.

Thence in a westerly direction along the center right of way of Sul Ross to its intersection with the center right of way of Mulberry.

Thence in a southerly direction along the center right of way of Mulberry to its intersection with the center right of way of Branard, thence east along the center right of way of Branard to its intersection with the center right of way of Yupon.

Thence in a southerly direction along the center right of way of Yupon to where Yupon corners into the center right of way of Colquitt.

Thence in an easterly direction along the center right of way of Colquitt to its intersection with the center right of way of Graustark.

Thence in a southerly direction along the center right of way of Graustark to the center right of way of U.S. Highway 59.

Thence easterly along the center right of way of US 59 South to the north property line of Tract 12, Block 7 MacGregor Blodgett Section 1;

Thence southwesterly along the north property line of Tracts 12 and 10, Block 7 MacGregor Blodgett Section 1;

Thence southwesterly along the north property line of Tract 9, Block 8 MacGregor Blodgett Section 1 to the south east property line of the C.C. Fitze Homestead Addition according to the plat thereof recorded in Volume 259, Page 163 of the Harris County Deed Records;

Thence south westerly along the south east property line of said C.C. Fitze Homestead Addition according to the plat thereof recorded in Volume 259, Page 163 of the Harris County Deed Records;

Thence westerly along the south property line of said C.C. Fitze Homestead Addition according to the plat thereof recorded in Volume 259, Page 163 of the Harris County Deed Records crossing the north dead end of Travis to the center right of way line thereof;

Thence southwesterly along the center right of way line of Travis to the center right of way line of Portland;

Thence easterly along the center right of way line of Portland to the center right of way line of Main;

Thence southwesterly along the center right of way line of Main to its intersection with the center right of way line of Bissonnet;

Thence westerly along the center right of way line of Bissonnet to its intersection with the center right of way line of Graustark;

Thence northerly along the center right of way line of Graustark to its intersection with the center right of way line of US 59 South;

Thence westerly along the center right of way line of US 59 South to its intersection with the east right of way line of South Shepherd Drive;

Thence northerly along the east right of way line of South Shepherd Drive following along the northeast right of way line of Shepherd Drive to its intersection with the center right of way line West Dallas Avenue;

Then in a easterly direction along the center right of way of West Dallas Street to its intersection with the center right of way of Montrose Boulevard at the point of BEGINNING.

Save & Except

Save and except the following tracts of land:

1. 0442170000002
 REGENT SQUARE CD LLC
 3601 W ALLEN PKY STE 183
 TRS 1 1A 2 3 3A 4 6A THRU 6E 14A 14B 15 24 & 24A
 LTS 1 THRU 5 BLK 1 HYDE PARK COURT

- LTS 1 & 2 BLK 1 CLAY COURT
ABST 696 O SMITH
2. 0751570010001
REGENT SQUARE CD LLC
3501 W DALLAS ST STE 218
ALL BLKS 1 2
LT 6 BLK 2 HYDE PARK COURT
LTS 1 5 6 7 8 TR 9A WEIS
TRS 9 16 17 18 19D 24 24A 25 ABST 696 O SMITH
3. 0442190000003
REGENT SQUARE CD LLC
3601 ALLEN PKY STE 59
TRS 4 6 6A 7 8 8A 9A 9B 9C 10 -13 & 16
LTS 1 & 2 BLK 1 ROSIE
ABST 696 O SMITH

SECTION 3. REIMBURSEMENT FOR COST OF CREATION. The Harris County Improvement District No. 11 may reimburse the cost of creating the district from assessments or other revenue created by the district or consolidated district under Section 3878.251, Special District Local Laws Code, as added by this Act.

SECTION 4. LEGISLATIVE FINDINGS. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 5. EFFECTIVE DATE. 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, 2009.

HB 4727 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Olivo called up with senate amendments for consideration at this time,

HB 4727, A bill to be entitled An Act relating to the powers and duties of the Sienna Plantation Management District; providing authority to impose a fee or issue bonds.

Representative Olivo moved to concur in the senate amendments to **HB 4727**.

The motion to concur in the senate amendments to **HB 4727** prevailed by (Record 1438): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Eiland; Patrick.

Senate Committee Substitute

CSHB 4727, A bill to be entitled An Act relating to the powers and duties of the Sienna Plantation Management District; providing authority to impose a fee or issue bonds.

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

SECTION 1. Subchapter B, Chapter 3829, Special District Local Laws Code, is amended by adding Section 3829.054 to read as follows:

Sec. 3829.054. COMPENSATION. (a) A director is entitled to receive fees of office and reimbursement for actual expenses as provided by Section 49.060, Water Code.

(b) Sections 375.069 and 375.070, Local Government Code, do not apply to the board.

SECTION 2. Section 3829.105, Special District Local Laws Code, is amended to read as follows:

Sec. 3829.105. COMPETITIVE BIDDING. (a) Subchapter I, Chapter 49, Water Code, applies to the district.

(b) Sections 375.221 and 375.223, Local Government Code, do not apply to the district. [Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$25,000.]

SECTION 3. Subchapter C, Chapter 3829, Special District Local Laws Code, is amended by adding Sections 3829.108 and 3829.109 to read as follows:

Sec. 3829.108. ANNEXATION OR EXCLUSION OF LAND. (a) The district may annex land as provided by Subchapter J, Chapter 49, Water Code.

(b) The district may exclude land as provided by Subchapter J, Chapter 49, Water Code.

(c) Section 375.044(b), Local Government Code, does not apply to the district.

Sec. 3829.109. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

SECTION 4. Section 3829.153, Special District Local Laws Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) If authorized at an election held in accordance with Section 3829.152, the district may impose an annual ad valorem tax in accordance with Section 49.107, Water Code, on taxable property in the district for any purpose, including the:

(1) maintenance and operation of the district and the improvements constructed or acquired by the district; ~~or~~

(2) construction or acquisition of improvements; or

(3) provision of a service.

(c) Section 49.107(h), Water Code, does not apply to the district.

SECTION 5. Section 3829.157, Special District Local Laws Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The district may borrow money on terms determined by the board. Section 375.205, Local Government Code, does not apply to a loan, line of credit, or other debt from a bank or financial institution secured by revenue other than ad valorem taxes [In exercising the district's power to borrow, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation].

(c) The limitation on the outstanding principal amount of bonds, notes, and other obligations provided by Section 49.4645, Water Code, does not apply to the district.

(d) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

SECTION 6. Subchapter D, Chapter 3829, Special District Local Laws Code, is amended by adding Sections 3829.160 and 3829.161 to read as follows:

Sec. 3829.160. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3829.161. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the method of notice.

SECTION 7. Chapter 3829, Special District Local Laws Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3829.251. PUBLIC TRANSIT SYSTEM. The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

Sec. 3829.252. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including:

(1) lots, garages, parking terminals, or other structures or accommodations for motor vehicle off-street parking; and

(2) equipment, entrances, exits, fencing, and other accessories necessary for safety and convenience in parking vehicles.

(b) A parking facility of the district may be leased to, or operated for the district by, an entity other than the district.

(c) The district's parking facilities are a program authorized by the legislature under Section 52-a, Article III, Texas Constitution. The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

Sec. 3829.253. RULES. The district may adopt rules covering its public transit system or its public parking facilities.

Sec. 3829.254. FINANCING OF PUBLIC TRANSIT SYSTEM OR PARKING FACILITIES. (a) The district may use any of its resources, including revenue, assessments, taxes, or grant or contract proceeds, to pay the cost of acquiring or operating a public transit system or public parking facilities.

(b) The district may:

(1) set, charge, impose, and collect fees for the use of the public transit system or public parking facilities; and

(2) issue bonds or notes to finance the cost of the public transit system or public parking facilities.

SECTION 8. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons,

agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 2212 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Craddick called up with senate amendments for consideration at this time,

HB 2212, A bill to be entitled An Act relating to the division of certain emergency services districts.

Representative Craddick moved to concur in the senate amendments to **HB 2212**.

The motion to concur in the senate amendments to **HB 2212** prevailed by (Record 1439): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.;

Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Davis, J.

Senate Committee Substitute

CSHB 2212, A bill to be entitled An Act relating to the division of certain emergency services districts.

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

SECTION 1. Chapter 775, Health and Safety Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. DIVISION OF DISTRICT

Sec. 775.221. AUTHORITY TO DIVIDE DISTRICT. The board of a district located wholly in one county with a population of 20,000 or less may create a new district by disannexing territory from the existing district and ordering a new district to be created in the disannexed territory in the manner provided by this subchapter.

Sec. 775.222. PETITION FOR DIVISION; NOTICE OF HEARING. (a) Before the existing district may be divided, the district's board must receive a petition for division signed by at least seven percent of the district's qualified voters or at least 100 of the district's qualified voters, whichever is the lesser number.

(b) A petition for division must include:

(1) the name of the new district to be created; and

(2) a description of the territory proposed to be the new district's territory.

(c) On receipt of a petition in the proper form, the board shall set a place, date, and time for a hearing to consider the petition.

(d) The board shall issue a notice of the hearing that includes:

(1) the name of the proposed district;

(2) a description of the proposed district's boundaries; and

(3) the place, date, and time of the hearing on the petition.

(e) The board shall publish the notice in a newspaper of general circulation in the district once a week for two consecutive weeks. The first publication must occur not later than the 21st day before the date on which the hearing will be held.

Sec. 775.223. HEARING ON DIVISION OF DISTRICT. (a) At the hearing on the petition for division of the existing district, the board shall consider the petition and each issue relating to the division of the district.

(b) Any interested person may appear before the board to support or oppose the division.

(c) If the board finds that the petition contains the number of signatures required under Section 775.222(a), the board shall approve the petition not later than the 10th day after the date of the hearing.

Sec. 775.224. APPEAL. A resident of the district or an owner of real or personal property located in the district may appeal the board's decision on the division of the district by filing an appeal in the district court in the county in which a district is located only on the basis that the board incorrectly tabulated the number of signatures on the petition.

Sec. 775.225. ELECTION TO CONFIRM DIVISION. (a) On granting a petition to divide the district, the board shall order an election to be held in the territory of the proposed new district to confirm the division of the existing district.

(b) Notice of the election shall be given in the same manner as the notice of hearing under Section 775.222.

(c) The election shall be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the requirements of law.

(d) The ballot shall be printed to provide for voting for or against the proposition: "Dividing the _____ Emergency Services District to create a new emergency services district."

(e) If a majority of voters voting at the election vote to divide the district, the board shall order the division.

(f) If a majority of those voting at the election vote against dividing the existing district, the board may not order another election on the issue before the first anniversary of the date of the canvass of the election.

(g) The existing district and the new district each shall pay a pro rata share of the cost of an election held under this section, based on the assessed value of real property in each district subject to ad valorem taxation.

Sec. 775.226. DIVISION ORDER. A board order to divide a district must:

(1) disannex the land of the new district from the existing district contingent on the approval of the creation of the new district at the election held under this subchapter;

(2) create the new district in accordance with this chapter;

(3) name the new district; and

(4) include the metes and bounds description of the territory of the new district and the existing district after disannexation.

Sec. 775.227. ADMINISTRATION OF DISTRICTS AFTER DIVISION.

(a) The existing board continues in existence to govern the territory of the existing district after disannexation.

(b) If the new district is located wholly in one county, the commissioners court shall appoint a board in the manner described by Section 775.034 not later than the 14th day after the date of the board order dividing the district.

Sec. 775.228. TAXATION FOR OUTSTANDING BONDED DEBT. The disannexation of territory from a district under this subchapter does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other obligations of that district. Property disannexed under this subchapter is

not released from its pro rata share of any of the district's bonded indebtedness on the date of the disannexation, and the district may continue to tax property in the disannexed territory until that debt is paid as if the territory had not been disannexed.

Sec. 775.229. FURTHER DIVISION PROHIBITED. Once a district has been divided under this subchapter, neither the existing district nor the new district may be divided under this subchapter.

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, 2009.

HB 2751 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Truitt called up with senate amendments for consideration at this time,

HB 2751, A bill to be entitled An Act relating to participation and credit in, benefits from, and the administration of the Texas Emergency Services Retirement System.

Representative Truitt moved to concur in the senate amendments to **HB 2751**.

The motion to concur in the senate amendments to **HB 2751** prevailed by (Record 1440): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Senate Committee Substitute

CSHB 2751, A bill to be entitled An Act relating to participation and credit in, benefits from, and the administration of the Texas Emergency Services Retirement System.

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

SECTION 1. Section 861.001, Government Code, is amended by amending Subdivision (10) and adding Subdivision (11-a) to read as follows:

(10) "Qualified service" means service:

(A) for a participating department that is recognized as an emergency services department by its governing body and that conducts at least 48 hours of training in a calendar year; and

(B) that is performed by a member in good standing in the department who:

(i) attends at least 20 hours of annual training and at least 25 percent of the department's emergencies in a calendar year;

(ii) attends at least 20 hours of annual training and provides support services for at least 25 percent of the department's emergencies in a calendar year; or

(iii) ~~[or who]~~ does not attend because the member is absent because of military duty.

(11-a) "Support services" means services that directly assist in the delivery of emergency services. The term includes directing traffic at an emergency scene, dispatching emergency services personnel, driving an emergency services vehicle, supplying or maintaining equipment at an emergency scene, providing essential recordkeeping for a participating department, and other similar services as determined by a department.

SECTION 2. Section 862.002(b), Government Code, is amended to read as follows:

(b) A person is not a member of the pension system if the person:

(1) is less than 18 years of age;

(2) is in a probationary period of service before becoming a regular member of a participating department for which the department is not making contributions for the service;

(3) does not receive a certification of physical fitness or assignment to perform support services ~~[duties]~~ under Section 862.003; or

(4) is retired under this subtitle, regardless of whether the person continues to participate in emergency service-related functions for a department from which the person retired.

SECTION 3. Chapter 862, Government Code, is amended by adding Section 862.0025 to read as follows:

Sec. 862.0025. MEMBERSHIP BY SUPPORT STAFF. (a) Except as provided by Subsection (b), the governing body of a participating department may make an election to include all persons who provide support services for the department as members of the pension system on the same terms as all other volunteers of the department. An election under this section takes effect on the

first day of the calendar month that begins after the month in which the election is made and communicated to the commissioner. Once made, an election under this section is irrevocable.

(b) If a participating department has, before September 1, 2009, enrolled persons who perform support services for the department as members of the pension system, all persons who perform those services for the department are members of the system.

(c) After an election under this section, a participating department that previously did not enroll its support staff as members of the pension system may purchase service credit performed before the date of the election under the terms required for prior service credit for service before departmental participation.

SECTION 4. Section 862.003, Government Code, is amended to read as follows:

Sec. 862.003. CERTIFICATION OF PHYSICAL FITNESS. (a) A prospective member shall present to the local head of the department, for delivery to the local board, a certification of physical fitness by a qualified physician. The person becomes a member of the pension system if the local board accepts the certification or if the local board assigns the person to perform support services and enrolls its support staff as members of the system [~~duties~~].

(b) A local board shall assign a person to perform support services [~~duties~~] if the person does not present an acceptable certification and the person is at least 18 years of age, is not retired from the pension system, and is not serving a probationary period before becoming a regular member of a participating department.

SECTION 5. Chapter 863, Government Code, is amended by adding Section 863.005 to read as follows:

Sec. 863.005. CHARGE FOR CERTAIN PAST DUE CONTRIBUTIONS. The state board by rule may impose an interest charge on contributions due because of a correction of an error by a local board related to enrollment or qualified service. The charge must be based on the pension system's current assumed rate of return. Charges collected shall be deposited in the fund.

SECTION 6. Section 864.007, Government Code, is amended to read as follows:

Sec. 864.007. MEMBER NONSERVICE DEATH BENEFIT. (a) The state board by rule may provide one or more beneficiaries [~~the beneficiary~~] of a deceased member whose death did not result from the performance of emergency service duties a benefit, which may be a lump-sum amount or an annuity.

(b) A rule adopted under this section must include the type of eligible recipient of the benefit, including any service or age requirement, and the method of calculating the amount of the benefit. A rule may include any other terms the board considers appropriate.

SECTION 7. Chapter 864, Government Code, is amended by adding Section 864.015 to read as follows:

Sec. 864.015. BENEFICIARY CAUSING DEATH OF MEMBER OR ANNUITANT. (a) A benefit payable on the death of a member or annuitant may not be paid to a person convicted of causing that death but instead is payable as if the convicted person had predeceased the decedent.

(b) The pension system is not required to change the recipient of benefits under this section unless it receives actual notice of the conviction of a beneficiary. The system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(c) The pension system is not liable for any benefit paid to a convicted person before the date the system receives actual notice of the conviction, and any payment made before that date is a complete discharge of the system's obligation with regard to that benefit payment. The convicted person holds all payments received in constructive trust for the rightful recipient.

(d) For the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court of, an offense at the trial of which it is established that the person's intentional, knowing, or reckless act or omission resulted in the death of a person who was a member or annuitant, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

SECTION 8. Chapter 865, Government Code, is amended by adding Section 865.020 to read as follows:

Sec. 865.020. MEDICAL BOARD. (a) The state board shall designate a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is eligible to participate in the pension system may not be a member of the medical board.

(c) The medical board shall:

(1) investigate essential statements and certificates made by or on behalf of a member of the pension system in connection with an application for disability retirement or, as requested by the commissioner, with an application for an on-duty death benefit; and

(2) report in writing to the commissioner its conclusions and recommendations on all matters referred to it.

(d) The medical board is not subject to subpoena regarding findings it makes in assisting the commissioner under this section, and its members may not be held liable for any opinions, conclusions, or recommendations made under this section.

SECTION 9. Sections 864.008 and 865.001(c), Government Code, are repealed.

SECTION 10. This Act takes effect September 1, 2009.

**HB 3113 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hamilton called up with senate amendments for consideration at this time,

HB 3113, A bill to be entitled An Act relating to the eligibility of certain nonprofit wildlife conservation associations to conduct charitable raffles.

Representative Hamilton moved to concur in the senate amendments to **HB 3113**.

The motion to concur in the senate amendments to **HB 3113** prevailed by (Record 1441): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Senate Committee Substitute

CSHB 3113, A bill to be entitled An Act relating to the eligibility of certain nonprofit wildlife conservation associations to conduct charitable raffles.

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

SECTION 1. Section 2002.003, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) A nonprofit wildlife conservation association and its local chapters, affiliates, wildlife cooperatives, or units are qualified nonprofit organizations under this chapter if the parent association meets the eligibility criteria under this section other than the requirement prescribed by Subsection (a)(3), (b)(3), (b-1)(3), or (c)(3), as applicable. An association or a local chapter, affiliate, wildlife cooperative, or unit that is eligible under this subsection may not use any

proceeds from a raffle conducted under this chapter to attempt to influence legislation or participate or intervene in a political campaign on behalf of a candidate for public office in any manner, including by publishing or distributing a statement or making a campaign contribution. A nonprofit wildlife conservation association may conduct two raffles each year and each local chapter, affiliate, wildlife cooperative, or unit may conduct two raffles each year under this chapter. For purposes of this section, a nonprofit wildlife conservation association includes an association that supports wildlife, fish, or fowl.

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, 2009.

**HB 3347 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Truitt called up with senate amendments for consideration at this time,

HB 3347, A bill to be entitled An Act relating to plan qualification provisions for the Teacher Retirement System of Texas.

Representative Truitt moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3347**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3347**: Truitt, chair; McClendon, Otto, Pitts, and Eiland.

**HB 3352 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Naishtat called up with senate amendments for consideration at this time,

HB 3352, A bill to be entitled An Act relating to the collection, dissemination, and correction of certain judicial determinations for a federal firearm background check.

Representative Naishtat moved to concur in the senate amendments to **HB 3352**.

The motion to concur in the senate amendments to **HB 3352** prevailed by (Record 1442): 93 Yeas, 49 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Berman; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Harless; Heflin; Hernandez; Herrero; Hochberg;

Hodge; Homer; Hopson; Howard, D.; Kent; King, P.; King, S.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Woolley.

Nays — Anderson; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Corte; Crabb; Craddick; Driver; Fletcher; Gattis; Geren; Hamilton; Hancock; Hardcastle; Hartnett; Hilderbran; Howard, C.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Madden; McCall; Miller, D.; Miller, S.; Parker; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Solomons; Truitt; Weber; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Aycocock; King, T.; Veasey.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1442. I intended to vote yes.

Bohac

I was shown voting yes on Record No. 1442. I intended to vote no.

Elkins

I was shown voting yes on Record No. 1442. I intended to vote no.

Flynn

I was shown voting yes on Record No. 1442. I intended to vote no.

Merritt

I was shown voting yes on Record No. 1442. I intended to vote no.

Peña

Senate Committee Substitute

CSHB 3352, A bill to be entitled An Act relating to the collection, dissemination, and correction of certain judicial determinations for a federal firearm background check.

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

SECTION 1. Subchapter D, Chapter 411, Government Code, is amended by adding Sections 411.052 and 411.0521 to read as follows:

Sec. 411.052. FEDERAL FIREARM REPORTING. (a) In this section, "federal prohibited person information" means information that identifies an individual as:

(1) a person ordered by a court to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(2) a person acquitted in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person is ordered by a court to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;

(3) a person determined to have mental retardation and committed by a court for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(4) an incapacitated adult individual for whom a court has appointed a guardian of the individual under Chapter XIII, Probate Code, based on the determination that the person lacks the mental capacity to manage the person's affairs; or

(5) a person determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure.

(b) The department by rule shall establish a procedure to provide federal prohibited person information to the Federal Bureau of Investigation for use with the National Instant Criminal Background Check System. Except as otherwise provided by state law, the department may disseminate federal prohibited person information under this subsection only to the extent necessary to allow the Federal Bureau of Investigation to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(c) The department shall grant access to federal prohibited person information to the person who is the subject of the information.

(d) Federal prohibited person information maintained by the department is confidential information for the use of the department and, except as otherwise provided by this section and other state law, may not be disseminated by the department.

(e) The department by rule shall establish a procedure to correct department records and transmit those corrected records to the Federal Bureau of Investigation when a person provides:

(1) a copy of a judicial order or finding that a person is no longer an incapacitated adult or is entitled to relief from disabilities under Section 574.088, Health and Safety Code; or

(2) proof that the person has obtained notice of relief from disabilities under 18 U.S.C. Section 925.

Sec. 411.0521. REPORT TO DEPARTMENT CONCERNING CERTAIN PERSONS' ACCESS TO FIREARMS. (a) The clerk of the court shall prepare and forward to the department the information described by Subsection (b) not later than the 30th day after the date the court:

(1) orders a person to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(2) acquits a person in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person is ordered to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;

(3) commits a person determined to have mental retardation for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;

(4) appoints a guardian of the incapacitated adult individual under Chapter XIII, Probate Code, based on the determination that the person lacks the mental capacity to manage the person's affairs;

(5) determines a person is incompetent to stand trial under Chapter 46B, Code of Criminal Procedure; or

(6) finds a person is entitled to relief from disabilities under Section 574.088, Health and Safety Code.

(b) The clerk of the court shall prepare and forward the following information under Subsection (a):

(1) the complete name, race, and sex of the person;

(2) any known identifying number of the person, including social security number, driver's license number, or state identification number;

(3) the person's date of birth; and

(4) the federal prohibited person information that is the basis of the report required by this section.

(c) If practicable, the clerk of the court shall forward to the department the information described by Subsection (b) in an electronic format prescribed by the department.

(d) If an order previously reported to the department under Subsection (a) is reversed by order of any court, the clerk shall notify the department of the reversal not later than 30 days after the clerk receives the mandate from the appellate court.

(e) The duty of a clerk to prepare and forward information under this section is not affected by:

(1) any subsequent appeal of the court order;

(2) any subsequent modification of the court order; or

(3) the expiration of the court order.

SECTION 2. Subchapter F, Chapter 574, Health and Safety Code, is amended by adding Section 574.088 to read as follows:

Sec. 574.088. RELIEF FROM DISABILITIES IN MENTAL HEALTH CASES. (a) A person who is furloughed or discharged from court-ordered mental health services may petition the court that entered the commitment order for an order stating that the person qualifies for relief from a firearms disability.

(b) In determining whether to grant relief, the court must hear and consider evidence about:

(1) the circumstances that led to imposition of the firearms disability under 18 U.S.C. Section 922(g)(4);

(2) the person's mental history;

(3) the person's criminal history; and

(4) the person's reputation.

(c) A court may not grant relief unless it makes and enters in the record the following affirmative findings:

(1) the person is no longer likely to act in a manner dangerous to public safety; and

(2) removing the person's disability to purchase a firearm is in the public interest.

SECTION 3. Each clerk of the court shall prepare and forward information for each order issued on or after September 1, 1989, to the Department of Public Safety as required by Section 411.0521, Government Code, as added by this Act. Not later than September 1, 2010, each clerk of the court shall prepare and forward information for any court orders issued on or after September 1, 1989, and before September 1, 2009.

SECTION 4. This Act takes effect September 1, 2009.

HB 671 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Darby called up with senate amendments for consideration at this time,

HB 671, A bill to be entitled An Act relating to the penalty for theft from a nonprofit organization.

Representative Darby moved to concur in the senate amendments to **HB 671**.

The motion to concur in the senate amendments to **HB 671** prevailed by (Record 1443): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — King, T.

Senate Committee Substitute

CSHB 671, A bill to be entitled An Act relating to the penalty for theft from a nonprofit organization or by Medicare providers.

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

SECTION 1. Subsection (f), Section 31.03, Penal Code, is amended to read as follows:

(f) An offense described for purposes of punishment by Subsections (e)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor was a public servant at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant;

(2) the actor was in a contractual relationship with government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship; ~~or~~

(3) the owner of the property appropriated was at the time of the offense:

(A) an elderly individual; or

(B) a nonprofit organization; or

(4) the actor was a Medicare provider in a contractual relationship with the federal government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship.

SECTION 2. Section 31.03(h), Penal Code, is amended by adding Subdivision (3) to read as follows:

(3) "Nonprofit organization" means an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being described as an exempt organization by Section 501(c)(3) of that code.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 4. This Act takes effect September 1, 2009.

HB 1012 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gonzalez Toureilles called up with senate amendments for consideration at this time,

HB 1012, A bill to be entitled An Act relating to the conservatorship or possession of, or access to, a child in a suit affecting the parent-child relationship.

Representative Gonzalez Toureilles moved to concur in the senate amendments to **HB 1012**.

The motion to concur in the senate amendments to **HB 1012** prevailed by (Record 1444): 102 Yeas, 41 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bohac; Bolton; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Creighton; Crownover; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Christian; Cook; Corte; Crabb; Craddick; Darby; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Hamilton; Hancock; Harless; Hilderbran; Hunter; Isett; Jackson; Jones; Legler; Madden; Miller, D.; Miller, S.; Parker; Phillips; Riddle; Sheffield; Shelton; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Rios Ybarra; Thibaut.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1444. I intended to vote yes.

Aycock

I was shown voting yes on Record No. 1444. I intended to vote no.

Frost

I was shown voting yes on Record No. 1444. I intended to vote no.

Hopson

I was shown voting yes on Record No. 1444. I intended to vote no.

S. King

I was shown voting yes on Record No. 1444. I intended to vote no.

Merritt

Senate Committee Substitute

CSHB 1012, A bill to be entitled An Act relating to the conservatorship or possession of, or access to, a child in a suit affecting the parent-child relationship.

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

SECTION 1. Section 102.0045(b), Family Code, is amended to read as follows:

(b) Access to a child by a sibling of the child is governed by the standards established by Section 153.551 [Subchapter J, Chapter 153].

SECTION 2. Section 107.0511, Family Code, is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) The minimum qualifications prescribed by this section do not apply to an individual who, before September 1, 2007:

(1) lived in a county that has a population of 500,000 or more and is adjacent to two or more counties each of which has a population of 50,000 or more;

(2) received a four-year degree from an accredited institution of higher education;

(3) worked as a child protective services investigator for the Department of Family and Protective Services for at least four years;

(4) worked as a community supervision and corrections department officer; and

(5) conducted at least 100 social studies in the previous five years.

(h) A person described by Subsection (g) who performs a social study must:

(1) complete at least eight hours of family violence dynamics training provided by a family violence service provider; and

(2) participate annually in at least 15 hours of continuing education for child custody evaluators that meets the Model Standards of Practice for Child Custody Evaluation adopted by the Association of Family and Conciliation Courts as those standards existed May 1, 2009, or a later version of those standards if adopted by rule of the executive commissioner of the Health and Human Services Commission.

(i) Subsections (g) and (h) and this subsection expire September 1, 2017.

SECTION 3. Section 153.133, Family Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a)(1), the court shall render an order adopting the provisions of a written agreed parenting plan appointing the parents as joint managing conservators if the parenting plan:

(1) meets all the requirements of Subsections (a)(2) through (6); and

(2) provides that the child's primary residence shall be within a specified geographic area.

SECTION 4. Subchapter F, Chapter 153, Family Code, is amended by adding Section 153.3101 to read as follows:

Sec. 153.3101. REFERENCE TO "SCHOOL" IN STANDARD POSSESSION ORDER. In a standard possession order, "school" means the primary or secondary school in which the child is enrolled or, if the child is not enrolled in a primary or secondary school, the public school district in which the child primarily resides.

SECTION 5. Section 153.311, Family Code, is amended to read as follows:

Sec. 153.311. MUTUAL AGREEMENT OR SPECIFIED TERMS FOR POSSESSION. The court shall specify in a standard possession order that the parties may have possession of the child at times mutually agreed to in advance by the parties and, in the absence of mutual agreement, shall have possession of the child under the specified terms set out in the standard possession order.

SECTION 6. Section 153.312, Family Code, is amended to read as follows:

Sec. 153.312. PARENTS WHO RESIDE 100 MILES OR LESS APART.

(a) If the possessory conservator resides 100 miles or less from the primary residence of the child, the possessory conservator shall have the right to possession of the child as follows:

(1) on weekends throughout the year beginning at 6 p.m. on the first, third, and fifth Friday of each month and ending at 6 p.m. on the following Sunday [~~except that, at the possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, the weekend periods of possession specified by this subdivision that occur during the regular school term shall begin at the time the child's school is regularly dismissed and end at 6 p.m. on the following Sunday~~]; and

(2) on Thursdays of each week during the regular school term beginning at 6 p.m. and ending at 8 p.m. [~~or, at the possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, beginning at the time the child's school is regularly dismissed and ending at the time the child's school resumes~~], unless the court finds that visitation under this subdivision is not in the best interest of the child.

(b) The following provisions govern possession of the child for vacations and certain specific holidays and supersede conflicting weekend or Thursday periods of possession. The possessory conservator and the managing conservator shall have rights of possession of the child as follows:

(1) the possessory conservator shall have possession in even-numbered years, beginning at 6 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6 p.m. on the day before school resumes after that vacation, and the managing conservator shall have possession for the same period in odd-numbered years;

(2) if a possessory conservator:

(A) gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day; or

(B) does not give the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 consecutive days beginning at 6 p.m. on July 1 and ending at 6 p.m. on July 31;

(3) if the managing conservator gives the possessory conservator written notice by April 15 of each year, the managing conservator shall have possession of the child on any one weekend beginning Friday at 6 p.m. and ending at 6 p.m. on the following Sunday during one period of possession by the possessory conservator under Subdivision (2), provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place; and

(4) if the managing conservator gives the possessory conservator written notice by April 15 of each year or gives the possessory conservator 14 days' written notice on or after April 16 of each year, the managing conservator may designate one weekend beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, during which an otherwise scheduled weekend period of possession by the possessory conservator will not take place, provided that the weekend designated does not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

SECTION 7. Section 153.313, Family Code, is amended to read as follows:

Sec. 153.313. PARENTS WHO RESIDE OVER 100 MILES APART. If the possessory conservator resides more than 100 miles from the residence of the child, the possessory conservator shall have the right to possession of the child as follows:

(1) either regular weekend possession beginning on the first, third, and fifth Friday as provided under the terms applicable to parents who reside 100 miles or less apart or not more than one weekend per month of the possessory conservator's choice beginning at 6 p.m. on the day school recesses for the weekend and ending at 6 p.m. on the day before school resumes after the weekend, provided that the possessory conservator gives the managing conservator 14 days' written or telephonic notice preceding a designated weekend, and provided that the possessory conservator elects an option for this alternative period of possession by written notice given to the managing conservator within 90 days after the parties begin to reside more than 100 miles apart, as applicable;

(2) each year beginning at 6 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6 p.m. on the day before school resumes after that vacation;

(3) if the possessory conservator:

(A) gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of

the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day; or

(B) does not give the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 consecutive days beginning at 6 p.m. on June 15 and ending at 6 p.m. on July 27;

(4) if the managing conservator gives the possessory conservator written notice by April 15 of each year the managing conservator shall have possession of the child on one weekend beginning Friday at 6 p.m. and ending at 6 p.m. on the following Sunday during one period of possession by the possessory conservator under Subdivision (3), provided that if a period of possession by the possessory conservator exceeds 30 days, the managing conservator may have possession of the child under the terms of this subdivision on two nonconsecutive weekends during that time period, and further provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place; and

(5) if the managing conservator gives the possessory conservator written notice by April 15 of each year, the managing conservator may designate 21 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day, during which the possessory conservator may not have possession of the child, provided that the period or periods so designated do not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

SECTION 8. Section 153.314, Family Code, is amended to read as follows:

Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE PARENTS RESIDE APART. The following provisions govern possession of the child for certain specific holidays and supersede conflicting weekend or Thursday periods of possession without regard to the distance the parents reside apart. The possessory conservator and the managing conservator shall have rights of possession of the child as follows:

(1) the possessory conservator shall have possession of the child in even-numbered years beginning at 6 p.m. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 28, and the managing conservator shall have possession for the same period in odd-numbered years;

(2) the possessory conservator shall have possession of the child in odd-numbered years beginning at noon on December 28 and ending at 6 p.m. on the day before school resumes after that vacation, and the managing conservator shall have possession for the same period in even-numbered years;

(3) the possessory conservator shall have possession of the child in odd-numbered years, beginning at 6 p.m. on the day the child is dismissed from school before Thanksgiving and ending at 6 p.m. on the following Sunday, and the managing conservator shall have possession for the same period in even-numbered years;

(4) the parent not otherwise entitled under this standard possession order to present possession of a child on the child's birthday shall have possession of the child beginning at 6 p.m. and ending at 8 p.m. on that day, provided that the parent picks up the child from the residence of the conservator entitled to possession and returns the child to that same place;

(5) if a conservator, the father shall have possession of the child beginning at 6 p.m. on the Friday preceding Father's Day and ending on Father's Day at 6 p.m., provided that, if he is not otherwise entitled under this standard possession order to present possession of the child, he picks up the child from the residence of the conservator entitled to possession and returns the child to that same place; and

(6) if a conservator, the mother shall have possession of the child beginning at 6 p.m. on the Friday preceding Mother's Day and ending on Mother's Day at 6 p.m., provided that, if she is not otherwise entitled under this standard possession order to present possession of the child, she picks up the child from the residence of the conservator entitled to possession and returns the child to that same place.

SECTION 9. Section 153.315, Family Code, is amended to read as follows:

Sec. 153.315. WEEKEND POSSESSION EXTENDED BY HOLIDAY. (a) If a weekend period of possession of the possessory conservator coincides with a student [school] holiday or teacher in-service day that falls on a Monday during the regular school term, as determined by the school in which the child is enrolled, or with a federal, state, or local holiday that falls on a Monday during the summer months in which school is not in session, the weekend possession shall end at 6 p.m. on [a] Monday ~~[holiday or school holiday or shall begin at 6 p.m. Thursday for a Friday holiday or school holiday, as applicable].~~

(b) If a weekend period of possession of the possessory conservator coincides with a student holiday or teacher in-service day that falls on a Friday during the regular school term, as determined by the school in which the child is enrolled, or with a federal, state, or local holiday that falls on a Friday during the summer months in which school is not in session, the weekend possession shall begin at 6 p.m. on Thursday ~~[At the possessory conservator's election, made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, periods of possession extended by a holiday may begin at the time the child's school is regularly dismissed].~~

SECTION 10. Section 153.317, Family Code, is amended to read as follows:

Sec. 153.317. ALTERNATIVE BEGINNING AND ENDING POSSESSION TIMES. (a) If elected by a conservator, the court shall alter the standard possession order under Sections 153.312, 153.314, and 153.315 to

provide for one or more of the following alternative beginning and ending possession times for the described periods of possession, unless the court finds that the election is not in the best interest of the child:

(1) for weekend periods of possession under Section 153.312(a)(1) during the regular school term:

(A) beginning at the time the child's school is regularly dismissed;

or

(B) ending at the time the child's school resumes after the

weekend;

(2) for Thursday periods of possession under Section 153.312(a)(2):

(A) beginning at the time the child's school is regularly dismissed;

or

(B) ending at the time the child's school resumes on Friday;

(3) for spring vacation periods of possession under Section 153.312(b)(1), beginning at the time the child's school is dismissed for those vacations;

(4) for Christmas school vacation periods of possession under Section 153.314(1), beginning at the time the child's school is dismissed for the vacation;

(5) for Thanksgiving holiday periods of possession under Section 153.314(3), beginning at the time the child's school is dismissed for the holiday;

(6) for Father's Day periods of possession under Section 153.314(5), ending at 8 a.m. on the Monday after Father's Day weekend;

(7) for Mother's Day periods of possession under Section 153.314(6):

(A) beginning at the time the child's school is regularly dismissed on the Friday preceding Mother's Day; or

(B) ending at the time the child's school resumes after Mother's

Day; or

(8) for weekend periods of possession that are extended under Section 153.315(b) by a student holiday or teacher in-service day that falls on a Friday, beginning at the time the child's school is regularly dismissed on Thursday.

(b) A conservator must make an election under Subsection (a) before or at the time of the rendition of a possession order. The election may be made:

(1) in a written document filed with the court; or

(2) through an oral statement made in open court on the record. ~~If a child is enrolled in school and the possessory conservator elects before or at the time of the rendition of the original or modification order, the standard order must expressly provide that the possessory conservator's period of possession shall begin or end, or both, at a different time expressly set in the standard order under and within the range of alternative times provided by one or both of the following subdivisions:~~

~~(1) instead of a period of possession by a possessory conservator beginning at 6 p.m. on the day school recesses, the period of possession may be set in the standard possession order to begin at the time the child's school is regularly dismissed or at any time between the time the child's school is regularly dismissed and 6 p.m.; and~~

~~[(2) except for Thursday evening possession, instead of a period of possession by a possessory conservator ending at 6 p.m. on the day before school resumes, the period of possession may be set in the standard order to end at the time school resumes.]~~

SECTION 11. Section 153.432, Family Code, is amended by adding a new Subsection (c) to read as follows:

(c) In a suit described by Subsection (a), the person filing the suit must execute and attach an affidavit on knowledge or belief that contains, along with supporting facts, the allegation that denial of possession of or access to the child by the petitioner would significantly impair the child's physical health or emotional well-being. The court shall deny the relief sought and dismiss the suit unless the court determines that the facts stated in the affidavit, if true, would be sufficient to support the relief authorized under Section 153.433.

SECTION 12. Section 153.433, Family Code, is amended to read as follows:

Sec. 153.433. POSSESSION OF OR ACCESS TO GRANDCHILD. (a) The court may [shall] order reasonable possession of or access to a grandchild by a grandparent if:

(1) at the time the relief is requested, at least one biological or adoptive parent of the child has not had that parent's parental rights terminated;

(2) the grandparent requesting possession of or access to the child overcomes the presumption that a parent acts in the best interest of the parent's child by proving by a preponderance of the evidence that denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being; and

(3) the grandparent requesting possession of or access to the child is a parent of a parent of the child and that parent of the child:

(A) has been incarcerated in jail or prison during the three-month period preceding the filing of the petition;

(B) has been found by a court to be incompetent;

(C) is dead; or

(D) does not have actual or court-ordered possession of or access to the child.

(b) An order granting possession of or access to a child by a grandparent that is rendered over a parent's objections must state, with specificity that:

(1) at the time the relief was requested, at least one biological or adoptive parent of the child had not had that parent's parental rights terminated;

(2) the grandparent requesting possession of or access to the child has overcome the presumption that a parent acts in the best interest of the parent's child by proving by a preponderance of the evidence that the denial of possession of or access to the child would significantly impair the child's physical health or emotional well-being; and

(3) the grandparent requesting possession of or access to the child is a parent of a parent of the child and that parent of the child:

(A) has been incarcerated in jail or prison during the three-month period preceding the filing of the petition;

(B) has been found by a court to be incompetent;
(C) is dead; or
(D) does not have actual or court-ordered possession of or access to
the child.

SECTION 13. Section 153.502, Family Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) To determine whether there is a risk of the international abduction of a child by a parent of the child, the court shall consider evidence that the parent:

(1) has taken, enticed away, kept, withheld, or concealed a child in violation of another person's right of possession of or access to the child, unless the parent presents evidence that the parent believed in good faith that the parent's conduct was necessary to avoid imminent harm to the child or the parent;

(2) has previously threatened to take, entice away, keep, withhold, or conceal a child in violation of another person's right of possession of or access to the child;

(3) lacks financial reason to stay in the United States, including evidence that the parent is financially independent, is able to work outside of the United States, or is unemployed;

(4) has recently engaged in planning activities that could facilitate the removal of the child from the United States by the parent, including:

(A) quitting a job;

(B) selling a primary residence;

(C) terminating a lease;

(D) closing bank accounts;

(E) liquidating other assets;

(F) hiding or destroying documents;

(G) applying for a passport or visa or obtaining other travel documents for the parent or the child; or

(H) applying to obtain the child's birth certificate or school or medical records;

(5) has a history of domestic violence that the court is required to consider under Section 153.004; or

(6) has a criminal history or a history of violating court orders.

(a-1) In considering evidence of planning activities under Subsection (a)(4), the court also shall consider any evidence that the parent was engaging in those activities as a part of a safety plan to flee from family violence.

SECTION 14. Section 153.551, Family Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A ~~The~~ sibling described by Subsection (a) ~~[of a child]~~ may request access to the child in a suit filed for the sole purpose of requesting the relief, without regard to whether the appointment of a managing conservator is an issue in the suit.

(c) The court shall order reasonable access to the child by the child's sibling described by Subsection (a) if the court finds that access is in the best interest of the child.

SECTION 15. The heading to Subchapter K, Chapter 153, Family Code, is amended to read as follows:

SUBCHAPTER K. PARENTING PLAN, ~~[AND]~~ PARENTING COORDINATOR, AND PARENTING FACILITATOR

SECTION 16. Section 153.601, Family Code, is amended by amending Subdivision (3) and adding Subdivision (3-a) to read as follows:

(3) "Parenting coordinator" means an impartial third party:

(A) who, regardless of the title by which the person is designated by the court, performs any function described by Section 153.606 in a suit; and

(B) who:

(i) is appointed under this subchapter by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through confidential procedures; and

(ii) is not appointed under another statute or a rule of civil procedure.

(3-a) "Parenting facilitator" means an impartial third party:

(A) who, regardless of the title by which the person is designated by the court, performs any function described by Section 153.6061 in a suit; and

(B) who:

(i) is appointed under this subchapter by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through procedures that are not confidential; and

(ii) is not appointed under another statute or a rule of civil procedure.

SECTION 17. Section 153.605, Family Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) In a suit affecting the parent-child relationship, the court may, on its own motion or on a motion or agreement of the parties, appoint a parenting coordinator or assign a domestic relations office under Chapter 203 to appoint an employee or other person to serve as parenting coordinator ~~[to assist the parties in resolving parenting issues].~~

(b) The court may not appoint a parenting coordinator unless, after notice and hearing, the court makes a specific finding that:

(1) the case is a high-conflict case~~;~~ or

~~[(2)]~~ there is good cause shown for the appointment of a parenting coordinator and the appointment is in the best interest of any minor child in the suit; and

(2) the person appointed has the minimum qualifications required by Section 153.610, as documented by the person, unless those requirements have been waived by the court with the agreement of the parties in accordance with Section 153.610(c).

(d) An individual appointed as a parenting coordinator may not serve in any nonconfidential capacity in the same case, including serving as an amicus attorney, guardian ad litem, or social study evaluator under Chapter 107, as a friend of the court under Chapter 202, or as a parenting facilitator under this subchapter.

SECTION 18. Subchapter K, Chapter 153, Family Code, is amended by adding Section 153.6051 to read as follows:

Sec. 153.6051. APPOINTMENT OF PARENTING FACILITATOR. (a) In a suit affecting the parent-child relationship, the court may, on its own motion or on a motion or agreement of the parties, appoint a parenting facilitator or assign a domestic relations office under Chapter 203 to appoint an employee or other person as a parenting facilitator.

(b) The court may not appoint a parenting facilitator unless, after notice and hearing, the court makes a specific finding that:

(1) the case is a high-conflict case or there is good cause shown for the appointment of a parenting facilitator and the appointment is in the best interest of any minor child in the suit; and

(2) the person appointed has the minimum qualifications required by Section 153.6101, as documented by the person.

(c) Notwithstanding any other provision of this subchapter, a party may at any time file a written objection to the appointment of a parenting facilitator on the basis of family violence having been committed by another party against the objecting party or a child who is the subject of the suit. After an objection is filed, a parenting facilitator may not be appointed unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If a parenting facilitator is appointed, the court shall order appropriate measures be taken to ensure the physical and emotional safety of the party who filed the objection. The order may provide that the parties not be required to have face-to-face contact and that the parties be placed in separate rooms during the parenting facilitation.

SECTION 19. Section 153.606, Family Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (f) to read as follows:

(a) The court shall specify the duties of a parenting coordinator [~~must be specified~~] in the order appointing the parenting coordinator. The duties of the parenting coordinator are limited to matters that will aid the parties in:

(1) identifying disputed issues;
(2) reducing misunderstandings;
(3) clarifying priorities;
(4) exploring possibilities for problem solving;
(5) developing methods of collaboration in parenting;
(6) understanding parenting plans and reaching agreements about parenting issues to be included in a parenting plan; ~~and~~

(7) complying with the court's order regarding conservatorship or possession of and access to the child;

(8) implementing parenting plans;

(9) obtaining training regarding problem solving, conflict management, and parenting skills; and

(10) settling disputes regarding parenting issues and reaching a proposed joint resolution or statement of intent regarding those disputes.

(c) The parenting coordinator may not modify any order, judgment, or decree. ~~[If a suit is pending, any agreement made by the parties with the assistance of the parenting coordinator must be reduced to writing, signed by the parties and their attorneys, if any, and filed with the court.]~~

(d) Meetings between the parenting coordinator and the parties may be informal and are not required to follow any specific procedures unless otherwise provided by this subchapter.

(f) A parenting coordinator appointed under this subchapter shall comply with the Ethical Guidelines for Mediators as adopted by the Supreme Court of Texas (Misc. Docket No. 05-9107, June 13, 2005). On request by the court, the parties, or the parties' attorneys, the parenting coordinator shall sign a statement of agreement to comply with those guidelines and submit the statement to the court on acceptance of the appointment. A failure to comply with the guidelines is grounds for removal of the parenting coordinator.

SECTION 20. Subchapter K, Chapter 153, Family Code, is amended by adding Section 153.6061 to read as follows:

Sec. 153.6061. DUTIES OF PARENTING FACILITATOR. (a) The court shall specify the duties of a parenting facilitator in the order appointing the parenting facilitator. The duties of the parenting facilitator are limited to those matters described with regard to a parenting coordinator under Section 153.606(a), except that the parenting facilitator may also monitor compliance with court orders.

(b) A parenting facilitator appointed under this subchapter shall comply with the standard of care applicable to the professional license held by the parenting facilitator in performing the parenting facilitator's duties.

(c) The appointment of a parenting facilitator does not divest the court of:
(1) the exclusive jurisdiction to determine issues of conservatorship, support, and possession of and access to the child; and

(2) the authority to exercise management and control of the suit.

(d) The parenting facilitator may not modify any order, judgment, or decree.

(e) Meetings between the parenting facilitator and the parties may be informal and are not required to follow any specific procedures unless otherwise provided by this subchapter or the standards of practice of the professional license held by the parenting facilitator.

SECTION 21. Section 153.607, Family Code, is amended to read as follows:

Sec. 153.607. PRESUMPTION OF GOOD FAITH; REMOVAL OF PARENTING COORDINATOR. (a) It is a rebuttable presumption that a parenting coordinator is acting in good faith if the parenting coordinator's services have been conducted as provided by this subchapter and the Ethical Guidelines for Mediators described by Section 153.606(f).

(a-1) Except as otherwise provided by this section, the court may ~~shall~~ ~~reserve the right to~~ remove the parenting coordinator in the court's discretion.

(b) The court shall remove the parenting coordinator:

(1) on the request and agreement of all ~~both~~ parties; ~~or~~

(2) on the request of the parenting coordinator;

(3) on the motion of a party, if good cause is shown; or
(4) if the parenting coordinator ceases to satisfy the minimum qualifications required by Section 153.610.

SECTION 22. Subchapter K, Chapter 153, Family Code, is amended by adding Sections 153.6071, 153.6081, 153.6082, 153.6083, and 153.6091 to read as follows:

Sec. 153.6071. PRESUMPTION OF GOOD FAITH; REMOVAL OF PARENTING FACILITATOR. (a) It is a rebuttable presumption that a parenting facilitator is acting in good faith if the parenting facilitator's services have been conducted as provided by this subchapter and the standard of care applicable to the professional license held by the parenting facilitator.

(b) Except as otherwise provided by this section, the court may remove the parenting facilitator in the court's discretion.

(c) The court shall remove the parenting facilitator:

(1) on the request and agreement of all parties;

(2) on the request of the parenting facilitator;

(3) on the motion of a party, if good cause is shown; or

(4) if the parenting facilitator ceases to satisfy the minimum qualifications required by Section 153.6101.

Sec. 153.6081. REPORT OF PARENTING FACILITATOR. A parenting facilitator shall submit a written report to the court and to the parties as ordered by the court. The report may include a recommendation described by Section 153.6082(e) and any other information required by the court, except that the report may not include recommendations regarding the conservatorship of or the possession of or access to the child who is the subject of the suit.

Sec. 153.6082. REPORT OF JOINT PROPOSAL OR STATEMENT OF INTENT; AGREEMENTS AND RECOMMENDATIONS. (a) If the parties have been ordered by the court to attempt to settle parenting issues with the assistance of a parenting coordinator or parenting facilitator and to attempt to reach a proposed joint resolution or statement of intent regarding the dispute, the parenting coordinator or parenting facilitator, as applicable, shall submit a written report describing the parties' joint proposal or statement to the parties, any attorneys for the parties, and any attorney for the child who is the subject of the suit.

(b) The proposed joint resolution or statement of intent is not an agreement unless the resolution or statement is:

(1) prepared by the parties' attorneys, if any, in a form that meets the applicable requirements of:

(A) Rule 11, Texas Rules of Civil Procedure;

(B) a mediated settlement agreement described by Section 153.0071;

(C) a collaborative law agreement described by Section 153.0072;

(D) a settlement agreement described by Section 154.071, Civil Practice and Remedies Code; or

(E) a proposed court order; and

(2) incorporated into an order signed by the court.

(c) A parenting coordinator or parenting facilitator may not draft a document listed in Subsection (b)(1).

(d) The actions of a parenting coordinator or parenting facilitator under this section do not constitute the practice of law.

(e) If the parties have been ordered by the court to attempt to settle parenting issues with the assistance of a parenting facilitator and are unable to settle those issues, the parenting facilitator may make recommendations, other than recommendations regarding the conservatorship of or possession of or access to the child, to the parties and attorneys to implement or clarify provisions of an existing court order that are consistent with the substantive intent of the court order and in the best interest of the child who is the subject of the suit. A recommendation authorized by this subsection does not affect the terms of an existing court order.

Sec. 153.6083. COMMUNICATIONS AND RECORDKEEPING OF PARENTING FACILITATOR. (a) Notwithstanding any rule, standard of care, or privilege applicable to the professional license held by a parenting facilitator, a communication made by a participant in parenting facilitation is subject to disclosure and may be offered in any judicial or administrative proceeding, if otherwise admissible under the rules of evidence. The parenting facilitator may be required to testify in any proceeding relating to or arising from the duties of the parenting facilitator, including as to the basis for any recommendation made to the parties that arises from the duties of the parenting facilitator.

(b) A parenting facilitator shall keep a detailed record regarding meetings and contacts with the parties, attorneys, or other persons involved in the suit.

(c) A person who participates in parenting facilitation is not a patient as defined by Section 611.001, Health and Safety Code, and no record created as part of the parenting facilitation that arises from the parenting facilitator's duties is confidential.

(d) On request, records of parenting facilitation shall be made available by the parenting facilitator to an attorney for a party, an attorney for a child who is the subject of the suit, and a party who does not have an attorney.

(e) A parenting facilitator shall keep parenting facilitation records from the suit until the seventh anniversary of the date the facilitator's services are terminated, unless a different retention period is established by a rule adopted by the licensing authority that issues the professional license held by the parenting facilitator.

Sec. 153.6091. COMPENSATION OF PARENTING FACILITATOR. Section 153.609 applies to the compensation of a parenting facilitator in the same manner as provided for the compensation of a parenting coordinator.

SECTION 23. Section 153.610, Family Code, is amended to read as follows:

Sec. 153.610. QUALIFICATIONS OF PARENTING COORDINATOR. (a) The court shall determine the required qualifications of a parenting coordinator, provided that a parenting coordinator must have experience working in a field relating to families, have practical experience with high-conflict cases or litigation between parents, and [at least]:

(1) hold at least:

(A) a bachelor's degree in counseling, education, family studies, psychology, or social work [and, unless waived by the court, complete a parenting coordinator course of at least 16 hours]; or

(B) [(2) hold] a graduate degree in a mental health profession, with an emphasis in family and children's issues; or

(2) be licensed in good standing as an attorney in this state.

(b) In addition to the qualifications prescribed by Subsection (a), a parenting coordinator must complete at least:

(1) eight hours of family violence dynamics training provided by a family violence service provider;

(2) 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court; and

(3) 24 classroom hours of training in the fields of family dynamics, child development, family law and the law governing parenting coordination, and parenting coordination styles and procedures.

(c) In appropriate circumstances, a court may, with the agreement of the parties, appoint a person as parenting coordinator who does not satisfy the requirements of Subsection (a) or Subsection (b)(2) or (3) if the court finds that the person has sufficient legal or other professional training or experience in dispute resolution processes to serve in that capacity.

(d) The actions of a parenting coordinator who is not an attorney do not constitute the practice of law.

SECTION 24. Subchapter K, Chapter 153, Family Code, is amended by adding Sections 153.6101 and 153.6102 to read as follows:

Sec. 153.6101. QUALIFICATIONS OF PARENTING FACILITATOR. (a) The court shall determine whether the qualifications of a proposed parenting facilitator satisfy the requirements of this section. On request by a party, an attorney for a party, or any attorney for a child who is the subject of the suit, a person under consideration for appointment as a parenting facilitator in the suit shall provide proof that the person satisfies the minimum qualifications required by this section.

(b) A parenting facilitator must:

(1) hold a license to practice in this state as a social worker, licensed professional counselor, licensed marriage and family therapist, psychologist, or attorney; and

(2) have completed at least:

(A) eight hours of family violence dynamics training provided by a family violence service provider;

(B) 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court;

(C) 24 classroom hours of training in the fields of family dynamics, child development, and family law; and

(D) 16 hours of training in the laws governing parenting coordination and parenting facilitation and the multiple styles and procedures used in different models of service.

(c) The actions of a parenting facilitator who is not an attorney do not constitute the practice of law.

Sec. 153.6102. PARENTING FACILITATOR; CONFLICTS OF INTEREST AND BIAS. (a) A person who has a conflict of interest with, or has previous knowledge of, a party or a child who is the subject of a suit must, before being appointed as parenting facilitator in a suit:

(1) disclose the conflict or previous knowledge to the court, each attorney for a party, any attorney for a child, and any party who does not have an attorney; and

(2) decline appointment in the suit unless, after the disclosure, the parties and the child's attorney, if any, agree in writing to the person's appointment as parenting facilitator.

(b) A parenting facilitator who, after being appointed in a suit, discovers that the parenting facilitator has a conflict of interest with, or has previous knowledge of, a party or a child who is the subject of the suit shall:

(1) immediately disclose the conflict or previous knowledge to the court, each attorney for a party, any attorney for a child, and any party who does not have an attorney; and

(2) withdraw from the suit unless, after the disclosure, the parties and the child's attorney, if any, agree in writing to the person's continuation as parenting facilitator.

(c) A parenting facilitator, before accepting appointment in a suit, must disclose to the court, each attorney for a party, any attorney for a child who is the subject of the suit, and any party who does not have an attorney:

(1) a pecuniary relationship with an attorney, party, or child in the suit;

(2) a relationship of confidence or trust with an attorney, party, or child in the suit; and

(3) other information regarding any relationship with an attorney, party, or child in the suit that might reasonably affect the ability of the person to act impartially during the person's service as parenting facilitator.

(d) A person who makes a disclosure required by Subsection (c) shall decline appointment as parenting facilitator unless, after the disclosure, the parties and the child's attorney, if any, agree in writing to the person's service as parenting facilitator in the suit.

(e) A parenting facilitator may not serve in any other professional capacity at any other time with any person who is a party to, or the subject of, the suit in which the person serves as parenting facilitator, or with any member of the family of a party or subject. A person who, before appointment as a parenting facilitator in a suit, served in any other professional capacity with a person who is a party to, or subject of, the suit, or with any member of the family of a party or subject, may not serve as parenting facilitator in a suit involving any family member who is a party to or subject of the suit. This subsection does not apply to a person whose only other service in a professional capacity with a family or any member

of a family that is a party to or the subject of a suit to which this section applies is as a teacher of coparenting skills in a class conducted in a group setting. For purposes of this subsection, "family" has the meaning assigned by Section 71.003.

(f) A parenting facilitator shall promptly and simultaneously disclose to each party's attorney, any attorney for a child who is a subject of the suit, and any party who does not have an attorney the existence and substance of any communication between the parenting facilitator and another person, including a party, a party's attorney, a child who is the subject of the suit, and any attorney for a child who is the subject of the suit, if the communication occurred outside of a parenting facilitator session and involved the substance of parenting facilitation.

SECTION 25. Chapter 153, Family Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. MILITARY DUTY

Sec. 153.701. DEFINITIONS. In this subchapter:

(1) "Designated person" means the person ordered by the court to temporarily exercise a conservator's rights, duties, and periods of possession and access with regard to a child during the conservator's military deployment, military mobilization, or temporary military duty.

(2) "Military deployment" means the temporary transfer of a service member of the armed forces of this state or the United States serving in an active-duty status to another location in support of combat or some other military operation.

(3) "Military mobilization" means the call-up of a National Guard or Reserve service member of the armed forces of this state or the United States to extended active duty status. The term does not include National Guard or Reserve annual training.

(4) "Temporary military duty" means the transfer of a service member of the armed forces of this state or the United States from one military base to a different location, usually another base, for a limited time for training or to assist in the performance of a noncombat mission.

Sec. 153.702. TEMPORARY ORDERS. (a) If a conservator is ordered to military deployment, military mobilization, or temporary military duty that involves moving a substantial distance from the conservator's residence so as to materially affect the conservator's ability to exercise the conservator's rights and duties in relation to a child, either conservator may file for an order under this subchapter.

(b) The court may render a temporary order in a proceeding under this subchapter regarding:

(1) possession of or access to the child; or

(2) child support.

(c) A temporary order rendered by the court under this subchapter may grant rights to and impose duties on a designated person regarding the child, except the court may not require the designated person to pay child support.

(d) After a conservator's military deployment, military mobilization, or temporary military duty is concluded, and the conservator returns to the conservator's usual residence, the temporary orders under this section terminate and the rights of all affected parties are governed by the terms of any court order applicable when the conservator is not ordered to military deployment, military mobilization, or temporary military duty.

Sec. 153.703. APPOINTING DESIGNATED PERSON FOR CONSERVATOR WITH EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD. (a) If the conservator with the exclusive right to designate the primary residence of the child is ordered to military deployment, military mobilization, or temporary military duty, the court may render a temporary order to appoint a designated person to exercise the exclusive right to designate the primary residence of the child during the military deployment, military mobilization, or temporary military duty in the following order of preference:

(1) the conservator who does not have the exclusive right to designate the primary residence of the child;

(2) if appointing the conservator described by Subdivision (1) is not in the child's best interest, a designated person chosen by the conservator with the exclusive right to designate the primary residence of the child; or

(3) if appointing the conservator described by Subdivision (1) or the person chosen under Subdivision (2) is not in the child's best interest, another person chosen by the court.

(b) A designated person named in a temporary order rendered under this section has the rights and duties of a nonparent appointed as sole managing conservator under Section 153.371.

(c) The court may limit or expand the rights of a nonparent named as a designated person in a temporary order rendered under this section as appropriate to the best interest of the child.

Sec. 153.704. APPOINTING DESIGNATED PERSON TO EXERCISE VISITATION FOR CONSERVATOR WITH EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD IN CERTAIN CIRCUMSTANCES. (a) If the court appoints the conservator without the exclusive right to designate the primary residence of the child under Section 153.703(a)(1), the court may award visitation with the child to a designated person chosen by the conservator with the exclusive right to designate the primary residence of the child.

(b) The periods of visitation shall be the same as the visitation to which the conservator without the exclusive right to designate the primary residence of the child was entitled under the court order in effect immediately before the date the temporary order is rendered.

(c) The temporary order for visitation must provide that:

(1) the designated person under this section has the right to possession of the child for the periods and in the manner in which the conservator without the exclusive right to designate the primary residence of the child is entitled under the court order in effect immediately before the date the temporary order is rendered;

(2) the child's other conservator and the designated person under this section are subject to the requirements of Section 153.316, with the designated person considered for purposes of that section to be the possessory conservator;

(3) the designated person under this section has the rights and duties of a nonparent possessory conservator under Section 153.376(a) during the period that the person has possession of the child; and

(4) the designated person under this section is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(d) The court may limit or expand the rights of a nonparent designated person named in a temporary order rendered under this section as appropriate to the best interest of the child.

Sec. 153.705. APPOINTING DESIGNATED PERSON TO EXERCISE VISITATION FOR CONSERVATOR WITHOUT EXCLUSIVE RIGHT TO DESIGNATE PRIMARY RESIDENCE OF CHILD. (a) If the conservator without the exclusive right to designate the primary residence of the child is ordered to military deployment, military mobilization, or temporary military duty, the court may award visitation with the child to a designated person chosen by the conservator, if the visitation is in the best interest of the child.

(b) The temporary order for visitation must provide that:

(1) the designated person under this section has the right to possession of the child for the periods and in the manner in which the conservator described by Subsection (a) would be entitled if not ordered to military deployment, military mobilization, or temporary military duty;

(2) the child's other conservator and the designated person under this section are subject to the requirements of Section 153.316, with the designated person considered for purposes of that section to be the possessory conservator;

(3) the designated person under this section has the rights and duties of a nonparent possessory conservator under Section 153.376(a) during the period that the designated person has possession of the child; and

(4) the designated person under this section is subject to any provision in a court order restricting or prohibiting access to the child by any specified individual.

(c) The court may limit or expand the rights of a nonparent designated person named in a temporary order rendered under this section as appropriate to the best interest of the child.

Sec. 153.706. TEMPORARY ORDER FOR CHILD SUPPORT. A temporary order rendered under this subchapter may result in a change of circumstances sufficient to justify a temporary order modifying the child support obligations of a party.

Sec. 153.707. EXPEDITED HEARING. (a) On a motion by the conservator who has been ordered to military deployment, military mobilization, or temporary military duty, the court shall, for good cause shown, hold an expedited hearing if the court finds that the conservator's military duties have a material effect on the conservator's ability to appear in person at a regularly scheduled hearing.

(b) A hearing under this section shall, if possible, take precedence over other suits affecting the parent-child relationship not involving a conservator who has been ordered to military deployment, military mobilization, or temporary military duty.

(c) On a motion by any party, the court shall, after reasonable advance notice and for good cause shown, allow a party to present testimony and evidence by electronic means, including by teleconference or through the Internet.

Sec. 153.708. ENFORCEMENT. Temporary orders rendered under this subchapter may be enforced by or against the designated person to the same extent that an order would be enforceable against the conservator who has been ordered to military deployment, military mobilization, or temporary military duty.

Sec. 153.709. ADDITIONAL PERIODS OF POSSESSION OR ACCESS. (a) Not later than the 90th day after the date a conservator without the exclusive right to designate the primary residence of the child who is a member of the armed services concludes the conservator's military deployment, military mobilization, or temporary military duty, the conservator may petition the court to:

(1) compute the periods of possession of or access to the child to which the conservator would have otherwise been entitled during the conservator's deployment; and

(2) award the conservator additional periods of possession of or access to the child to compensate for the periods described by Subdivision (1).

(b) If the conservator described by Subsection (a) petitions the court under Subsection (a), the court:

(1) shall compute the periods of possession or access to the child described by Subsection (a)(1); and

(2) may award to the conservator additional periods of possession of or access to the child for a length of time and under terms the court considers reasonable, if the court determines that:

(A) the conservator was on military deployment, military mobilization, or temporary military duty in a location where access to the child was not reasonably possible; and

(B) the award of additional periods of possession of or access to the child is in the best interest of the child.

(c) In making the determination under Subsection (b)(2), the court:

(1) shall consider:

(A) the periods of possession of or access to the child to which the conservator would otherwise have been entitled during the conservator's military deployment, military mobilization, or temporary military duty, as computed under Subsection (b)(1);

(B) whether the court named a designated person under Section 153.705 to exercise limited possession of the child during the conservator's deployment; and

(C) any other factor the court considers appropriate; and

(2) is not required to award additional periods of possession of or access to the child that equals the possession or access to which the conservator would have been entitled during the conservator's military deployment, military mobilization, or temporary military duty, as computed under Subsection (b)(1).

(d) After the conservator described by Subsection (a) has exercised all additional periods of possession or access awarded under this section, the rights of all affected parties are governed by the terms of the court order applicable when the conservator is not ordered to military deployment, military mobilization, or temporary military duty.

SECTION 26. Section 156.002, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The sibling of a child who is separated from the child because of the actions of the Department of Family and Protective Services may file a suit for modification requesting access to the child in the court with continuing, exclusive jurisdiction.

SECTION 27. Section 156.006, Family Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) While a suit for modification is pending, the court may not render a temporary order that has the effect of changing the designation of the person who has the exclusive right to designate the primary residence of the child under the final order unless the temporary order is in the best interest of the child and:

(1) the order is necessary because the child's present circumstances would significantly impair the child's physical health or emotional development;

(2) the person designated in the final order has voluntarily relinquished the primary care and possession of the child for more than six months [~~and the temporary order is in the best interest of the child~~]; or

(3) the child is 12 years of age or older and has expressed to [~~filed with~~] the court in chambers as provided by Section 153.009 [~~in writing~~] the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child [~~and the temporary order designating that person is in the best interest of the child~~].

(c) Subsection (b)(2) does not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 28. Section 156.101, Family Code, is amended to read as follows:

Sec. 156.101. GROUNDS FOR MODIFICATION OF ORDER ESTABLISHING CONSERVATORSHIP OR POSSESSION AND ACCESS. (a) The court may modify an order that provides for the appointment of a conservator

of a child, that provides the terms and conditions of conservatorship, or that provides for the possession of or access to a child if modification would be in the best interest of the child and:

(1) the circumstances of the child, a conservator, or other party affected by the order have materially and substantially changed since the earlier of:

(A) the date of the rendition of the order; or

(B) the date of the signing of a mediated or collaborative law settlement agreement on which the order is based;

(2) the child is at least 12 years of age and has expressed to [filed with] the court in chambers as provided by Section 153.009 [in writing,] the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child; or

(3) the conservator who has the exclusive right to designate the primary residence of the child has voluntarily relinquished the primary care and possession of the child to another person for at least six months.

(b) Subsection (a)(3) does not apply to a conservator who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 29. Section 156.102, Family Code, is amended by adding Subsection (d) to read as follows:

(d) Subsection (b)(3) does not apply to a person who has the exclusive right to designate the primary residence of the child and who has temporarily relinquished the primary care and possession of the child to another person during the conservator's military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701.

SECTION 30. Section 156.105, Family Code, is amended to read as follows:

Sec. 156.105. MODIFICATION OF ORDER BASED ON MILITARY DUTY [DEPLOYMENT]. [(a) In this section, "military deployment" means military duty ordered for a period of more than six months during which the person ordered to duty:

[(1) is not provided the option of being accompanied by the person's child; and

[(2) is serving in a location where access to the person's child is not reasonably possible.

[(b)] The military duty of a conservator who is ordered to military deployment, military mobilization, or temporary military duty, as those terms are defined by Section 153.701, does not by itself constitute [of a person who is a possessory conservator or a joint managing conservator without the exclusive right to designate the primary residence of the child is] a material and substantial change of circumstances sufficient to justify a modification of an existing court order or portion of a decree that sets the terms and conditions for the possession of or access to a child except that the court may render a temporary order under Subchapter L, Chapter 153.

~~[(e) If the court determines that modification is in the best interest of the child, the court may modify the order or decree to provide in a manner consistent with Section 153.3161 for possession of the child during the period of the military deployment by a person designated by the deployed conservator.]~~

SECTION 31. Sections 153.008, 153.137, 153.3161, 153.552, and 156.410, Family Code, are repealed.

SECTION 32. (a) Not later than March 1, 2011, each state agency listed in this subsection shall adopt rules establishing parenting facilitator practice standards consistent with Section 153.6101, Family Code, as added by this Act, applicable to the agency's license holders who serve as parenting facilitators. The practice standards must be at least as detailed and rigorous as those contained in the report entitled "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination, dated May 2005. The practice standards required by this section must contain a minimum number of hours of classroom training in the practice standards that must be completed by each license holder who wishes to be eligible to serve as a parenting facilitator. This subsection applies to the:

- (1) State Bar of Texas;
- (2) Texas State Board of Examiners of Psychologists;
- (3) Texas State Board of Examiners of Marriage and Family Therapists;
- (4) Texas State Board of Examiners of Professional Counselors; and
- (5) Texas State Board of Social Worker Examiners.

(b) Notwithstanding Section 153.6101(b), Family Code, as added by this Act, after March 1, 2011, a person who holds a license from a state agency listed in Subsection (a) of this section may not be appointed to serve as a parenting facilitator if:

- (1) the agency has not adopted parenting facilitator practice standards as required by Subsection (a) of this section; or
- (2) the license holder has not completed the minimum number of hours of classroom training contained in the practice standards.

(c) Notwithstanding any other provision of this section or any other law, a person who satisfies the qualifications to be a parenting coordinator in effect immediately before the effective date of this Act is not required to comply with the requirements imposed by Section 153.610, Family Code, as amended by this Act, until September 1, 2010, to be qualified to serve as a parenting coordinator under Subchapter K, Chapter 153, Family Code, as amended by this Act, and the former law is continued in effect for that purpose.

(d) Notwithstanding Section 153.610, Family Code, as amended by this Act, or Section 153.6101, Family Code, as added by this Act, a person who is employed by a domestic relations office, as defined by Section 203.001, Family Code, before September 1, 2009, may serve as a parenting coordinator or parenting facilitator under Subchapter K, Chapter 153, Family Code, as amended by this Act, if, on the effective date of this Act, the person satisfies the qualifications to be a parenting coordinator under Subchapter K, Chapter 153, Family Code, in effect immediately before the effective date of this Act.

(e) Notwithstanding Section 153.6101(b)(1), Family Code, as added by this Act, a person who has served as parenting coordinator in a case under Subchapter K, Chapter 153, Family Code, before the effective date of this Act may be appointed to serve as parenting facilitator under Subchapter K, Chapter 153, Family Code, as amended by this Act, in another case if, on the effective date of this Act, the person satisfies all other qualifications to serve as a parenting facilitator, is enrolled in a graduate course of study at an accredited college or university, and obtains a license described by Section 153.6101(b)(1), Family Code, as added by this Act, on or before September 1, 2011.

SECTION 33. (a) Sections 102.0045, 153.432, 153.433, 153.502, 153.551, 156.002, 156.102, and 156.105, Family Code, as amended by this Act, and Sections 156.006(c) and 156.101(b), Family Code, as added by this Act, apply only to a suit affecting the parent-child relationship pending in a trial court on or filed on or after the effective date of this Act.

(b) Sections 153.311, 153.312, 153.313, 153.314, 153.315, and 153.317, Family Code, as amended by this Act, and Section 153.3101, Family Code, as added by this Act, apply only to a court order providing for possession of or access to a child rendered on or after the effective date of this Act. A court order rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

(c) Section 156.006(b), Family Code, as amended by this Act, and Section 156.101(a), Family Code, as added by this Act, apply to a suit for modification filed on or after the effective date of this Act. A suit for modification filed before that date is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 34. This Act takes effect September 1, 2009.

HB 1043 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Orr called up with senate amendments for consideration at this time,

HB 1043, A bill to be entitled An Act relating to the creation of business opportunities for certain former foster children.

Representative Orr moved to concur in the senate amendments to **HB 1043**.

The motion to concur in the senate amendments to **HB 1043** prevailed by (Record 1445): 136 Yeas, 2 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer;

Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Christian; Phillips.

Present, not voting — Mr. Speaker; Anderson; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — King, S.; Naishtat; Oliveira; Peña; Rios Ybarra; Thibaut.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1445. I intended to vote no.

B. Brown

I was shown voting yes on Record No. 1445. I intended to vote no.

Woolley

Senate Committee Substitute

CSHB 1043, A bill to be entitled An Act relating to the creation of business opportunities for certain former foster children.

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

SECTION 1. Subtitle B, Title 6, Government Code, is amended by adding Chapter 672 to read as follows:

CHAPTER 672. EMPLOYMENT PREFERENCE FOR FORMER FOSTER CHILDREN

Sec. 672.001. DEFINITION. In this chapter, "state agency" means a department, commission, board, office, or other agency in the executive branch of state government created by the state constitution or a state statute, including an institution of higher education as defined by Section 61.003, Education Code.

Sec. 672.002. EMPLOYMENT PREFERENCE. (a) An individual who was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday is entitled to a preference in employment with a state agency over other applicants for the same position who do not have a greater qualification.

(b) This chapter does not apply to:

(1) the position of private secretary or deputy of an official or department; or

(2) an individual holding a strictly confidential relation to the employing officer.

Sec. 672.003. FEDERAL LAW AND GRANTS. To the extent that this chapter conflicts with federal law or a limitation provided by a federal grant to a state agency, this chapter shall be construed to operate in harmony with the federal law or limitation of the federal grant.

Sec. 672.004. COMPLAINT REGARDING EMPLOYMENT DECISION OF STATE AGENCY. (a) An individual entitled to an employment preference under this chapter who is aggrieved by a decision of a state agency to which this chapter applies relating to hiring the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the governing body of the state agency under this section.

(b) The governing body of a state agency that receives a written complaint under Subsection (a) shall respond to the complaint not later than the 15th business day after the date the governing body receives the complaint. The governing body may render a different hiring decision than the decision that is the subject of the complaint if the governing body determines that the employment preference under this chapter was not applied.

Sec. 672.005. AGE LIMIT. An individual is entitled to an employment preference under this chapter only if the individual is 25 years of age or younger.

SECTION 2. Section 2303.402(c), Government Code, is amended to read as follows:

(c) For the purposes of this section, an economically disadvantaged individual is an individual who:

(1) was unemployed for at least three months before obtaining employment with the qualified business;

(2) receives public assistance benefits, including welfare payments or food stamps, based on need and intended to alleviate poverty;

(3) is a low-income individual, as defined by Section 101, Workforce Investment Act of 1998 (29 U.S.C. Section 2801(25));

(4) is an individual with a disability, as defined by 29 U.S.C. Section 705(20)(A);

(5) is an inmate, as defined by Section 498.001;

(6) is entering the workplace after being confined in a facility operated by the institutional division of the Texas Department of Criminal Justice or under contract with the Texas Department of Criminal Justice;

(7) has been released by the Texas Youth Commission and is on parole, if state law provides for such a person to be on parole; ~~or~~

(8) meets the current low income or moderate income limits developed under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f et seq.); or

(9) was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday.

SECTION 3. This Act takes effect September 1, 2009.

**HB 1787 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Solomons called up with senate amendments for consideration at this time,

HB 1787, A bill to be entitled An Act relating to the designation or appointment of registered agents for service of process, notice, or demand on certain entities or associations.

Representative Solomons moved to concur in the senate amendments to **HB 1787**.

The motion to concur in the senate amendments to **HB 1787** prevailed by (Record 1446): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — McReynolds.

Senate Committee Substitute

CSHB 1787, A bill to be entitled An Act relating to the designation or appointment of registered agents for service of process, notice, or demand on certain entities or associations.

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

SECTION 1. Subchapter E, Chapter 5, Business Organizations Code, is amended by adding Section 5.200 to read as follows:

Sec. 5.200. DEFINITIONS. In this subchapter:

(1) "Registered agent filing" means:

(A) the certificate of formation or similar organizational document of a domestic represented entity;

(B) the application for registration of a foreign represented entity;
(C) an appointment of agent by an unincorporated nonprofit association under Section 252.011;

(D) an appointment of agent by a Texas financial institution under Section 201.103, Finance Code;

(E) an appointment of agent by a defense base development authority under Section 379B.004(b), Local Government Code;

(F) a statement by a represented entity to change the entity's registered agent, registered office, or both;

(G) a certificate of merger or certificate of conversion;

(H) a certificate of amendment to the certificate of formation or similar organizational document or the registration of a represented entity;

(I) a restated certificate of formation or similar organizational document of a represented entity;

(J) any other instrument that is required or permitted by law to be filed by a represented entity that effects a change or correction to the instruments listed in Paragraphs (A)-(I); and

(K) a certificate of reinstatement filed under Chapter 9 or 11.

(2) "Represented domestic entity" means:

(A) a filing entity;

(B) an unincorporated nonprofit association for which an appointment of agent has been filed;

(C) a Texas financial institution for which an appointment of agent has been filed;

(D) a defense base development authority for which an appointment of agent has been filed; or

(E) any corporation, association, or other organization incorporated or organized under any special statute of this state, that is governed wholly or partly by this code, or to which the general corporate laws are applicable.

(3) "Represented entity" means a represented domestic entity or represented foreign entity.

(4) "Represented foreign entity" means:

(A) a foreign filing entity for which a registration has been filed;

(B) a foreign limited liability partnership for which a registration has been filed;

(C) a foreign financial institution for which a registration has been filed; or

(D) any corporation, association, or other organization incorporated or organized under the laws of a jurisdiction other than this state that is granted authority to conduct its affairs in this state under any special statute of this state, that is governed wholly or partly by this code, or to which the general corporate laws are applicable.

SECTION 2. Section 5.201(b), Business Organizations Code, is amended to read as follows:

(b) The registered agent:

(1) is an agent of the entity on whom may be served any process, notice, or demand required or permitted by law to be served on the entity;

(2) may be:

(A) an individual who:

(i) is a resident of this state; and

(ii) has consented in a written or electronic form to be developed by the office of the secretary of state to serve as the registered agent of the entity; or

(B) an organization, other than the filing entity or foreign filing entity to be represented, that:

(i) is registered or authorized to do business in this state; and

(ii) has consented in a written or electronic form to be developed by the office of the secretary of state to serve as the registered agent of the entity; and

(3) must maintain a business office at the same address as the entity's registered office.

SECTION 3. Subchapter E, Chapter 5, Business Organizations Code, is amended by adding Section 5.2011 to read as follows:

Sec. 5.2011. CONSENT TO SERVE AS REGISTERED AGENT. (a) The designation or appointment of a person as registered agent by an organizer or managerial official of an entity in a registered agent filing is an affirmation by the organizer or managerial official that the person named as registered agent has consented to serve in that capacity.

(b) If a person designated or appointed as registered agent in a registered agent filing before the sale, acquisition, or transfer of a majority-in-interest or majority interest of the outstanding ownership or membership interests of the represented entity continues to serve in that capacity after the sale, acquisition, or transfer, the person's continuation of service is an affirmation by the governing authority of the represented entity that the governing authority has verified that the person named as registered agent has consented to continue to serve in that capacity.

SECTION 4. Section 5.204(d), Business Organizations Code, is amended to read as follows:

(d) On compliance with Subsections (b) and (c), the appointment of the registered agent and the designation of the registered office terminate ~~terminates~~. The termination is effective on the 31st day after the date the secretary of state receives the notice.

SECTION 5. Subchapter E, Chapter 5, Business Organizations Code, is amended by adding Sections 5.205, 5.206, 5.207, and 5.208 to read as follows:

Sec. 5.205. REJECTION OF APPOINTMENT. (a) A person designated or appointed as an entity's registered agent in a registered agent filing without the person's consent may terminate the person's appointment or designation as registered agent by filing a statement of rejection of appointment with the filing officer.

(b) The statement of rejection of appointment must:

(1) be signed by the person named as registered agent;

(2) contain the name of the represented entity; and

(3) contain a statement certifying that the person did not consent to serve as the represented entity's registered agent on the date on which the registered agent filing on which the person is named as registered agent took effect.

(c) On acceptance of the statement of rejection of appointment by the filing officer, the designation or appointment of that person as registered agent and the designation of the registered office terminate.

(d) On termination of the designation or appointment of a registered agent and the designation of the registered office, the secretary of state shall send notice to the represented entity of the necessity to designate or appoint a new registered agent and registered office in accordance with Section 9.101 or 11.251, as applicable.

(e) The filing officer may not charge a fee for the filing of a statement of rejection of appointment.

Sec. 5.206. DUTIES OF REGISTERED AGENT. (a) The only duties of a registered agent are to:

(1) receive or accept, and forward to the represented entity at the address most recently provided to the registered agent by the represented entity, or otherwise notify the represented entity at that address regarding, any process, notice, or demand that is served on or received by the registered agent; and

(2) provide the notices required or permitted by law to be given to the represented entity to the address most recently provided to the registered agent by the represented entity.

(b) A person named as the registered agent for a represented entity in a registered agent filing without the person's consent is not required to perform the duties prescribed by this section.

Sec. 5.207. DESIGNATION OF REGISTERED AGENT WITHOUT CONSENT; PENALTIES AND LIABILITIES. Sections 4.007 and 4.008 apply with respect to a false statement in a registered agent filing that names a person the registered agent of a represented entity without the person's consent.

Sec. 5.208. IMMUNITY FROM LIABILITY. (a) A person designated or appointed as the registered agent of a represented entity is not liable solely because of the person's designation or appointment as registered agent for the debts, liabilities, or obligations of the represented entity.

(b) A person who has been designated or appointed as a registered agent in a registered agent filing but has not consented to serve as the represented entity's registered agent may not be held liable:

(1) under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the represented entity, whether arising in contract, tort, or otherwise, solely because of the person's designation or appointment as registered agent; or

(2) to the represented entity or to a person who reasonably relied on the unauthorized designation or appointment solely because of the person's failure or refusal to perform the duties of a registered agent under Section 5.206.

SECTION 6. The changes in law made by this Act apply only to the designation or appointment of a registered agent made on or after the effective date of this Act. The designation or appointment of a registered agent made before the effective date of this Act is governed by the law in effect on the date the designation or appointment was made, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect January 1, 2010.

(B. Brown in the chair)

HR 2528 - ADOPTED
(by Harper-Brown)

Representative Harper-Brown moved to suspend all necessary rules to take up and consider at this time **HR 2528**.

The motion prevailed.

The following resolution was laid before the house:

HR 2528, Congratulating Cassie Lynee Harper of O. P. Norman Junior High School in Kaufman on her induction into the National Junior Honor Society.

HR 2528 was adopted.

On motion of Representative Gallego, the names of all the members of the house were added to **HR 2528** as signers thereof.

SB 1557 - 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 1557**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1557**: Gallego, chair; Moody, Miklos, Fletcher, and Christian.

HB 2774 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED

Representative Truitt called up with senate amendments for consideration at this time,

HB 2774, A bill to be entitled An Act relating to the licensing and regulation of certain persons involved in residential mortgage lending; providing a penalty.

Representative Truitt moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2774**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2774**: Truitt, chair; Darby, Flynn, Hopson, and Hernandez.

**HB 2450 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Eiland called up with senate amendments for consideration at this time,

HB 2450, A bill to be entitled An Act relating to a determination of home ownership by the Texas Department of Housing and Community Affairs following a disaster.

Representative Eiland moved to concur in the senate amendments to **HB 2450**.

(Harper-Brown in the chair)

The motion to concur in the senate amendments to **HB 2450** prevailed by (Record 1447): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Senate Committee Substitute

CSHB 2450, A bill to be entitled An Act relating to the administration of programs by the Texas Department of Housing and Community Affairs in response to or in preparation for a natural disaster.

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

SECTION 1. Subchapter H, Chapter 2306, Government Code, is amended by adding Section 2306.188 to read as follows:

Sec. 2306.188. ESTABLISHING HOME OWNERSHIP IN DISASTER AREA. (a) An applicant for federally provided financial assistance administered by the department to repair or rebuild a home damaged by a natural disaster may

establish ownership of the home through nontraditional documentation of title. The department shall process an application for that assistance as if the applicant is the record title holder of the affected real property if the applicant provides to the department:

(1) on a form prescribed by the department, an affidavit summarizing the basis on which the applicant claims to be the holder of record title or, if applicable, a successor in interest to the holder of record title and stating that:

(A) there is no other person entitled to claim any ownership interest in the property; or

(B) each person who may be entitled to claim an ownership interest in the property has given consent to the application or cannot be located after a reasonable effort; and

(2) other documentation, including tax receipts, utility bills, or evidence of insurance for the home, that indicates that the applicant exercised ownership over the property at the time of the natural disaster.

(b) This section does not establish record ownership or otherwise alter legal ownership of real property.

(c) The department is not liable to any claimed owner of an interest in real property for administering financial assistance as permitted by this section.

SECTION 2. Chapter 2306, Government Code, is amended by adding Subchapter X-2 to read as follows:

SUBCHAPTER X-2. NATURAL DISASTER HOUSING RECONSTRUCTION INITIATIVE

Sec. 2306.541. NATURAL DISASTER HOUSING RECONSTRUCTION ADVISORY COMMITTEE. (a) The director shall appoint a natural disaster housing reconstruction advisory committee composed of representatives from appropriate local, state, and federal entities and organizations and nonprofit organizations.

(b) The advisory committee shall develop a natural disaster housing reconstruction plan. In developing this plan, the advisory committee shall:

(1) evaluate existing systems of providing temporary housing to victims of natural disasters and develop alternative systems to increase efficiency and cost-effectiveness;

(2) evaluate existing models for providing permanent replacement housing to victims of natural disasters;

(3) design alternatives to existing models to improve the sustainability, affordability, desirability, and quality of housing rebuilt in the event of future natural disasters;

(4) evaluate economic circumstances of elderly, disabled, and low-income victims of natural disasters and develop models for providing affordable replacement housing;

(5) recommend programs for the rapid and efficient large-scale production of temporary and permanent replacement housing following a natural disaster; and

(6) encourage the participation, coordination, and involvement of appropriate federal organizations.

(c) Chapter 2110 does not apply to the advisory committee.

Sec. 2306.542. HOUSING RECONSTRUCTION DEMONSTRATION PILOT PROGRAM. (a) Using the natural disaster housing reconstruction plan developed under this subchapter, the director and advisory committee shall develop, for implementation under Subsections (b) and (c), housing reconstruction demonstration pilot programs for three areas, each of which was affected by one of the three most recent federally declared natural disasters. The pilot programs must provide for the replacement of at least 20 houses in each area to test the feasibility of implementing the plan in the large-scale production of replacement housing for victims of federally declared natural disasters.

(b) The department shall provide to an interested council of government, county, or local government eligible for funding for disaster recovery under the community development block grant program:

(1) information regarding a pilot program developed under Subsection (a); and

(2) assistance in implementing a pilot program developed under Subsection (a).

(c) At the discretion of the board, the department may implement a pilot program in any of the three most recently federally declared disaster areas in which a pilot program has not been implemented by a council of government, county, or local government. The department may use any available funds to implement the pilot program.

SECTION 3. The purpose of this Act in adding Subchapter X-2, Chapter 2306, Government Code, is to encourage the development of a model plan for future reconstruction efforts to increase the effective and efficient delivery of natural disaster housing recovery services by state agencies. This Act is not meant to delay or otherwise interfere with ongoing reconstruction efforts.

SECTION 4. (a) Not later than January 1, 2010, the executive director of the Texas Department of Housing and Community Affairs shall submit the natural disaster housing reconstruction plan developed under Subsection (b), Section 2306.541, Government Code, as added by this Act, to the governing board of the Texas Department of Housing and Community Affairs.

(b) Not later than March 1, 2010, the executive director of the Texas Department of Housing and Community Affairs shall provide housing reconstruction demonstration pilot program information to an interested council of government, county, or local government eligible for funding for disaster recovery under the community development block grant program.

SECTION 5. This Act takes effect September 1, 2009.

HB 3433 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Menendez called up with senate amendments for consideration at this time,

HB 3433, A bill to be entitled An Act relating to the extended registration of a fleet of motor vehicles.

Representative Menendez moved to concur in the senate amendments to **HB 3433**.

The motion to concur in the senate amendments to **HB 3433** prevailed by (Record 1448): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Davis, Y.; Heflin; Kleinschmidt; Rodriguez.

Senate Committee Substitute

CSHB 3433, A bill to be entitled An Act relating to the extended registration of a commercial fleet of motor vehicles.

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

SECTION 1. Section 502.001, Transportation Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Commercial fleet" means a group of at least 25 nonapportioned motor vehicles owned by a corporation, limited or general partnership, limited liability company, or other business entity and used for the business purposes of that entity.

SECTION 2. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.0023 to read as follows:

Sec. 502.0023. EXTENDED REGISTRATION OF COMMERCIAL FLEET MOTOR VEHICLES. (a) Notwithstanding Section 502.158(c), the department shall develop and implement a system of registration to allow an owner of a commercial fleet to register the motor vehicles in the commercial fleet for an extended registration period of not less than one year or more than eight years. The owner may select the number of years for registration under this

section within that range and register the commercial fleet for that period. Payment for all registration fees for the entire registration period selected is due at the time of registration.

(b) A system of extended registration under this section must allow the owner of a commercial fleet to register:

(1) an entire commercial fleet in the county of the owner's residence or principal place of business; or

(2) the motor vehicles in a commercial fleet that are operated most regularly in the same county.

(c) In addition to the registration fees prescribed by Subchapter D, an owner registering a commercial fleet under this section shall pay:

(1) an annual commercial fleet registration fee of \$10 per motor vehicle in the fleet; and

(2) except as provided by Subsection (e), a one-time license plate manufacturing fee of \$1.50 for each fleet motor vehicle license plate.

(d) A license plate issued under this section:

(1) may, on request of the owner, include the name or logo of the business entity that owns the vehicle;

(2) must include the expiration date of the registration period; and

(3) does not require an annual registration insignia to be valid.

(e) In addition to all other applicable registration fees, an owner registering a commercial fleet under this section shall pay a one-time license plate manufacturing fee of \$8 for each set of plates issued that includes on the legend the name or logo of the business entity that owns the vehicle instead of the fee imposed by Subsection (c)(2).

(f) If a motor vehicle registered under this section has a gross weight in excess of 10,000 pounds, the department shall also issue a registration card for the vehicle that is valid for the selected registration period.

(g) The department shall adopt rules to implement this section, including rules on suspension from the commercial fleet program for failure to comply with this section or rules adopted under this section.

(h) The department and the counties in their budgeting processes shall consider any temporary increases and resulting decreases in revenue that will result from the use of the process provided under this section.

SECTION 3. Subsection (b), Section 501.0234, Transportation Code, is amended to read as follows:

(b) This section does not apply to a motor vehicle:

(1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;

(2) for which the certificate of title has been surrendered in exchange for:

(A) a salvage vehicle title issued under this chapter;

(B) a nonrepairable vehicle title issued under this chapter;

(C) a certificate of authority issued under Subchapter D, Chapter

683; or

(D) an ownership document issued by another state that is comparable to a document described by Paragraphs (A)-(C); [✕]

(3) with a gross weight in excess of 11,000 pounds; or

(4) purchased by a commercial fleet buyer who is a full-service deputy under Section 502.114 and who utilizes the dealer title application process developed to provide a method to submit title transactions to the county in which the commercial fleet buyer is a full-service deputy.

SECTION 4. Section 502.0022, Transportation Code, is repealed.

SECTION 5. The Texas Department of Transportation shall adopt the rules and establish the system required under Section 502.0023, Transportation Code, as added by this Act, not later than January 1, 2010.

SECTION 6. This Act takes effect September 1, 2009.

(Crownover in the chair)

HB 3717 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative S. King called up with senate amendments for consideration at this time,

HB 3717, A bill to be entitled An Act relating to exemptions from the requirement to hold a license to practice physical therapy.

Representative S. King moved to concur in the senate amendments to **HB 3717**.

The motion to concur in the senate amendments to **HB 3717** prevailed by (Record 1449): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Isett.

Senate Committee Substitute

CSHB 3717, A bill to be entitled An Act relating to exemptions from the requirement to hold a license to practice physical therapy.

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

SECTION 1. Section 453.004(b), Occupations Code, is amended to read as follows:

(b) This chapter does not apply to:

(1) a physical therapy aide;

(2) a physical therapy student or physical therapist assistant student:

(A) participating in an accredited physical therapy or physical therapist assistant educational program; and

(B) being supervised by a license holder under this chapter;

(3) a student:

(A) participating in an accredited allied health science program leading to licensure by another state agency; and

(B) being supervised by properly licensed, certified, or registered personnel;

(4) a physical therapist who is licensed in another jurisdiction of the United States if the person is engaging, for not more than 90 days in a 12-month period and under the supervision of a physical therapist licensed in this state, in a special project or clinic required for completion of a post-professional degree in physical therapy from an accredited college or university, and the person notifies the board of the person's intent to practice in this state ~~[person practicing physical therapy and engaging in a special project in patient care while working toward an advanced degree from an accredited college or university];~~ or

(5) a person who practices physical therapy or as a physical therapy assistant and who is:

(A) practicing physical therapy in the United States armed services, United States Public Health Service, or Veterans Administration in compliance with federal regulations for licensure of health care providers;

(B) licensed in another jurisdiction of the United States or credentialed to practice physical therapy in another country if the person:

(i) is teaching, demonstrating, or practicing physical therapy in an educational seminar in this state for not more than 60 days in a 12-month period, and the person notifies the board of the person's intent to practice in this state; or

(ii) by contract or employment, is practicing physical therapy in this state for not more than 60 days in a 12-month period for an athletic team or organization or a performing arts company temporarily competing or performing in this state; or

(C) licensed in another jurisdiction of the United States, if the person notifies the board of the person's intent to practice in this state, and:

(i) is practicing physical therapy for not more than 60 days during a declared local, state, or national disaster or emergency; or
(ii) is displaced from the person's residence or place of employment due to a declared local, state, or national disaster and is practicing physical therapy in this state for not more than 60 days after the date the disaster is declared [a physical therapist who does not live in this state, is licensed by the appropriate authority, and is in this state for a period not to exceed six months to attend an educational activity].

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, 2009.

HB 3762 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Flynn called up with senate amendments for consideration at this time,

HB 3762, A bill to be entitled An Act relating to regulation of prepaid funeral benefits.

Representative Flynn moved to concur in the senate amendments to **HB 3762**.

The motion to concur in the senate amendments to **HB 3762** prevailed by (Record 1450): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Dutton; Hodge; Hopson.

Senate Committee Substitute

CSHB 3762, A bill to be entitled An Act relating to regulation of prepaid funeral benefits.

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

SECTION 1. Section 154.002, Finance Code, is amended by amending Subdivisions (1) and (6) and adding Subdivisions (1-a), (6-a), and (14) to read as follows:

(1) "Cash advance item" has the meaning assigned by 16 C.F.R. Section 453.1.

(1-a) "Commission" means the Finance Commission of Texas.

(6) "Funeral provider" means the person ~~[funeral home]~~ designated in a prepaid funeral benefits contract that has agreed to provide the specified prepaid funeral benefits.

(6-a) "Insurance-funded contract" means an insurance-funded prepaid funeral benefits contract.

(14) "Trust-funded contract" means a trust-funded prepaid funeral benefits contract.

SECTION 2. Section 154.052(a), Finance Code, is amended to read as follows:

(a) The department may require a permit holder that has outstanding contracts for prepaid funeral benefits to submit an annual report in the form required by rule of the commission ~~[the department]~~.

SECTION 3. Section 154.053, Finance Code, is amended to read as follows:

Sec. 154.053. RECORDS; EXAMINATION. (a) A permit holder ~~[seller]~~ that has outstanding contracts for prepaid funeral benefits shall maintain records as ~~[in this state any record]~~ required by rule of the commission.

(b) The ~~[the]~~ department shall examine the records of each permit holder at least once every 18-month period, except that the department may examine a permit holder more frequently if:

(1) the permit holder:

(A) has received a uniform risk rating, under standards adopted by rule of the commission, that is less than satisfactory as a result of the permit holder's most recent examination; or

(B) is subject to a formal enforcement proceeding or order by the commissioner; or

(2) the commissioner determines in the exercise of discretion that additional examination is necessary to safeguard the interests of purchasers and beneficiaries and to efficiently enforce applicable law.

(c) The department may defer an examination under this section for not more than six months if the commissioner determines that deferment of the examination is necessary for the efficient enforcement of applicable law.

(d) Any record may be maintained and provided for examination in electronic format if the record is reliable and can be retrieved in a timely manner.

(e) The department, in consultation with the advisory committee established under Section 154.208, shall develop an examination manual that includes procedures intended to reduce the expense of examinations under this section to the department and the permit holders [to determine whether the seller is complying with this chapter. The record is subject to annual examination by the department or its agent and to additional examinations the department considers necessary.

~~[(b) The department may examine or audit a record relating to prepaid funeral benefits at any place and in any manner the department considers necessary to protect the interests of the purchasers or beneficiaries.~~

~~[(c) As part of the examination, the department shall be given access to records relating to prepaid funeral benefits of each entity holding a deposit or premium for an annuity contract or a policy of insurance under the account and to any other record necessary to protect the interests of the beneficiaries].~~

SECTION 4. Section 154.102, Finance Code, is amended to read as follows:

Sec. 154.102. PERMIT APPLICATION; FEE. To obtain a permit to sell or continue to sell prepaid funeral benefits, a person must:

(1) be one of the following, if the person proposes to offer and sell prepaid funeral benefits contracts subject to Subchapter E:

(A) a funeral provider;

(B) an insurance company; or

(C) the insurance holding company for an insurance company if the insurance company does not have the authority under its domiciliary law to directly hold a permit issued under this chapter;

(2) be a funeral provider, if the person proposes to offer and sell prepaid funeral benefits contracts subject to Subchapter F;

(3) file an application for a permit with the department on a form prescribed by the department;

(4) [(2)] pay a filing fee in an amount set by the commission under Section 154.051; and

(5) [(3)] if applicable, pay extraordinary expenses required for out-of-state investigation of the person.

SECTION 5. Sections 154.106(a) and (b), Finance Code, are amended to read as follows:

(a) A permit holder shall notify [by registered mail] the department and either the depository of the money held under Subchapter F or the issuer of insurance policy funding contracts under Subchapter E of a contract to transfer [in the] ownership of the permit holder's business not later than the seventh day after the date the contract [transfer] is executed [completed].

(b) If the proposed transferee [transfer is to a person who] is not a permit holder, the proposed transferee [person] shall file an application for a permit with the department in accordance with this subchapter. If the application is complete, the commissioner shall approve or deny the application before the 16th [not later than the 30th] day after the date the application was received. The transfer of

prepaid funeral benefits contracts of the permit holder that is the transferor may not occur until after the date a permit is issued to the applicant that is the transferee [transfer is completed].

SECTION 6. Section 154.109(b), Finance Code, is amended to read as follows:

(b) The commissioner by order may refuse to renew a permit if the commissioner finds, by examination or other credible evidence, that the permit holder does not possess a qualification required by Section 154.103(b) for issuance of an initial permit, or that the permit holder:

(1) committed one or more of the acts described by Subsection (a); and
 (2) did not correct the violation before the 31st day after the date of written notice from the commissioner.

SECTION 7. Chapter 154, Finance Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. PRESALE DISCLOSURES

Sec. 154.131. BROCHURE. (a) A seller, directly or through the seller's designated agent, shall provide an informational brochure to each potential purchaser of a prepaid funeral benefits contract.

(b) The brochure must:

(1) describe the regulation of prepaid funeral benefits contracts and the trust and insurance funding options available under the law of this state; and
(2) include a reference to the Internet website required under Section 154.132.

(c) The department:

(1) must approve an informational brochure before the brochure may be used by the seller; and
(2) shall develop a model informational brochure that complies with this section with input from consumers, permit holders, insurers, and funeral providers.

Sec. 154.132. WEBSITE. (a) The department shall establish and maintain an Internet website that provides information to enable consumers to make informed decisions relating to the purchase of prepaid funeral benefits.

(b) The website:

(1) must include a description of the trust and insurance funding options available under the law of this state to be developed with input from consumers, permit holders, insurers, and funeral providers;

(2) may include links to and be linked from the department's website, the Texas Department of Insurance website, and the Texas Funeral Service Commission website; and

(3) may include additional information or links to additional information that the department determines may be helpful to consumers of prepaid funeral benefits in this state.

Sec. 154.133. REFERENCE OR LINK TO WEBSITE. Any sales literature or a website that offers or promotes the sale of prepaid funeral benefits contracts to the public must include a reference or link to the Internet website required under Section 154.132.

SECTION 8. Sections 154.151(c) and (e), Finance Code, are amended to read as follows:

(c) If a ~~[A]~~ funeral provider designated in the contract to provide prepaid funeral benefits is ~~[that are]~~ not the seller licensed under this chapter, ~~[sold by]~~ the funeral provider must:

(1) be a party to the contract; ~~and]~~

(2) agree in the contract to provide those benefits; and

(3) by signing the contract, agree to discharge the responsibilities imposed on a funeral provider by Section 154.161.

(e) The ~~commission~~ ~~[Finance Commission of Texas]~~ by rule shall establish a standard disclosure that must be included in each contract to inform purchasers of the goods and services that will be provided or excluded under the contract and the circumstances under which the contract may be modified after death of the beneficiary. The commission by rule may prescribe a form for the standard disclosure that is designed to more closely conform to variations in sales contract forms that serve different purposes.

SECTION 9. Subchapter D, Chapter 154, Finance Code, is amended by adding Section 154.1511 to read as follows:

Sec. 154.1511. CASH ADVANCE ITEMS: NON-GUARANTEED MERCHANDISE AND SERVICES. (a) A purchaser of a prepaid funeral benefits contract may agree to advance funds for all or any portion of the estimated cost of cash advance items included in a prepaid funeral benefits contract, the actual cost of which are to be determined by existing prices at the time the items are delivered or provided in connection with at-need performance of the contracted funeral.

(b) Cash advance items included in a prepaid funeral benefits contract must be clearly grouped together and segregated from prepaid funeral benefits in a manner that will permit the average consumer to easily understand that:

(1) cash advance items are not fixed or guaranteed in price; and

(2) additional money may be required to fully pay for those items at the time of the funeral.

(c) A seller shall administer purchaser funds received in advance for cash advance items under a prepaid funeral benefits contract in the manner required by Section 154.159 or 154.203.

(d) After the death of the contract beneficiary, the funeral provider shall apply the proportionate part of the trust or insurance policy proceeds received under the contract that is derived from advance payment of cash advance items to the current purchase price for the items. To the extent the proportionate part of contract proceeds:

(1) is less than the current purchase price for the cash advance items, the funeral provider may collect additional money for the difference in exchange for delivering or providing the items as part of the contracted funeral; or

(2) is greater than the current purchase price for the cash advance items, the funeral provider shall promptly refund the excess amount unless that amount is offset against other amounts due to the funeral provider in connection with the contracted funeral.

SECTION 10. Section 154.155, Finance Code, is amended by amending Subsections (b) and (d) and adding Subsection (f) to read as follows:

(b) Not later than the 30th day after the date of the cancellation notice, the seller of a trust-funded contract shall withdraw and pay to the purchaser money in the depository being held for the purchaser's use and benefit.

(d) The purchaser of a trust-funded contract is entitled to receive the actual amount paid by the purchaser and half of all earnings attributable to that money, less the amount permitted to be retained as provided by Section 154.252, except as provided by Subsection (e) and by Sections 154.1511, 154.1551, [154.205] and 154.254.

(f) The cancellation of an insurance-funded contract by the purchaser is subject to Section 154.205.

SECTION 11. Section 154.1551, Finance Code, is amended by amending Subsection (a) and adding Subsections (d), (e), and (f) to read as follows:

(a) The funeral merchandise, funeral ~~[and]~~ services, and cash advance items selected in ~~[to be provided by the seller under]~~ a fully paid prepaid funeral benefits contract may be modified after the death of the beneficiary if the modification complies with this section [Subsection (b)] or is otherwise agreed to in a writing signed by the seller or funeral provider and the person charged with the disposition of the beneficiary's remains by Section 711.002(a), Health and Safety Code, except that[-

~~(1)]~~ if the purchaser of the contract is also the beneficiary:

~~(1) [(A)]~~ the contracted funeral merchandise and services may not be modified if the contract contains a clause that prohibits modification; and

~~(2) [(B)]~~ a modification may not change the type of disposition specified by the purchaser in the contract, whether by burial, cremation, or another alternative by which the purchaser's remains attain their final resting place, as provided by Section 711.002(g), Health and Safety Code~~[-and~~

~~[(2) the value attributed to any contracted funeral merchandise or service that is surrendered or exchanged in a modification must be computed on a comparable time-price basis with the price charged for substituted funeral merchandise or service provided as part of the modification].~~

(d) A modification of contracted funeral merchandise or services must comply with Subsection (b), and the value attributed to any contracted funeral merchandise or service that is surrendered or exchanged in the modification must be computed on a comparable time-price basis with the price charged for substituted funeral merchandise or service provided as part of the modification.

(e) A modification of cash advance items included in the contract under Section 154.1511 must comply with Subsection (f).

(f) A person charged with disposition of the beneficiary's remains may add, surrender, cancel, or modify any cash advance item included under the contract at the time the funeral is performed, provided that:

(1) the value attributed to any contracted funeral merchandise or service that is surrendered in a modification, determined as provided under Subsection (d), may be applied to the unpaid cost of contracted or additional cash advance items; and

(2) the funeral provider promptly refunds the proportionate part of the trust or insurance policy proceeds received under the contract that is derived from advance payment of a surrendered or canceled cash advance item to the extent the proceeds are not applied to the unpaid cost of additional cash advance items or additional funeral merchandise or services requested by the person charged with disposition of the beneficiary's remains.

SECTION 12. Section 154.156(a), Finance Code, is amended to read as follows:

(a) The purchaser of a prepaid funeral benefits contract may irrevocably waive the purchaser's right to cancel the contract under Section 154.155. The waiver must be in a separate writing signed by the purchaser and the seller and [not earlier than the 15th day after the date of the purchase of the contract. The form of the waiver] must comply with the plain language requirements for the form of a sales contract under Section 154.151.

SECTION 13. Section 154.160(b), Finance Code, is amended to read as follows:

(b) The seller shall notify the department of:

(1) the designation not later than the 10th day after the date the seller becomes subject to this chapter; and

(2) any change in the designation not later than the 10th day after [within the 10-day period preceding] the date of the change.

SECTION 14. Subchapter D, Chapter 154, Finance Code, is amended by adding Section 154.161 to read as follows:

Sec. 154.161. RESPONSIBILITIES OF FUNERAL PROVIDER. (a) The funeral provider under a prepaid funeral benefits contract subject to this chapter shall:

(1) in compliance with applicable law, protect any nonpublic personal financial and health information of the purchaser and contract beneficiary in the possession of the funeral provider;

(2) after the death of the contract beneficiary:

(A) deliver the contracted funeral merchandise and services and cash advance items required under the contract, subject to Section 154.1551;

(B) prepare a written pre-need to at-need reconciliation to verify that the specified goods and services are delivered or performed for the agreed price and promptly refund any contract overcharges that may be revealed by the reconciliation;

(C) if advance payment of cash advance items was included in the contract, prepare a reconciliation of proceeds applied to cash advance items; and

(D) retain a copy of each reconciliation until the third anniversary of the date of service; and

(3) with respect to each prepaid funeral benefits contract for which the funeral provider is not also the seller:

(A) sign the reconciliations required by Subdivision (2);

(B) promptly deliver the records that verify contract performance to the seller, including the final at-need contract, the certificate of performance, and the reconciliations required under Subdivision (2);

(C) if requested by the seller, correct or explain any discrepancy in a reconciliation required under Subdivision (2); and

(D) subject to Subsection (d), provide copies of any other records or documentation related to the offer, sale, and performance of the contract that are reasonably requested by the seller or the department, including records related to any refund required by Section 154.1511 or 154.1551.

(b) The seller shall report to the department any discrepancy in a reconciliation required under Subsection (a)(2) that remains unresolved after a request for correction is made under Subsection (a)(3)(C).

(c) The trustee or insurance company may withhold payment to the funeral provider until each document the funeral provider is required to prepare and deliver to the seller, trustee, or insurance company is received, properly completed, and fully executed.

(d) The department may not request records or documentation from a funeral provider under Subsection (a)(3)(D) unless:

(1) the seller has notified the funeral provider of a discrepancy in a reconciliation and the discrepancy remains unresolved after a request for correction;

(2) the date of contract performance by the funeral provider is earlier than the third anniversary of the date of the initial request; and

(3) the department finds that:

(A) the amount of the discrepancy exceeds five percent of the total contract price; or

(B) sufficient discrepancies exist to indicate the presence of an inappropriate or unlawful pattern or practice of contract performance and documentation by the funeral provider.

(e) The department may not request a seller to obtain records or documentation described by Subsection (a)(3)(D) from a funeral provider if the department would be prohibited from requesting the documentation directly from the funeral provider because of the prohibition under Subsection (d)(2).

SECTION 15. Section 154.201, Finance Code, is amended to read as follows:

Sec. 154.201. REQUIREMENTS FOR SOLICITATION OF INSURANCE-FUNDED BENEFITS. A seller may not solicit an individual's designation of prepaid funeral benefits to be paid from ~~a fund, investment, security, or contract, including~~ an insurance policy, unless the insurance policy meets the requirements of Section 154.2021 ~~[to be created or purchased by or for that individual at the suggestion or solicitation of the seller:~~

[1) unless the fund is created by an insurance policy approved by the Texas Department of Insurance and issued by an insurance company licensed by the Texas Department of Insurance;

[2) except as provided by Subchapter F for trust funded prepaid funeral benefits; or

~~[(3) unless the fund, investment, security, or contract has been approved by the department as safeguarding the rights and interests of the individual and the individual's heirs and assigns to substantially the same or a greater degree as provided with respect to money regulated by Subchapter F].~~

SECTION 16. Subchapter E, Chapter 154, Finance Code, is amended by adding Section 154.2021 to read as follows:

Sec. 154.2021. REQUIREMENTS FOR INSURANCE POLICIES. (a) An insurance policy used to fund prepaid funeral benefits under this chapter must:

(1) be written on a form approved by the Texas Department of Insurance;

(2) be issued by an insurance company authorized by the Texas Department of Insurance to engage in the business of insurance in this state; and

(3) contain the following statement on the cover page or otherwise within the policy or a rider to the policy: "This policy is issued to fund a prepaid funeral benefits contract subject to Chapter 154 of the Texas Finance Code. Cancellation of the prepaid funeral benefits contract does not automatically cancel this policy."

(b) The aggregate initial face value of one or more insurance policies issued to fund a prepaid funeral benefits contract may not exceed the total contract price by more than five percent unless the purchaser:

(1) receives a conspicuous written disclosure of the purpose and amount of the excess coverage and how the insurance benefit will be applied at contract maturity; and

(2) consents in writing to the purchase of the excess coverage.

SECTION 17. Section 154.203, Finance Code, is amended to read as follows:

Sec. 154.203. PAYMENT OF PREMIUMS. (a) The [A seller shall remit to the insurance company the] premiums [collected] for an insurance policy that funds prepaid funeral benefits may only be collected by a licensed insurance agent appointed by the insurance company issuing the policy and shall be paid to the insurance company in accordance with the agency agreement between the insurance company and the agent [not later than the 30th day after the date of collection].

(b) Receipt of premiums by the agent of the insurance company is considered receipt of premiums by the insurance company for purposes of continuing the policy in force [The department may require evidence of payment of premiums on an insurance policy used to create a fund to guarantee prepaid funeral benefits].

SECTION 18. Section 154.205, Finance Code, is amended to read as follows:

Sec. 154.205. [AMOUNT PAYABLE ON] CANCELLATION OF INSURANCE-FUNDED CONTRACT. (a) A purchaser of an insurance-funded prepaid funeral benefits contract may cancel the contract before maturity by giving written notice of cancellation to the permit holder. The permit holder shall maintain copies of the written notice of cancellation until the third anniversary of

the date of receipt of notice ~~[who cancels the contract during the first year of the contract when payments required under the contract are current is entitled to receive the cash surrender value of the policy].~~

(b) Cancellation of the contract under Subsection (a) does not automatically cancel the insurance policy funding the prepaid funeral benefits contract. The insurance policy may be canceled in accordance with the terms and conditions of the policy in exchange for the policy's cash surrender value.

SECTION 19. Section 154.206, Finance Code, is amended to read as follows:

Sec. 154.206. ASSIGNMENT OF RIGHT TO BENEFITS. (a) The purchaser of an insurance-funded ~~[prepaid funeral benefits]~~ contract may ~~[irrevocably]~~ assign the purchaser's ownership of and rights to benefits under the insurance policy to the seller, the funeral provider, the trustee, or other person.

(b) An assignment to the seller, the funeral provider, or an affiliated trustee may not be made irrevocable unless:

(1) the assignment is made solely to facilitate the eligibility of the purchaser under Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.), or other law providing for a public assistance program; or

(2) the assignee is specifically prohibited from exercising any right under the policy except administration of the benefits.

(c) An assignee under this section is subject to a fiduciary duty to apply the insurance policy benefits as provided by the contract and this chapter.

SECTION 20. Section 154.207, Finance Code, is amended to read as follows:

Sec. 154.207. RECEIPT ~~[WITHDRAWAL]~~ OF BENEFITS PAYABLE UNDER POLICY. (a) A ~~[The]~~ seller or funeral provider that has been assigned ~~[may withdraw]~~ the benefits payable under an insurance policy funding prepaid funeral benefits may not receive payment of the benefits until ~~[after]~~:

(1) the beneficiary named in the contract dies;

(2) the funeral service is completed; ~~[and]~~

(3) the funeral provider has completed the provider's obligations under Section 154.161(a) with respect to the contract; and

(4) the insurance company is presented with:

(A) certification from the funeral provider attesting to matters required by Subdivisions (2) and (3) ~~[appropriate affidavits by an officer or designated agent of the seller on forms prescribed by the department]; and~~

(B) other documents as required by the insurance company to process and pay the claim ~~[a certified copy of the death certificate].~~

(b) The seller shall maintain copies of the documentation submitted to the insurance company and a copy of the ~~[affidavits and]~~ death certificate for examination by the department.

SECTION 21. Subchapter E, Chapter 154, Finance Code, is amended by adding Section 154.208 to read as follows:

Sec. 154.208. ADVISORY COMMITTEE. (a) The commissioner shall appoint an advisory committee to review and make recommendations regarding the technical procedures and processes employed by the department to regulate

insurance-funded prepaid funeral benefits and monitor compliance of sellers of insurance-funded contracts under this chapter, including recommendations relating to:

(1) the relevance and usefulness of records that the department requires a seller to maintain for examination purposes;

(2) the existence and identification of any specific record that an insurance company is required to maintain and produce under the Insurance Code that could be substituted as a record that meets the objectives and requirements of the department under this chapter;

(3) the scope, efficiency, and effectiveness of examination procedures employed by the department to verify compliance with this chapter; and

(4) any other matter submitted to the committee by the commissioner.

(b) The advisory committee is composed of eight members appointed by the commissioner as follows:

(1) two representatives of the department;

(2) two representatives of funeral providers that actively sell and service insurance-funded contracts in this state; and

(3) four representatives of permit holders that actively sell insurance-funded contracts in this state, provided that representation should be reasonably balanced to include permit holders that sell for domestic insurance companies, foreign insurance companies, small insurance companies, and large insurance companies.

(c) At the request of the commissioner, the commissioner of insurance may appoint a representative of the Texas Department of Insurance to serve on the advisory committee.

(d) Not later than the 30th day after the date all of the initial appointments to the advisory committee have been made, the advisory committee shall meet and select a presiding officer. After the initial meeting, the advisory committee shall meet as necessary at the call of the commissioner.

(e) A member of the advisory committee serves without compensation. If authorized by the commissioner, a member of the advisory committee is entitled to reimbursement for reasonable expenses incurred in attending committee meetings.

(f) A recommendation of the advisory committee does not supersede the regulatory authority of the commissioner or the rulemaking authority of the commission under this chapter. The commissioner shall notify the commission of each recommendation of the advisory committee and the reasons for the recommendation.

SECTION 22. Section 154.262(a), Finance Code, is amended to read as follows:

(a) The seller of a trust-funded prepaid funeral benefits contract may withdraw an amount equal to the original contract amount paid by the purchaser and the earnings attributable to the contract, less the amount retained under Section 154.252, after:

(1) the beneficiary named in the contract dies;

(2) the funeral service is completed; ~~and~~

(3) the funeral provider has completed the provider's obligations under Section 154.161(a) with respect to the contract; and

(4) the depository is presented with:

(A) appropriate affidavits by an officer or agent of the seller on forms prescribed by the department, attesting to matters required by Subdivisions (2) and (3); and

(B) a certified copy of the death certificate.

SECTION 23. Section 154.351, Finance Code, is amended to read as follows:

Sec. 154.351. MAINTENANCE OF GUARANTY FUND. (a) The commission by rule shall establish and the department shall maintain a fund to guarantee performance by sellers of prepaid funeral benefits contracts of their obligations to the purchasers [under the provisions of this chapter governing prepaid funeral trusts].

(b) Except as provided by Subsection (c), for purposes of claims and assessments, the department shall maintain separate accounts within the fund for trust-funded contracts and insurance-funded contracts.

(c) The advisory council under Section 154.355 may authorize borrowing between accounts to facilitate prompt and efficient resolution of claims against an account with an insufficient balance if:

(1) the indebted account is obligated to pay interest at a rate that will reasonably compensate the lending account for lost earnings;

(2) required or planned assessments for the benefit of the indebted account are pending and sufficient to repay the lending account; and

(3) assessments collected for the benefit of the indebted account are transferred to the lending account until the borrowed amount plus interest has been repaid.

SECTION 24. Subchapter H, Chapter 154, Finance Code, is amended by adding Section 154.3525 to read as follows:

Sec. 154.3525. ASSESSMENT ON INSURANCE-FUNDED CONTRACTS. (a) The department shall assess and collect from a seller not more than \$1 for each insurance-funded contract sold during each calendar year and shall deposit the assessments in the insurance-funded contract account within the fund.

(b) The department shall stop assessing the amounts required by Subsection (a) when the amount in the insurance-funded contract account reaches \$1 million.

SECTION 25. Section 154.355, Finance Code, is amended to read as follows:

Sec. 154.355. ADVISORY COUNCIL. (a) An advisory council composed of the following individuals shall supervise the operation and maintenance of the fund:

(1) the commissioner or the commissioner's representative;

(2) the attorney general or the attorney general's representative;

(3) two representatives [one representative] of the prepaid funeral industry appointed by the commission, one of whom represents trust-funded prepaid funeral benefits contract sellers and one of whom represents insurance-funded prepaid funeral benefits contract sellers [Finance Commission of Texas]; and

(4) one consumer representative appointed by the commission [Finance Commission of Texas].

(b) The prepaid funeral industry and consumer representatives serve two-year terms and may not serve more than four [two] terms.

(c) The commissioner shall render a final decision [cast the deciding vote] if there is a tie vote by members of the advisory council.

SECTION 26. Subchapter H, Chapter 154, Finance Code, is amended by adding Section 154.3551 to read as follows:

Sec. 154.3551. LIMIT ON LIABILITY. (a) A member of the advisory council is not personally liable for damages arising from the member's official act or omission under this subchapter unless the act or omission is corrupt or malicious.

(b) The attorney general shall defend an action brought against a member of the advisory council arising from an official act or omission under this subchapter, including an action instituted after the defendant's service with the advisory council has terminated.

(c) The attorney general is not required to defend a member of the advisory council against an action relating to:

(1) the disposition of a claim filed under this subchapter; or

(2) any issue other than the applicability or effect of the limitation on liability under this section.

(d) The commissioner on behalf of the fund, with the advice and consent of the advisory council, may contract with the attorney general under Chapter 771, Government Code, for legal services not covered by this section.

SECTION 27. Section 154.356, Finance Code, is amended to read as follows:

Sec. 154.356. ASSESSMENT ON OUTSTANDING TRUST-FUNDED CONTRACTS TO PAY CLAIMS. (a) To pay a claim against the fund when the balance of the trust-funded contract account [fund] is insufficient to pay that claim, the advisory council may assess each [person that holds a] permit holder that has outstanding trust-funded contracts an amount [under this chapter] based on the permit holder's proportionate share of the purchasers' deposits on all outstanding trust-funded [prepaid funeral benefits] contracts determined as of the end of the preceding calendar year.

(b) The assessments shall be deposited in the trust-funded contract account within the fund and administered by the department and the advisory council in accordance with commission rules.

(c) An assessment made under this section is in addition to any assessment required by Section 154.352.

(d) A seller whose permit is revoked or surrendered remains liable for any unpaid assessment made before the date of the revocation or surrender.

SECTION 28. Subchapter H, Chapter 154, Finance Code, is amended by adding Section 154.3565 to read as follows:

Sec. 154.3565. ASSESSMENT ON OUTSTANDING INSURANCE-FUNDED CONTRACTS TO PAY CLAIMS. (a) To pay a claim against the fund when the balance of the insurance-funded contract account is insufficient to pay that claim, the advisory council may assess each permit holder that has outstanding insurance-funded contracts an amount based on the permit holder's proportionate share of all outstanding insurance-funded contracts determined as of the end of the preceding calendar year.

(b) The assessments shall be deposited in the insurance-funded contract account within the fund and administered by the department and the advisory council in accordance with commission rules.

(c) An assessment made under this section is in addition to any assessment required by Section 154.3525.

(d) A seller whose permit is revoked or surrendered remains liable for any unpaid assessment made before the date of the revocation or surrender.

SECTION 29. Subchapter H, Chapter 154, Finance Code, is amended by adding Sections 154.358, 154.359, and 154.360 to read as follows:

Sec. 154.358. CLAIMS AGAINST FUND. (a) The payment of a claim or expense from the fund is a matter of privilege and not of right, and a person does not have a vested right in the fund as a beneficiary or otherwise.

(b) A claim against the fund may be made by:

(1) a purchaser of a prepaid funeral benefits contract;

(2) a purchaser's estate;

(3) a permit holder or funeral provider who assumes or performs a contract; or

(4) a claimant for the benefit of a group of purchasers of prepaid funeral benefits contracts as part of a plan to arrange for another permit holder to assume the contract obligations.

(c) An approved claim or expense relating to a trust-funded contract may be paid only from the fund's trust-funded contract account. An approved claim or expense relating to an insurance-funded contract may be paid only from the fund's insurance-funded contract account.

Sec. 154.359. PERMISSIBLE USES OF FUND. (a) In addition to uses authorized by Section 154.354, the fund may be used to pay:

(1) a loss attributable to the failure or inability of a permit holder to perform the permit holder's obligations under a prepaid contract;

(2) expenses of a plan to arrange for another permit holder to assume the obligations under a prepaid funeral benefits contract or a group of prepaid funeral benefits contracts if the commissioner finds, with the advice and consent of the advisory council, that the plan is reasonable and in the best interests of the contract beneficiaries;

(3) administrative expenses related to servicing and handling outstanding prepaid funeral benefits contracts that have not been assumed by another permit holder;

(4) expenses for administering the receivership of an insolvent permit holder if the permit holder's assets are insufficient to pay those expenses; and

(5) expenses to employ and compensate a consultant, an agent, legal counsel, an accountant, and any other person appropriate and consistent with the purpose of the fund, as determined by the advisory council.

(b) The fund may not be required to pay any claimant an amount that exceeds the contractual obligations specified by the express written terms of the prepaid funeral benefits contract, including:

(1) a claim based on marketing materials;

(2) a claim based on side letters or other documents that do not comply with the requirements of this chapter;

(3) a claim based on misrepresentation of the benefits conferred by the contract or a funding insurance policy; or

(4) a claim for court costs, attorney's fees, penalties, or consequential or incidental damages.

(c) A claim may not be approved for a loss to the extent the claim is insured, bonded, or otherwise covered, protected, or reimbursed from other sources, including coverage provided by the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association under Chapter 463, Insurance Code.

Sec. 154.360. SUBROGATION. (a) A person receiving a benefit under this subchapter, including a payment of or on account of a contractual obligation or provision of substitute or alternative prepaid funeral benefits, is considered to have assigned to the fund the rights under, and any cause of action relating to, the prepaid funeral benefits contract to the extent of the benefit received. Notwithstanding this assignment by law, the commissioner may require a payee to execute a formal assignment of the person's rights and cause of action to the fund as a condition of receiving a right or benefit under this subchapter.

(b) The fund retains all common law rights of subrogation and any other equitable or legal remedy that would have been available to a recipient of benefits from the fund with respect to a prepaid funeral benefits contract.

(c) The commissioner, on behalf of the fund, may bring an action against any person and may employ and compensate a consultant, an agent, legal counsel, an accountant, or any other person the commissioner considers appropriate to collect a subrogated amount. Payment shall be made from the appropriate account within the fund for these services. Any recovery of a subrogated amount shall be deposited in the appropriate account within the fund.

SECTION 30. Sections 154.408(b) and (d), Finance Code, are amended to read as follows:

(b) The order must state:

(1) with reasonable certainty the grounds for the order; and

(2) the effective date of [~~which may not be before the 16th day after the date~~] the order [~~is mailed~~].

(d) Except as provided by Section 154.4081, the ~~[The]~~ order takes effect as proposed, except that the order may not take effect before the 16th day after the date the order is mailed unless the person named in the order requests a hearing not later than the 15th day after the date the order is mailed.

SECTION 31. Subchapter I, Chapter 154, Finance Code, is amended by adding Section 154.4081 to read as follows:

Sec. 154.4081. EMERGENCY ORDER. (a) The commissioner may issue an emergency order that takes effect immediately if the commissioner finds that immediate and irreparable harm is threatened to the public or a beneficiary under a prepaid funeral benefits contract.

(b) An emergency order remains in effect unless stayed by the commissioner.

(c) The person named in the order may request in writing an opportunity for a hearing to show that the emergency order should be stayed. On receipt of the request, the commissioner shall set a time for the hearing before the 22nd day after the date the commissioner received the request, unless extended at the request of the person named in the order.

(d) The hearing is an administrative hearing relating to the validity of findings that support immediate effect of the order.

SECTION 32. The heading to Section 154.412, Finance Code, is amended to read as follows:

Sec. 154.412. SEIZURE OF PREPAID FUNERAL ACCOUNTS ~~[MONEY]~~ AND RECORDS.

SECTION 33. Section 154.412, Finance Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (c-1), (f), and (g) to read as follows:

(a) ~~The [After the commissioner cancels or fails to renew a permit under Section 154.109(a) or on notice to a person required to obtain a permit under this chapter, the]~~ commissioner may issue an order to seize accounts in which ~~[the]~~ prepaid funeral funds ~~[money]~~, including earnings, may be [where that money is] held and may issue an order to seize the records that relate to the sale of prepaid funeral benefits if the commissioner finds, by examination or other credible evidence, that the person:

(1) failed to deposit or remit money in accordance with Subchapter E or F;

(2) misappropriated, converted, or illegally withheld or failed or refused to pay on demand money entrusted to the person that belongs to the beneficiary under a prepaid funeral benefits contract;

(3) refused to submit to examination by the department;

(4) was the subject of an order to cancel, suspend, or refuse to renew a permit; or

(5) does not hold a permit or transferred the ownership of its business to another person who does not hold a permit ~~[and who:~~

~~[(A) did not apply for a new permit before the 31st day after the date the transfer was completed; or~~

~~[(B) was denied a new permit].~~

(c) An order takes effect immediately, and remains in effect unless stayed by the commissioner, if the commissioner finds that immediate and irreparable harm is threatened to the public or a beneficiary under a prepaid funeral benefits contract. If such a threat does not exist, the order must state the effective date, which may not be before the 16th day after the date the order is mailed.

(c-1) An emergency order remains in effect unless stayed by the commissioner. The person named in the order may request in writing an opportunity for a hearing to show that the emergency order should be stayed. On receipt of the request, the commissioner shall set a time before the 22nd day after the date the commissioner received the request, unless extended at the request of the person named in the order. The hearing is an administrative hearing relating to the findings that support immediate effect of the order.

(d) A nonemergency ~~[An]~~ order takes effect as proposed unless the person named in the order requests a hearing not later than the 15th day after the date the order is mailed.

(f) After the issuance of an order under this section, the commissioner may initiate an administrative claim for ancillary relief, including a claim for:

(1) costs incurred in the administration, transfer, or other disposition of the seized assets and records; or

(2) costs reasonably expected to be incurred in connection with the administration and performance of any outstanding prepaid funeral benefits contracts sold by a person subject to the order.

(g) The remedy provided by Subsection (f) is not exclusive and does not limit the commissioner's discretion to seek an additional remedy authorized under this subchapter.

SECTION 34. Section 1701.005(a), Insurance Code, is amended to read as follows:

(a) This chapter does not apply to ~~[a rider or endorsement that]:~~

(1) a rider or endorsement that is used at the request of the holder of a policy, contract, or certificate subject to this chapter and that; ~~and~~

~~(2)]~~ relates to:

(A) the manner of distribution of benefits under the policy, contract, or certificate; or

(B) the reservation of rights and benefits under the policy, contract, or certificate; or

(2) the modification of a previously approved insurance policy form for the sole purpose of adding the statement required by Section 154.2021(a)(3), Finance Code.

SECTION 35. Not later than November 1, 2009, the banking commissioner of Texas shall appoint the initial members of the advisory committee established by Section 154.208, Finance Code, as added by this Act.

SECTION 36. (a) Section 154.102, Finance Code, as amended by this Act, applies only to an application for a new permit filed on or after September 1, 2009. An application for a new permit that was filed in good faith before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 154.102, Finance Code, as amended by this Act, does not apply to the renewal of a permit originally issued before September 1, 2009, if the permit is timely and continuously renewed after that date and is not suspended, canceled, or nonrenewed for reasons other than the requirements of Section 154.102, Finance Code. An application for renewal that meets the conditions of this subsection is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(c) Section 154.151(e), Finance Code, as amended by this Act, and Section 154.2021(b), Finance Code, as added by this Act, apply only to a prepaid funeral benefits contract entered into on or after January 1, 2010. A prepaid funeral benefits contract entered into before January 1, 2010, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(d) Section 154.2021(a), Finance Code, as added by this Act, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2010. A policy delivered, issued for delivery, or renewed before January 1, 2010, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 37. (a) Subchapter H, Chapter 154, Finance Code, as amended by this Act, does not apply to a loss under an insurance-funded prepaid funeral benefits contract that arises from or relates to the occurrence of one of the following events before September 1, 2009:

- (1) an event of default under the contract;
- (2) the suspension, revocation, or refusal to renew the permit of the contract seller under Chapter 154, Finance Code; or
- (3) the bankruptcy, receivership, seizure, or other failure of the contract seller.

(b) Money in the guaranty fund on September 1, 2009, is allocated to the trust-funded account within the guaranty fund created by Section 154.351, Finance Code, as amended by this Act.

SECTION 38. A fund, investment, security, or contract included in a plan approved before the effective date of this Act by the Texas Department of Banking under Section 1a, Chapter 512, Acts of the 54th Legislature, 1955 (Article 548b, Vernon's Texas Civil Statutes), may continue in effect. Any funds paid in accordance with the approved plan under a contract entered into before, on, or after the effective date of this Act continue to be governed in accordance with the approved plan.

SECTION 39. Section 154.106(c), Finance Code, is repealed.

SECTION 40. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) The following provisions take effect June 1, 2010:

- (1) Subchapter C-1, Chapter 154, Finance Code, as added by this Act; and
- (2) Sections 154.052(a) and 154.053, Finance Code, as amended by this Act.

(Speaker in the chair)

**HB 4720 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Anchia called up with senate amendments for consideration at this time,

HB 4720, A bill to be entitled An Act relating to the creation of the Trinity River West Municipal Management District; providing the authority to impose an assessment, impose a tax, and issue bonds.

Representative Anchia moved to concur in the senate amendments to **HB 4720**.

The motion to concur in the senate amendments to **HB 4720** prevailed by (Record 1451): 138 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Deshotel; Flores; Keffer; McClendon; Moody; Peña.

STATEMENT OF VOTE

When Record No. 1451 was taken, I was temporarily out of the house chamber. I would have voted yes.

Moody

Senate Committee Substitute

CSHB 4720, A bill to be entitled An Act relating to the creation of the Trinity River West Municipal Management District; providing the authority to impose an assessment, impose a tax, and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3871 to read as follows:

CHAPTER 3871. TRINITY RIVER WEST MUNICIPAL MANAGEMENT

DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3871.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the City of Dallas.

(3) "District" means the Trinity River West Municipal Management

District.

(4) "Improvement project" means a project authorized by Section 3871.102:

(A) inside the boundaries of the district; and

(B) in areas outside but adjacent to the boundaries of the district if the project is for the purpose of extending public infrastructure improvements beyond the district's boundaries to a logical terminus.

Sec. 3871.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3871.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, the public welfare in the district, and educational scholarships for college-bound students residing in or out of the district.

(c) The district is created to supplement and not to supplant city services provided in the district.

Sec. 3871.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment;

(3) developing or expanding transportation and commerce; and

(4) providing quality residential housing.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a residential community and business center;

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty; and

(4) provide educational scholarships for college-bound students residing in or out of the district.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, vehicle parking, and street art objects are parts of and necessary components of a street and are considered to be an improvement project that includes a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3871.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act creating this chapter, as that territory may have been modified under Section 3871.106.

(b) A mistake in the field notes of the district contained in Section 2 of the Act creating this chapter or in copying the field notes in the legislative process does not in any way affect:

(1) the district's organization, existence, or validity;

(2) the district's right to contract, including the right to issue any type of bond or other obligation for a purpose for which the district is created;

(3) the district's right to impose or collect an assessment, tax, or any other revenue; or

(4) the legality or operation of the board.

Sec. 3871.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. (a) All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created by the city under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created by the city under Chapter 312, Tax Code; or

(3) an enterprise zone created by the city under Chapter 2303, Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code, including the right to pledge the money as security for any bonds issued by the district for an

improvement project. A project may not receive public funds under Section 380.002(b), Local Government Code, unless the project has been approved by the governing body of the city by the adoption of a resolution.

(c) A tax increment reinvestment zone created by the city in the district is not subject to the limitations provided by Section 311.006(b), Tax Code.

[Sections 3871.007-3871.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3871.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of nine directors composed of:

(1) six directors appointed by the governing body of the city; and

(2) three city employees appointed by the governing body of the city.

(b) Directors serve staggered terms of four years, with four or five directors' terms expiring July 1 of each odd-numbered year.

Sec. 3871.052. APPOINTMENT OF DIRECTORS: BOARD MEETINGS. (a) Directors appointed under Section 3871.051(a)(1) must meet at least one of the qualifications prescribed by Section 3871.053.

(b) A person may not be appointed to the board if the appointment of that person would result in fewer than:

(1) four of the directors being residents of the city and meeting the qualifications prescribed by Section 3871.053(a)(2), (3), (4), or (5); and

(2) two of the directors meeting the qualifications prescribed by Section 3871.053(a)(1).

(c) The governing body of the city may remove a member of the board with or without cause at any time by a majority vote.

(d) The board shall hold meetings at a place accessible to the public. The board shall file a copy of the notice of a meeting with the city's secretary. The city's secretary shall post the notice at Dallas City Hall.

(e) The board may not create an executive committee to exercise the powers of the board.

Sec. 3871.053. QUALIFICATIONS OF DIRECTORS. (a) To be qualified to serve as a director appointed under Section 3871.051(a)(1), a person must be at least 18 years old and must be:

(1) a resident of the district who is also a registered voter of the district or a registered voter who lives within a two-mile radius of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district; or

(5) an agent, employee, or tenant of a person covered by Subdivision (2), (3), or (4).

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3871.054. VACANCY. The governing body of the city shall fill a vacancy on the board by appointing a person who meets the qualifications prescribed by Section 3871.051(a) or 3871.053 to serve for the remainder of the unexpired term.

Sec. 3871.055. DIRECTOR'S OATH OR AFFIRMATION. A director's oath or affirmation of office shall be filed with the district and the district shall retain the oath or affirmation in the district records. A copy of each director's oath or affirmation of office shall be filed with the city's secretary.

Sec. 3871.056. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary. The offices of chair and secretary may not be held by the same person concurrently.

Sec. 3871.057. COMPENSATION; EXPENSES; LIABILITY INSURANCE FOR DIRECTORS. (a) The district may compensate each director in an amount not to exceed \$50 for each board meeting. The total amount of compensation for each director in one year may not exceed \$2,000.

(b) Directors are entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of the board.

(c) The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures a director against personal liability and from any and all claims relating to:

(1) actions taken by the director in the director's capacity as a member of the board;

(2) actions and activities taken by the district; or

(3) the actions of others acting on behalf of the district.

Sec. 3871.058. CONFLICTS OF INTEREST. (a) A director, including a director who qualifies under Section 3871.053(a)(2), (3), (4), or (5), may participate in all board votes and decisions if the director complies with the requirements of Subsection (b).

(b) A director shall comply with Section 171.004, Local Government Code, including the disclosure and abstention requirements of that section. A director must file a copy of the director's disclosure affidavit required by Section 171.004, Local Government Code, with the city's secretary before participating in a board discussion or vote.

Sec. 3871.059. INITIAL DIRECTORS. (a) The initial board consists of the following directors:

(1) Place 1: a director who qualifies under Section 3871.053(a)(2), (3), (4), or (5);

(2) Place 2: a director who qualifies under Section 3871.053(a)(2), (3), (4), or (5);

(3) Place 3: a director who qualifies under Section 3871.053(a)(2), (3), (4), or (5);

(4) Place 4: a director who qualifies under Section 3871.053(a)(1);

(5) Place 5: a director who qualifies under Section 3871.053(a)(1);

(6) Place 6: a director who qualifies under Section 3871.053(a)(2), (3), (4), or (5);

(7) Place 7: a city employee;

(8) Place 8: a city employee; and

(9) Place 9: a city employee.

(b) Not later than September 1, 2009, the owner or owners of a majority of the appraised value of the real property in the district, or the majority of the record owners of real property in the district subject to taxation, may submit a petition to the governing body of the city requesting that the governing body appoint as initial directors the persons named in the petition to serve in Places 1-6. If the persons named in the petition meet the qualifications prescribed by Sections 3871.052 and 3871.053, the governing body may appoint those persons as initial directors under Subsection (a) to serve in Places 1-6.

(c) If a petition is not submitted under Subsection (b), the governing body of the city shall appoint as initial directors six persons who meet the qualifications prescribed by Sections 3871.052 and 3871.053 to serve in Places 1-6.

(d) Of the initial directors, the terms of directors appointed for Places 1, 2, 3, and 4 expire July 1, 2011, and the terms of directors appointed for Places 5, 6, 7, 8, and 9 expire July 1, 2013.

(e) This section expires September 1, 2013.

[Sections 3871.060-3871.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3871.101. GENERAL POWERS AND DUTIES. The district has the powers and duties provided by this chapter and by:

(1) the general laws relating to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code;

(2) Chapter 441, Transportation Code, except that:

(A) the district may exercise any power granted by this chapter without regard to any provision or requirement of or procedure prescribed by Chapter 441, Transportation Code; and

(B) the district may not build or operate a toll road;

(3) Subchapter A, Chapter 372, Local Government Code, in the same manner as a municipality or a county;

(4) Chapter 1371, Government Code;

(5) Chapter 375, Local Government Code; and

(6) Chapter 311, Tax Code.

Sec. 3871.102. IMPROVEMENT PROJECTS. (a) The district may provide, or it may enter into contracts with a governmental or private entity to provide, the following types of improvement projects located in the district or activities in support of or incidental to those projects:

(1) a supply and distribution facility or system to provide potable and nonpotable water to the residents and businesses of the district, including a wastewater collection facility;

(2) a paved, macadamized, or graveled road or street, inside and outside the district, to the full extent authorized by Section 52, Article III, Texas Constitution;

(3) the planning, design, construction, improvement, and maintenance of:

(A) landscaping;

(B) highway right-of-way or transit corridor beautification and improvement;

(C) lighting, banners, and signs;

(D) a street or sidewalk;

(E) a hiking and cycling path or trail;

(F) a pedestrian walkway, skywalk, crosswalk, or tunnel;

(G) a park, lake, garden, recreational facility, community activities center, dock, wharf, sports facility, open space, scenic area, or related exhibit or preserve;

(H) a fountain, plaza, or pedestrian mall; or

(I) a drainage or storm-water detention improvement;

(4) protection and improvement of the quality of storm water that flows through the district;

(5) the planning, design, construction, improvement, maintenance, and operation of:

(A) a water or sewer facility; or

(B) an off-street parking facility or heliport;

(6) the planning and acquisition of:

(A) public art and sculpture and related exhibits and facilities; or

(B) an educational facility, and a cultural exhibit or facility;

(7) the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for:

(A) a conference, convention, or exhibition;

(B) a manufacturer, consumer, or trade show;

(C) a civic, community, or institutional event; or

(D) an exhibit, display, attraction, special event, or seasonal or cultural celebration or holiday;

(8) the removal, razing, demolition, or clearing of land or improvements in connection with improvement projects;

(9) the acquisition and improvement of land or other property for the mitigation of the environmental effects of an improvement project if those costs are incurred in accordance with a development agreement and reimbursement of those costs is conditioned on the completion of substantial vertical development, or the costs are related to a transit or mobility project;

(10) the acquisition of property or an interest in property in connection with one or more authorized improvement projects, including a project authorized by Subchapter A, Chapter 372, Local Government Code;

(11) a special or supplemental service for the improvement and promotion of the district or an area adjacent to the district or for the protection of public health and safety in or adjacent to the district, including:

(A) advertising;

(B) promotion;

(C) tourism;

(D) health and sanitation;

(E) public safety;

(F) security;

(G) fire protection or emergency medical services;

(H) business recruitment;

(I) elimination of traffic congestion, including by use of rail services;

(J) recreational, educational, or cultural improvements, enhancements, and services; and

(K) creation and financing of a higher education scholarship fund for students attending Mountain View College or the University of North Texas (Dallas Campus); or

(12) any similar public improvement, facility, or service.

(b) The district may not undertake an improvement project under this section unless the board determines the project to be necessary to accomplish a public purpose of the district and has received the approval of the city under Section 3871.160.

(c) An improvement project must comply with any applicable codes and ordinances of the city.

(d) The district may not provide, conduct, or authorize an improvement project on the city streets, highways, rights-of-way, or easements without the consent of the governing body of the city.

(e) Subject to an agreement between the district and the city, the city may:

(1) by ordinance, order, or resolution require that title to all or any portion of an improvement project vest in the city; or

(2) unless prohibited by Subsection (h), by ordinance, order, resolution, or other directive, authorize the district to own, encumber, maintain, and operate an improvement project, subject to the right of the city to order a conveyance of the improvement project to the city on a date determined by the city.

(f) The district shall immediately comply with any city ordinance, order, or resolution adopted under Subsection (e).

(g) For the purposes of this section, planning, design, construction, improvement, and maintenance of a lake includes work done for drainage, reclamation, or recreation.

(h) Waterworks and sanitary sewer improvements may be undertaken by the district inside or outside the boundaries of the district, subject to the following conditions:

(1) the city shall request that waterworks or sanitary sewer improvements be funded by the district;

(2) the city shall construct, own, operate, and maintain the improvements; and

(3) the district shall comply with Sections 3871.152, 3871.157, and 3871.160 as a condition for the district to fund the improvements.

Sec. 3871.103. GENERAL POWERS REGARDING CONTRACTS. (a) The district may:

(1) contract with any person to accomplish any district purpose, including a contract for:

(A) the payment, repayment, or reimbursement of costs incurred by that person on behalf of the district, including all or part of the costs of any improvement project and interest on the reimbursed cost; or

(B) the use, occupancy, lease, rental, operation, maintenance, or management of all or part of a proposed or existing improvement project; and

(2) apply for and contract with any person to receive, administer, and perform a duty or obligation of the district under a federal, state, local, or private gift, grant, loan, conveyance, transfer, bequest, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or others of a proposed or existing improvement project.

(b) A contract the district enters into to carry out a purpose of this chapter may be on any terms and for any period the board determines, including a negotiable or nonnegotiable note or warrant payable to the city, Dallas County, or any other person.

(c) Any person may contract with the district to carry out the purposes of this chapter without further statutory or other authorization.

(d) The district must follow Resolution 08-2826, adopted by the city on October 22, 2008, for construction, procurement, and professional services contracts related to the use of historically underutilized businesses and minority contracting in the implementation of its district plan.

Sec. 3871.104. RULES; ENFORCEMENT. (a) The district may adopt rules:

(1) to administer or operate the district;

(2) for the use, enjoyment, availability, protection, security, and maintenance of the district's property and facilities; or

(3) to provide for public safety and security in the district.

(b) The district may enforce its rules by injunctive relief.

(c) To the extent a district rule conflicts with a city rule, order, or regulation, the city rule, order, or regulation controls.

(d) The district shall provide the city with written notice not later than the 30th day before the date of a meeting at which the board will adopt rules. The district may not adopt a rule affecting the use of a municipally owned asset, such as a public park, street, sidewalk, transit facility, or public right-of-way, unless the governing body of the city has approved the rule by ordinance, order, or resolution.

Sec. 3871.105. NAME CHANGE. The board by resolution may change the district's name. The board shall give written notice of the change to the city.

Sec. 3871.106. ADDING OR REMOVING TERRITORY. The board may add or remove territory under Subchapter J, Chapter 49, Water Code, and Section 54.016, Water Code, except that:

(1) the addition or removal of the territory must be approved by:

(A) the governing body of the city by ordinance, order, or resolution; and

(B) the owners of the territory being added or removed;

(2) a reference to a tax in Subchapter J, Chapter 49, Water Code, or Section 54.016, Water Code, means an ad valorem tax; and

(3) territory may not be removed from the district if bonds or other obligations of the district payable wholly or partly from ad valorem taxes or assessments levied or assessed on the territory are outstanding.

Sec. 3871.107. ECONOMIC DEVELOPMENT. (a) The district may create economic development and other programs under Section 52-a, Article III, Texas Constitution, and may impose and collect ad valorem taxes for those purposes. The district has the economic development powers that Chapter 380, Local Government Code, provides to a municipality with a population of more than 100,000. Each economic development program and each project that will receive public funds under an economic development program must be approved by the governing body of the city by ordinance, order, or resolution.

(b) The district shall provide the city written notice not later than the 30th day before the date of a meeting at which the board will adopt terms of an economic development program. The district may not adopt an economic development program or improvement project to be funded under an economic development program unless the governing body of the city has approved the program or improvement project by ordinance, order, or resolution.

Sec. 3871.108. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 3871.109. TERMS OF EMPLOYMENT; COMPENSATION. The board may employ and establish the terms of employment and compensation of an executive director or general manager and any other district employees the board considers necessary. An employee may not receive annual compensation of more than \$150,000 from public funds of the district.

Sec. 3871.110. NOTICE TO PROPERTY OWNERS. (a) The board shall annually provide owners of real property in the district written notice that specifies the tax of the district for the district's next fiscal year in sufficient clarity to describe the tax rate for the operation and maintenance of the district and the tax rate for the payment of debt service of obligations issued or incurred by the district. The written notice must be sent by first class United States mail, postage prepaid, to the current address of the property owner as reflected on the tax rolls of the appraisal district.

(b) The notice must clearly state that the tax rates on real property imposed in the district are in addition to the ad valorem taxes imposed by other taxing units that tax real property in the boundaries of the district.

(c) The district shall generate and implement a program to provide notification to a prospective purchaser of property in the district of the rates of tax and assessments that have been approved and are imposed by the district.

[Sections 3871.111-3871.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3871.151. GENERAL POWERS REGARDING FINANCIAL MATTERS. (a) Except as provided by Section 3871.160, the district may:

(1) impose an ad valorem tax on all taxable industrial and commercial property in the district to pay for any improvement projects of the types authorized by Section 52(b), Article III, and Section 59, Article XVI, Texas Constitution, and to secure the payment of bonds issued for those purposes;

(2) impose an assessment on property in the district to pay the cost of any authorized improvement project and the cost of the maintenance of the project in the manner provided for:

(A) a district under Subchapters A, E, and F, Chapter 375, Local Government Code; or

(B) a municipality or county under Subchapter A, Chapter 372, Local Government Code;

(3) provide or secure the payment or repayment of any bond, note, or other temporary or permanent obligation or reimbursement or other contract with any person, the costs and expenses of the establishment, administration, and operation of the district, and the district's costs or share of the costs or revenue of an improvement project or district contractual obligation or indebtedness by or through:

(A) the imposition of an ad valorem tax, assessment, user fee, concession fee, or rental charge; and

(B) any other revenue or resources of the district, or other revenue authorized by the city, including revenue from a tax increment reinvestment zone created by the city under applicable law;

(4) establish user charges related to the operation of storm-water facilities, including the regulation of storm water for the protection of water quality in the district;

(5) establish user charges for the use of nonpotable water for irrigation purposes, subject to the approval of the governing body of the city;

(6) undertake separately or jointly with other persons, including the city or Dallas County, all or part of the cost of any improvement project, including an improvement project:

(A) for improving, enhancing, and supporting public safety and security, fire protection and emergency medical services, and law enforcement in and adjacent to the district; or

(B) that confers a general benefit on the entire district or a special benefit on a definable part of the district; and

(7) enter into a tax abatement agreement in accordance with the general laws of this state authorizing and applicable to tax abatement agreements by municipalities.

(b) The district may not impose an ad valorem tax to pay for an improvement project under this chapter unless the imposition is approved by the voters of the district voting at an election held for that purpose. The board may call an election to approve the imposition of an ad valorem tax to pay for an improvement project under this chapter only if the board receives a petition requesting the election signed by:

(1) more than 65 percent of the record owners of real property in the district subject to taxation; or

(2) owners representing more than 65 percent of the appraised value of real property in the district subject to taxation, as determined by the tax rolls of the appraisal district.

Sec. 3871.152. BORROWING MONEY. (a) The district may borrow money for a district purpose by issuing or executing bonds, notes, credit agreements, or other obligations of any kind found by the board to be necessary or appropriate for any district purpose. The bond, note, credit agreement, or other obligation may be secured by and payable from ad valorem taxes, assessments, a combination of ad valorem taxes and assessments, or other district revenue. The governing body of the city must approve the issuance of bonds, notes, credit agreements, or other obligations of the district, in general terms before the preparation of preliminary official statements or loan closing documents, as provided by the development and operating agreement approved by the city in accordance with Section 3871.160, or by separate action.

(b) The governing body of the city must approve the final terms of the bond issuance, note, or credit facility, including the principal amount, note amount, interest rate or rates, redemption provisions, and other terms and conditions relating to the issuance.

(c) The district shall file annual audited financial statements with the city's secretary.

Sec. 3871.153. ASSESSMENTS; EXEMPTION. (a) The district may impose an assessment on property in the district, including an assessment on commercial, industrial, or office property, only in the manner provided by Subchapter A, Chapter 372, Local Government Code, or Subchapter F, Chapter 375, Local Government Code, for a municipality, county, or public improvement district, according to the benefit received by the property.

(b) An assessment on property must be for the limited purpose of providing capital funding for:

(1) public water and wastewater facilities;

(2) drainage and storm-water facilities;

(3) streets and alleys; and

(4) any authorized purpose under Chapter 372, Local Government

Code.

(c) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed; and

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes.

(d) A lien of an assessment against property under this chapter runs with the land, and the portion of an assessment payment obligation that has not yet come due is not eliminated by the foreclosure of an ad valorem tax lien. Any purchaser of property in a foreclosure of an ad valorem tax lien takes the property subject to the assessment payment obligations that have not yet come due and to the lien and terms of payment under the applicable assessment ordinance or order.

(e) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

(f) The district shall file notice of any tax or assessment imposed by the district with the county clerk of Dallas County and post the notice on the district's Internet website.

Sec. 3871.154. RESIDENTIAL PROPERTY EXEMPT. The district may not impose taxes, assessments, fees, or any other requirement for payment, construction, alteration, or dedication on single-family detached residential property, residential condominiums, duplexes, triplexes, and quadplexes.

Sec. 3871.155. MAINTENANCE AND OPERATION TAX; ELECTION.

(a) The district may impose a tax for maintenance and operation purposes, including for:

(1) planning, constructing, acquiring, maintaining, repairing, and operating all improvement projects, including land, plants, works, facilities, improvements, appliances, and equipment of the district; and

(2) paying costs of services, engineering and legal fees, and organization and administrative expenses, including expenses of the city payable under the terms of the project development agreement described by Section 3871.160.

(b) The district may not impose a maintenance and operation tax for improvement projects under this chapter unless the imposition of the tax is approved by the voters of the district voting at an election held for that purpose. An election may be called only on receipt of a petition as provided by Section 3871.151(b).

(c) A maintenance and operation tax election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

Sec. 3871.156. USE OF SURPLUS MAINTENANCE AND OPERATION MONEY. If the district has surplus maintenance and operation tax money that is not needed for the purposes for which it was collected, the money may be used for any authorized purpose.

Sec. 3871.157. BONDS AND OTHER OBLIGATIONS. (a) Subject to the requirements of Sections 3871.159 and 3871.160, the district may issue by public or private sale bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, or by assessments in the manner provided by Subchapter A, Chapter 372, Local Government Code, or Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or any other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, Local Government Code, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the money the district receives from system or improvement project revenue or from any other source.

Sec. 3871.158. BOND MATURITY. Bonds may mature not more than 40 years from their date of issue.

Sec. 3871.159. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due; and

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date.

Sec. 3871.160. DEVELOPMENT AND OPERATING AGREEMENT REQUIRED. (a) After the district's board is organized, but before the district may undertake any improvement project, issue bonds, impose taxes, levy assessments or fees, or borrow money, the district and the city must negotiate and execute a mutually approved and accepted development and operating agreement, including any limitations imposed by the city, regarding the plans and rules for:

(1) the exercise of the powers granted to the district under this chapter, including the organization, development, and operation of the district;

(2) the selection and description of improvement projects that may be undertaken and financed by the district and the ownership, operation, and maintenance of those projects;

(3) the terms, conditions, methods, means, and amounts of financing authorized by this chapter that the district may use in providing improvement projects; and

(4) the amounts, methods, and times of reimbursement to the city for costs and expenses, if any, incurred by the city with respect to the development and operation of the district and the financing of improvement projects by the district.

(b) An agreement authorized by this section is not effective until its terms and execution are approved by the board and the governing body of the city by resolution.

[Sections 3871.161-3871.250 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 3871.251. DISSOLUTION BY CITY ORDINANCE. (a) The city by ordinance may dissolve the district.

(b) The city may not dissolve the district until the district's outstanding indebtedness or contractual obligations that are payable from ad valorem taxes have been repaid or discharged, or the city has affirmatively assumed the obligation to pay the outstanding indebtedness from the city's lawfully available revenue.

(c) The city may not dissolve the district until the agreement under Section 3871.160 has been executed and the district's performance under the agreement has been fulfilled, including any right or obligation the district has to reimburse a developer or owner for the costs of improvement projects.

Sec. 3871.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than ad valorem taxes, the city shall succeed to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations.

Sec. 3871.253. CONCURRENCE ON ADDITIONAL POWERS. If the legislature grants the district a power that is in addition to the powers approved by the initial resolution of the governing body of the city consenting to the creation of the district, the district may not exercise that power unless the governing body of the city consents to that change by resolution.

Sec. 3871.254. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes, subject to the appropriation and availability of funds, the obligations of the district, including any bonds or other indebtedness payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION 2. The district shall include the land described in Subsections (a) and (b), below:

(a) A 192 acre tract of land situated west of the Dallas Central Business District along the western bank of the Trinity River Floodway in Dallas County, Texas, with said tract of land being more particularly described (in a clockwise manner around the boundary) by the following:

The POINT OF BEGINNING being the northernmost point of the District on the northern right of way of Continental Avenue, eastern bank of the Trinity River Floodway and the Union Pacific Rail Corridor;

THEN in a southeast direction to the southern right-of-way of Continental Avenue;

THEN in a southwest direction along the southern right-of-way of Continental Avenue / Singleton Boulevard across the Trinity River to the intersection with the Continental Via Connector;

THEN in a south by west direction along the eastern right-of-way of the Continental Via Connector;

THEN in a south southeast direction along the eastern right-of-way of the Continental Via Connector;

THEN in a south southeast direction along the eastern right-of-way of the Continental Via Connector, N. Beckley Boulevard;

THEN in a south southeast direction along the eastern right-of-way of N. Beckley Boulevard across the Union Pacific Rail Corridor to the northwest corner of 0.38 acre parcel (Block 6824, Lot 1, Account: 00000633508000000);

THEN in an easterly direction along the northern edge (to the northeast corner) of 0.38 acre parcel (Block 6824, Lot 1, Account: 00000633508000000);

THEN in a south southeast direction along the eastern edge (to the southeast corner) of 0.38 acre parcel (Block 6824, Lot 1, Account: 00000633508000000);

THEN in a southeast direction along the eastern edge (to the southeast corner) of 0.63 acre parcel (Lot 2, Account: 00000633511000000);

THEN in a southerly direction along the eastern edge (to the southeast corner) of 0.23 acre parcel (Block 6824, Tract 3, Account: 00000633514000000);

THEN in a south southwest direction to the southern right-of-way of Commerce Street;

THEN in a west southwest direction along the southern right-of-way of West Commerce Street to the intersection of Fort Worth Avenue;

THEN in a due west direction for along the southern right-of-way of West Commerce Street to the western right-of-way of Sylvan Avenue;

THEN in a northerly direction along the western right-of-way of Sylvan Avenue across Singleton Boulevard to the southwest corner of 0.15 acre parcel (Tiptons No 3, Block 3/71701 Lot 1, Account: 00000673591000000);

THEN in a due east direction along the northern right-of-way of Pueblo Street to the eastern right-of-way of Topeka Avenue;

THEN in a due south direction along the eastern right-of-way of Topeka Avenue to the northern right-of-way of Singleton Boulevard;

THEN in a due east direction along the northern right-of-way of Singleton Boulevard to the western right-of-way of Bataan Street;

THEN in a due north direction approximately 529 feet along the western right-of-way of Bataan Street to the southeast corner of 0.13 acre parcel (7093, N Pt of Lots 54-58, Account: 00000672568000000);

THEN in a due north direction for approximately 13 feet along the western right-of-way of Bataan Street and the eastern edge of 0.13 acre parcel (7093, N Pt of Lots 54-58, Account: 00000672568000000);

THEN in a due east direction across the right-of-way of Bataan Street to the northwest corner of 0.13 acre parcel (7093, S Pt Lots 49-52, Account: 00000672565000000);

THEN in a due east direction for approximately 90 feet along the northern edge (to the northeast corner) of 0.13 acre parcel (7093, S Pt Lots 49-52, Account: 00000672565000000);

THEN in an east by north direction for approximately 29 feet across the right-of-way of Pueblo alley way to the southwest corner of 4.59 acre parcel (7092, Block 3, Tr 4, S Pt Account: 00000672316000000);

THEN in a due east direction along the northern right-of-way of Pueblo alley way and Pueblo Street to the eastern right-of-way of Gulden Avenue;

THEN in a due south direction along the eastern right-of-way of Gulden Avenue to the intersection with the north access road from Singleton Boulevard;

THEN in a southeast direction along the northern right-of-way of the north access road from Singleton Boulevard to the intersection with Singleton Boulevard;

THEN in a northeasterly direction along the northern right-of-way of Singleton Boulevard / Continental Avenue to the point of beginning;

Save and except CITY BLOCK 4004 100X125 W COMMERCE & TOPEKA LT 14 ;

Save and except CITY BLOCK 4004 50X125 W COMMERCE 64FR EVANSTON LT 13 ;

Save and except BLK 4004 TR 1 & PT BLK 6818 & BLK 6819 LTS 27-32 ACS 1.6806 INT20080175384 DD05212008 CO-DC;

Save and except BLK 4004 LOT 12 64X125 W COMMERCE & EVANSTON VOL98002/6015 DD123197 CO-DALLAS;

Save and except BLK 4004 N 36FT LT 2 TOPEKA VOL2002092/7333 DD05092002 CO-DC;

Save and except BLK 4004 S 29FT LOT 3 & N 6FT LOT 4 VOL2003255/3697 DD12162003 CO-DC;

Save and except J W STONEHAMS SUBD BLK 4004 S 14FT 2 & N 20FT 3 21FT LOT 3 VOL2003254/7651 DD12182003 CO-DA;

Save and except J W STONEHAMS ADDN BLK 4004 S 36FT LT 4 VOL94249/2739 DD120594 CO-DALLAS;

Save and except BLK 4004 LTS 5 & 6 TOPEKA VOL83222 PG2749 CO-DALLAS;

Save and except BLK 4004 S 37.5' LOT 7 VOL93070/1997 EX040793 CO-DALLAS;

Save and except BLK 4004 N 25 FT 8 & S 13 FT 9 EVANSTON VOL86222/5346 VOL2004177/12448 DD09072004 CO-DC;

Save and except 7 & 25 FT LT 8 04004 N 12.5FT7 AND 25FT8 EVANSTON VOL2004059/8111 DD03082004 CO-DC;

Save and except BLK 4004 37' LOT 9 & 1' LOT 10 INT20070370953 DD10181997 CO-DC;

Save and except 04004 N 38FT 10 EVANSTON VOL2002023/2452 CO-DC;

Save and except BLK 4005 LOT 10 ACS 0.1435 50X125 COMMERCE & EVANSTON VOL2003255/3832 DD12152003 CO-DC;

Save and except BLK 4005 LT 7 50X100X5.82X51.99X72.1 EVANSTON 125FR COMMERCE VOL2003255/3832 DD12152003 CO-DC;

Save and except BLK 4005 LT 6 50X42.86X56.94X72.1 EVANSTON 175FR COMMERCE VOL2003255/3832 DD12152003 CO-DC;

Save and except BLK 4005 LT 5 50X42.86X53.68X22.86 EVANSTON 225FR W COMMERCE VOL2003255/3832 DD12152003 CO-DC;

Save and except BLK 4005 LT 9 50X125 W COMMERCE 50FR EVANSTON VOL2003255/3832 DD12152003 CO-DC;

Save and except BLK 4005 LT 8 44.9X131.93X3.12X125 W COMMERCE 100FR EVANSTON VOL2003255/3832 DD12152003 CO-DC;

Save and except BLK 4005 LT 4 50X10.66X51.36X22.86 EVANSTON 325FR COMMERCE VOL2003255/3785 DD12182003 CO-DC;

Save and except BLK 6818 TR 6 ACS 0.1338 CO-DALLAS;

Save and except BLK 6818 TR 6.1 ACS 0.0949 VOL98247/5660 DD093098 CO-DALLAS;

Save and except LOT 5 50X188X53X119X103X307 COMMERCE TO TOPEKA ;

Save and except BLK 6818 TR 3 50X103 TOPEKA AND ALLEY TOPEKA & ALLEY VOL97100/0344 DD051497 CO-DALLAS;

Save and except BLK 6818 TR 4 50X103 TOPEKA 50FR ALLEY VOL97100/0344 DD051497 CO-DALLAS;

Save and except BLK 6819 TR 33A 40X100 W MAIN CO-DALLAS;

Save and except BLK 6819 LOT 1 ACS 0.033 INT20070136081 DD03292007 CO-DC;

Save and except BLK 6819 LOTS 2 3 & S 5FT4 ACS 0.209 INT20070136081 DD03292007 CO-DC;

Save and except BLK 6819 N PT 4 45X100 CO-DALLAS;

Save and except BLK 6819 LOT 5 GUEST INT20070136081 DD03302007 CO-DC;

Save and except BLK 6819 LT 6 GUEST ACS 0.118 INT20070136081 DD03292007 CO-DC;

Save and except BLK 6819 LT 7 GUEST ACS 0.1172 INT20070136081 DD03292007 CO-DC;

Save and except BLK 6819 LT 8 GUEST ACS 0.112 INT20070136081 DD03292007 CO-DC;

Save and except BLK 6819 BLK 6819 TR 33D 50X100 W MAIN INT20070274154 DD07312007 CO-DC;

Save and except BLK 6819 TR 33E 50X100 W MAIN CO-DALLAS;

Save and except GUESTS WEST DALLAS BLK 6819 TR 33B 50X100 PROB SE04247-P/2 DD10182004 CO-DC;

Save and except BLK 6819 TR 33C 50X100 MAIN VOL79172/0982 DD082879 CO-DALLAS;

Save and except BLK 6819 LOT 34B 50X100 W MAIN CO-DALLAS;

Save and except BLK 6819 LTS 43 & 44 COMMERCE & YUMA VOL98247/5630 CO-DALLAS;

Save and except BLK 6819 N 1/2 LT 45-50X50 YUMA ;

Save and except S PT 45-50X50 YUMA VOL85245 PG3602;

Save and except BLK 6819 LT 46 YUMA & ALLEY VOL97100/0344 DD051497 CO-DALLAS;

Save and except BLK B/6820 LT 1 COMMERCE & BEAVER INT200600195865 DD05222006 CO-DC;

Save and except ROBERTS & WRIGHT-WEST DALLAS LOT 2 COMMERCE PROB94-1974-P2 CO-DC;

Save and except ROBERTS & WRIGHT-WEST DALLAS LOT 3 COMMERCE PROB94-1974-P2 CO-DC;

Save and except ROBERTS & WRIGHT-WEST DALLAS E PT LOT 4-33X170X25.4X170 COMMERCE ;

Save and except ROBERTS & WRIGHTS BLK B/6820 LOT 8 ACS 0.1951 VOL91096/3159 EX040991 CO-DALLAS;

Save and except ROBERTS & WRIGHT BLK B/6820 W PT LOT 9 ACS 0.1718 VOL91096/3159 EX040991 CO-DALLAS;

Save and except ROBERTS & WRIGHT-WEST DALLAS E PT 9 ALL 10-53.5X170X58.3X170 BLK B/6820 INT20070303241 DD06282007 CO-DC;

Save and except ROBERTS & WRIGHT-WEST DALLAS BLK B/6820 LOT 11 INT20070303241 DD06282007 CO-DC;

Save and except BLK B/6820 LOT 12 YUMA CTS PROB94-1974-P2 CO-DC;

Save and except ROBERTS & WRIGHT-WEST DALLAS LOTS 13 AND 14 YUMA CTS AND BEAVER PROB94-1974-P2 CO-DC;

Save and except BLK 6821 LTS 43 THRU 46 ACS 0.275 W COMMERCE & PITTMAN INT20070136081 DD03292007 CO-DC;

Save and except BLK 6821 LT 47 PITTMAN VOL87234 PG4061 CO-DALLAS;

Save and except BLK 6821 LT 62 PITTMAN VOL87234 PG4061 CO-DALLAS;

Save and except BLK 6821 LOT 63 ACS 0.110 PITTMAN & GC & SF RR CO-DALLAS;

Save and except BOMARS WEST COMMERCE BLK E/6823 LOT 4 & BLK 6821 PT LOT 72 ACS 3.1632 INT20070304216 DD08062007 CO-DC;

Save and except BOMARS WEST COMMERCE BLK 6819 LOT 4.1 ACS 1.8255 INT20070304216 DD08062007 CO-DC;

Save and except BLK 6822 LT 1 W MAIN VOL2005024/1424 DD01312005 CO-DC;

Save and except BLK 6822 LTS 2 & 3 W MAIN VOL2005024/1424 DD01312005 CO-DC;

Save and except 06822 LOT 7 W MAIN ;

Save and except WEST WE GO BLK 6822 ALL LT 8 & LT 9 LESS 3.5FT TRI ADJ LOT 10 VOL2005042/2535 DD02222005 CO-DC;

Save and except WEST WE GO BLK 6822 LOTS 10 & 11 & W3.5'TRI LOT 9 VOL83069 PG0717 CO-DALLAS;

Save and except BLK 6822 LTS 12 13 & 14 W MAIN INT20070083883 DD03052007 CO-DC;

Save and except BLK 6822 LTS 15 AND 16 MAIN INT20070083883 DD03052007 CO-DC;

Save and except BLK 6822 LOTS 17 & 18 W MAIN INT20070083884 DD03062007 CO-DC;

Save and except 06822 LOTS 19 AND 20 W MAIN VOL2005070/3341 DD03292005 CO-DC;

Save and except BLK 6822 LTS 23 24 & PT LTS 22 & 25 W MAIN CO-DALLAS;

Save and except BLK 6822 PT LOT 25 AND ALL 26 W MAIN ;

Save and except BLK 6822 LT 27 VOL98226/2670 DD102695 CO-DALLAS;

Save and except BLK 6822 LOT 33 CO-DALLAS;

Save and except WEST WE GO ADDITION BLK 6822 LT 32 VOL84173 PG1525 CO-DALLAS;

Save and except 06822 LT 34 BLK 6822 VOL2003255/3697 DD12162003 CO-DC;

Save and except 06822 LT 35 BLK 6822 VOL2003255/3697 DD12162003 CO-DC;

Save and except BLK 6822 LTS 36 THRU 39 W MAIN VOL2000148/2996 DD08012000 CO-DA;

Save and except 06822 LOTS 40 AND 41 W MAIN VOL2005069/8115 DD03092005 CO-DC;

Save and except WEST WE GO BLK 6822 LT 46 INT20080047274 DD02052008 CO-DC;

Save and except BLK 6822 LOT 49 W MAIN VOL2003224/1305 DD10312003 CO-DC;

Save and except BLK 6822 LOTS 50 & 51 W MAIN VOL2003224/1305 DD10312003 CO-DC;

Save and except BLK 6822 LOTS 52 & 53 W MAIN CO-DALLAS;

Save and except BLK 6822 LOT 54 W MAIN CO-DALLAS;

Save and except BLK 6822 LOTS 55 & 56 W MAIN VOL2004139/1159 DD07011993 CO-DA;

Save and except LOTS 57 & 58 W MAIN ;

Save and except BLK 6822 LTS 59 & 60 W MAIN CO-DALLAS;

Save and except 06822 LOTS 64 AND 65 W MAIN ;

Save and except BLK 6822 LOT 66 W MAIN VOL88097/3298 CO-DALLAS;

Save and except 06822 LOTS 80 & 81 W MAIN VOL2003255/3832 DD12242003 CO-DC;

Save and except 06822 LT 82 BLK 6822 VOL2003255/3832 DD12152003 CO-DC;

Save and except BLK 6822 LOTS 83 & 84 W MAIN INT20080147440 DD11012007 CO-DC;

Save and except BLK 6822 LOT 85 W MAIN INT200600470194 DD01032006 CO-DC;

Save and except BLK 6822 PT LT 86 69.3X17X71 VOL86251/2660 DD123086 CO-DALLAS;

Save and except WEST WE GO BLK 6822 LOTS 103 & 104 CO-DALLAS;

Save and except BLK 6822 LOTS 105 & 106 W MAIN CO-DALLAS;

Save and except WEST WE GO BLK 6822 LTS 107-109 ACS 0.213 VOL2000153/1706 DD11261985 CO-DC;

Save and except BLK 6822 LOTS 110 & 111 W MAIN CO-DALLAS;

Save and except BLK 6822 LTS 112 & 113 CO-DALLAS;

Save and except BLK 6822 LOT 114 W MAIN VOL2003224/1305 DD10312003 CO-DC;

Save and except WEST WE GO BLK 6822 LOTS 115 & 116 VOL2003224/1305 DD10312003 CO-DA;

Save and except BLK 6822 LOTS 117 AND 118 W MAIN CO-DALLAS;

Save and except BLK 6822 LOTS 119 & 120 W MAIN VOL2005091/3746 DD04282005 CO-DC;

Save and except BLK 6822 LOTS 121 & 122 WEST MAIN VOL2003057/3971 CO-DALLAS;

Save and except BLK 6822 LOT 123 WEST MAIN VOL2003057/3974 CO-DALLAS;

Save and except BLK 6822 LOT 124 W MAIN VOL2003057/3974 CO-DALLAS;

Save and except BLK 6822 LOTS 125 & 126 VOL93037/5813 EX021493 CO-DALLAS;

Save and except WEST WE GO ADDN BLK 6822 LOTS 127 & LOT 128 W MAIN ST VOL91228/3099 EX112191 CO-DALLAS;

Save and except BLK 6822 LOT 129 AND 7FT LT 13 W MAIN PROB06-146-P DD01012006 CO-DC;

Save and except LOT 131 AND 18FT130 W MAIN ;

Save and except BLK 6822 LOTS 132 & 133 VOL99076/2723 DD041499 CO-DALLAS;

Save and except BLK 6822 LOT 134 W MAIN VOL98252/5553 DD122398 CO-DALLAS;

Save and except BLK 6822 LOT 135 W MAIN ;

Save and except BLK 6822 LOT 136 W MAIN ;

Save and except BLK 6822 LOTS 137 AND 138 W MAIN ;

Save and except BLK 6822 LOT 139 W MAIN ;

Save and except 50X137 AVG. LOTS 140 & 141 W MAIN CITY BLOCK 6822 CO-DALLAS;

Save and except 50X137.4 AVG. LOTS 142 & 143 W MAIN CITY BLOCK 6822 ;

Save and except 50X137.5 AVG. LOTS 144 & 145 W MAIN ;

Save and except BLK 6822 LOTS 146 & 147 W MAIN ;

Save and except BLK 6822 LOT 148 AND W18 FT 149 W MAIN ;

Save and except BLK 6822 E 7FT LOT 149 W MAIN ;

Save and except BLK 6822 LOTS 150 AND 151 W MAIN ;

Save and except WEST WE GO BLK 6822 LOTS 152 & 153 VOL91138/0509 EX071291 CO-DALLAS;

Save and except 50X139.9 LOTS 154 & 155 W MAIN ;
Save and except BLK 6822 LOT 156 CO-DALLAS;
Save and except BLK 6822 S PT LTS 157 & 158 VOL84052 PG0284
CO-DALLAS;
Save and except BLK 6822 N PT LTS 157.1 & 158.1 WEST WE GO
ADDN VOL 84052/0284 CO-DALLAS;
Save and except BLK 6822 PT LTS 159 & 160 ACS 0.0568 ;
Save and except BLK 6822 PT LTS 159 & 160 ACS 0.1096
INT20080047275 DD02052008 CO-DC;
Save and except BLK 6822 LTS 161 & 162 W MAIN ;
Save and except BLK 6822 LOTS 163 AND 164 W MAIN CO-DALLAS;
Save and except WEST WE GO BLK 6822 LOTS 165 & 166
CO-DALLAS;
Save and except 50X102.5 AVG. LOTS 167 & 168 W MAIN ;
Save and except BLK 6822 LTS 169 & 170 W MAIN ;
Save and except 62X105.5X103X115.5 LOTS 171 & 172 W MAIN ;
Save and except PT LOTS 174 AND 175 BECKLEY ;
Save and except LOTS 176 & 177 BECKLEY & W MAIN ;
Save and except LOTS 180 181 & 182 BECKLEY AVE VOL2005024/1424
DD01312005 CO-DC;
Save and except TRACT 1 2.6 ACRES N BECKLEY TO END OF BLK E
6823 ;
Save and except LOT 2 50X453 N BECKLEY ADJ BLK 6822 ;
Save and except BOMARS L H BLK C/6823 LTS 1,2 & E 25FT LT 3 ACS
0.331 VOL99033/2664 DD021599 CO-DC;
Save and except BOMARS L H BLK C/6823 LOT 4 & 37-1/2' LOT 3 W
COMMERCE & WALES INT20070241282 DD06272007 CO-DC;
Save and except BOMARS L H BLK C/6823 LTS 5-8 ACS 1.1139
VOL99033/2664 DD02151999 CO-DC;
Save and except BLK D/6823 LOT 1 COMMERCE & WALES
VOL2005131/10121 DD06292005 CO-DC;
Save and except BLK D/6823 LOT 2 COMMERCE VOL2005131/10121
DD06292005 CO-DC;
Save and except BOMARS L H LOTS 3 4 & 5 COMMERCE &
HARDWICK VOL2005131/10121 DD06292005 CO-DC;
Save and except BOMARS L H LOT 6 HARDWICK VOL2005131/10121
DD06292005 CO-DC;
Save and except BLK D/6823 LOT 7 WALES VOL2005131/10121
DD06292005 CO-DC;
Save and except BLK D/6823 LOT 8 WALES VOL2005131/10121
DD06292005 CO-DC;
Save and except L H BOMARS WEST COMMERCE BLK E/6823 LOT 1
99.25X62.5X99.09X62.5 VOL89179/0883 EX080189 CO-DALLAS;
Save and except LK H BOMARS WEST COMMERCE BLK E/6823 LT 2
99.25X62.5X99.25X62.5 VOL2005045/10126 DD03042005 CO-DC;

Save and except LOT 2 345.9X138.7X232.4X95 N BECKLEY VOL2000246/1241 CO-DALLAS;

Save and except BLK 6824 TR 3 ACS 0.2234 VOL96210/0364 DD040596 CO-DALLAS;

Save and except BLK 7084 LOT 1 SINGLETON & AMONETTE CO-DALLAS;

Save and except MCNEIL W PT LOT 2-47X110 MCPHERSON 60FR AKRON ;

Save and except MCNEIL LOT 3 MCPHERSON INT200503577263 DD06102005 CO-DC;

Save and except BLK A/7085 LOT 4 INT20080027122 DOD05162006 CO-DC;

Save and except MCNEIL LOT 5 POE PROB06-3257-P;

Save and except MCNEIL BLK A/7085 LT 6 PROB 02-2756-P2 CO-DC;

Save and except MCNEIL BLK A/7085 LOT 7 VOL93182/2226 DD09181993 CO-DC;

Save and except MCNEIL BLK B/7085 LOT 2 VOL93105/2124 EX052793 CO-DLALAS;

Save and except BLK B/7085 LOT 3 CO-DALLAS;

Save and except MCNEIL LOT 4 POE VOL75210/0017 DD05131973 CO-DC;

Save and except MCNEIL BLK B/7085 LOT 5 VOL2002230/10785 DD11062002 CO-DC;

Save and except MCNEIL LOT 6 POE ;

Save and except MCNEIL LOTS 1 2 AND 3 MCPERSON VOL2002154/5575 DD07112002 CO-DC;

Save and except BLK C/7085 LOT 4 VOL2002154/5575 DD07112002 CO-DC;

Save and except BLK C/7085 LOT 5 VOL2002154/5575 DD07112002 CO-DC;

Save and except TR 3 100X100 AKRON 332.8FR BEEVILLE INT20080180513 DD05292008 CO-DC;

Save and except BLK 7087 LOT 1A BEDFORD & AMONETTE CO-DALLAS;

Save and except 07087 EPT3-42X115 BEDFORD VOL86020 PG2269 CO-DALLAS;

Save and except BLK 7087 NWPT 3 AND 4 58X65 BEDFORD ST VOL2000109/5762 DD06022000 CO-DC;

Save and except 07087 LOT 13 BEDFORD & HERBERT INT20070360634 DD09282007 CO-DC;

Save and except 07087 LOT 16 BEDFORD ST ;

Save and except BLK 7087 LOT 17 CO-DALLAS;

Save and except REEVES & KIRKPATRICK CEDAR GLADE BLK 7087 PT LT 48 ACS 0.1169 VOL83114/3104 CO-DALLAS;

Save and except BLK 7087 LTS 50-53; ABND ALLEY & LT 49 LESS ROW ACS 0.6369 VOL2002232/0058 DD09302002 CO-DC;

Save and except WELLINGTONS BLK A/7091 PT LTS 6-8 ACS 0.2968 INT20070206569 DD06042007 CO-DC;

Save and except BLK B/7091 LOT 8 TORONTO VOL02083/0594 DD072338 CO-DALLAS;

Save and except WELLINGTONS BLK B/7091 LT 9 7500 SF VOL99184/4416 DD092199 CO-DALLAS;

Save and except WELLINGTONS LOT 2 TORONTO ;

Save and except WELLINGTONS BLK C/7091 LT 4 VOL2005074/03650 DD04082005 CO-DC;

Save and except WELLINGTONS BLK C/7091 LOT 5 CO-DALLAS;

Save and except WELLINGTONS BLK C/7091 LT 6 VOL2005074/03650 DD04082005 CO-DC;

Save and except WELLINGTONS BLK C/7091 LT 7 VOL2005074/03650 DD04082005 CO-DC;

Save and except WELLINGTONS LOT 2 TORONTO ;

Save and except WELLINGTONS BLK D/7091 LT 7 VOL96237/6844 DD120396 CO-DALLAS;

Save and except VALLEY PARK BLK 7093 LTS 3 & 4 50X106 VOL 82114 PG 0309;

Save and except VALLEY PARK BLK 7093 S PT LTS 21 & 22 & 14' ABDN ALLEY ACS 0.0769 CALC VOL95117/0357 DD061295 CO-DALLAS;

Save and except BLK 7093 LOTS 25 THRU 28 BATAAN & TORONTO VO99113/4611 DD06101999 CO-DC;

Save and except VALLEY PARK BLK 7093 LOT 45 INST200503556093 DD09292005 CO-DC;

Save and except VALLEY PARK BLK 7093 LOT 46 INST200503556093 DD09292005 CO-DC;

Save and except VALLEY PARK BLK 7093 LOT 47 INST200503556093 DD09292005 CO-DC;

Save and except VALLEY PARK BLK 7093 LOT 48 INST200503556093 DD09292005 CO-DC;

Save and except THRU 52 53.33X100 07093 S PT 49 THRU 52 53.33X100 TURTLE CREEK & FAIRFIELD VOL85155 PG3105 CO-DALLAS;

Save and except CLOSE IN BLK 7094 LT 14 LESS ROW VOL2001177/05892 DD09072001 CO-DC;

Save and except CLOSE IN BLK 7094 LTS 15,16 & 17 VOL2001177/5892 DD09072001 CO-DC;

Save and except CLOSE IN BLK 7094 LT 18 VOL2001177/5892 DD09072001 CO-DC;

Save and except BLK 7094 LTS 19 THRU 26 PROB#10-050-VOL2004097/10681 DD05182004 CO-DC;

Save and except TIPTON LOT 6 SYLVAN VOL2002160/2621 CO-DC;

Save and except TIPTON LOT 7 SYLVAN 7560 SF VOL2002160/2621 CO-DC;

Save and except TIPTON BLK 4/7101 LOT 8 VOL90043/2762 EX021490 CO-DALLAS;

Save and except TIPTON LOTS 11 & 12 SYLVAN VOL2002119/2177 CO-DALLAS;

Save and except BLK 7266 TR 2 ACS 0.3371 VOL95037/1963 DD123194 CO-DALLAS;

Save and except BLK 7266 TR 3 125X150 SEC SINGLETON @TOPEKA ;

Save and except BLK 7266 TR 1 ACS 0.4523 VOL95037/1958 DD123194 CO-DALLAS;

Save and except BLK 7266 TR 5 & 7 ACS 2.006 VOL93166/4300 EX082393 CO-DALLAS;

Save and except BLK 7266 TR 4 ACS 0.7496 VOL99194/1601 DD092999 CO-DALLAS;

Save and except CANAL BLK 1/7267 LT 1 FABRICATION & SYLVAN VOL99230/4227 DD111699 CO-DALLAS;

Save and except CANAL BLK 1/7267 LT 2 VOL99230/4227 DD111699 CO-DALLAS;

Save and except CANAL LOT 3 FABRICATION ;

Save and except CANAL LOT 4 FABRICATION CO-DALLAS;

Save and except CANAL BLK 1/7267 LT 5 INT200600292324 DD08042006 CO-DC;

Save and except CANAL LOT 6 FABRICATION ;

Save and except CANAL LOT 7 FABRICATION & TOPEKA ;

Save and except CANAL LOT 1 SYLVAN AND FABRICATION VOL2001183/3502 D09042001 CO-DC;

Save and except CANAL LOT 2 SYLVAN VOL2001183/3502 D09042001 CO-DC;

Save and except CANAL LOT 3 SYLVAN ;

Save and except CANAL BLK 2/7267 LT 4 VOL72213/1782 DD10301972 CO-DC;

Save and except CANAL BLK 2/7267 LOT 5 INT20070042002 DD01262007 CO-DC;

Save and except CANAL LOT 6 SYLVAN & MUNCIE INT200600157597 DD04242006 CO-DC;

Save and except CANAL LOT 7 GILMER & MUNCIE ;

Save and except CANAL LOT 8 GILMER ;

Save and except CANAL BLK 2/7267 LOT 9 INT200600399981 DD10202006 CO-DC;

Save and except CANAL BLK 2/7267 LOT 10 GILMER INT20070311860 DD08132007 CO-DC;

Save and except CANAL LOT 11 GILMER VOL2001183/3502 D09042001 CO-DC;

Save and except CANAL BLK 2/7267 LOT 12 GILMER & FABRICATION VOL95031/1515 DD020995 CO-DALLAS;

Save and except CANAL BLK 3/7267 LOTS 1,2,3,4 & 5 GILMER & FABRICATION TO TOPEKA VOL2002048/5489 EX011492 CO-DC;

Save and except CANAL BLK 4/7267 LOTS 1-5 TOPEKA & FABRICATION TO YUMA VOL91074/1876 EX041191 CO-DALLAS;

Save and except CANAL N PT LOT 1 42.5X86 YUMA & FABRICATION INT200600117279 DD03011993 CO-DC;

Save and except CANAL S PT LOT 1 42.5X86 YUMA ;

Save and except CANAL BLK 5/7267 LOTS 2-3 & 4 INT200600117278 DD03011993 CO-DC;

Save and except CANAL BLK 5/7267 LOT 5 PARVIA AVE VOL90074/3060 EX041390 CO-DALLAS;

Save and except CANAL BLK 5/7267 LOT 8 VOL90067/3068 EX032390 CO-DALLAS;

Save and except ADDISON PARK BLK 1/7268 PT LTS 2 & 3 LESS ROW VOL86097 PG4052 CO-DALLAS;

Save and except ADDISON PARK BLK 1/7268 PT LTS 3 & 4 LESS ROW VOL86106 PG5575 CO-DALLAS;

Save and except ADDISON PARK BLK 2/7268 PT LOT 10 & PT ABND ALLEY ACS 0.0758 CO-DALLAS;

Save and except ADDISON PARK BLK 3/7268 PT LT 1 LESS ROW VOL2000070/1607 DD03232000 CO-DA;

Save and except ADDISON PARK BLK 3/7268 LT 3 ACS 0.055 VOL2002014/5008 DD12202001 CO-DC;

Save and except ADDISON PARK BLK 3/7268 LT 5 VOL2004154/9641 DD08042004 CO-DC;

Save and except ADDISON PARK BLK 3/7268 LTS 6 & 7 ACS 0.3144 INT20070321764 CO-DC;

Save and except ADDISON PARK BLK 3/7268 LT 8 INT20070321764 CO-DC;

Save and except ADDISON PARK BLK 3/7268 LT 9 INT20070321764 CO-DC;

Save and except ADDISON PARK BLK 3/7268 LT 10 VOL2001141/8301 DD07112001 CO-DC;

Save and except ADDISON PARK BLK 3/7268 LT 11 VOL2001141/8301 DD07112001 CO-DC;

Save and except ADDISON PARK BLK 3/7268 LT 12 VOL2001141/8301 DD07112001 CO-DC;

Save and except ADDISON PARK BLK 3/7268 LT 13 VOL2001141/8301 DD07112001 CO-DC;

Save and except ADDISON PARK BLK 3/7268 LT 14 S 1/2 VOL2000093/5568 DD05052000 CO-DC;

Save and except ADDISON PARK BLK 5/7268 LTS 4 & 5 BEDFORD & PARVIA VOL96252/5842 DD122396 CO-DALLAS;

Save and except TR 2 230X274.2 FABRICATION 141FR TOPEKA VOL98197/0863 DD09011998 CO-DC;

Save and except BLK 7269 TR 29K BEEVILLE & FABRICATION CO-DALLAS;

Save and except BLK 7269 TR 29-I LESS N 2.5FT BATAAN ;

Save and except TR 29 G BATAAN VOL88013/3721 EX011888 CO-DALLAS;

Save and except BLK 7269 TR 29-L 0.158 AC VOL95218/3609 DD110395 CO-DALLAS;

Save and except ABST 290 PG 265 BLK 7269 LOT 29H VOL87050/3226 DD030687 CO-DALLAS;

Save and except BLK 7269 TR 29 PROB00-3032-P CO-DC;

Save and except BLK 7269 TR 29F BATAAN & FABRICATION VOL2004033/1146 DD02062004 CO-DC;

Save and except BLK 7269 TR 29N BEEVILLE CO-DALLAS;

Save and except BLK 7270 TR 1.1 ACS 0.0711 FABRICATION 181.2FR BATAAN ST CO-DALLAS;

Save and except BLK 2/7270 PT BLK - 45X150 FABRICATION 85.8FR BATAAN VOL93151/7047 EX080493 CO-DALLAS;

Save and except C H BROOKS W DALLAS BLK 2/7270 PT LTS 2 & 3 ACS 0.32 VOL2004074/00502 DD03222004 CO-DC;

Save and except CH BROOKS WEST DALLAS BLK 2/7270 PT LTS 2&3 ACS 0.1021 37FT FROM BATAAN VOL93151/7053 DDD08041993 CO-DC;

Save and except CH BROOKS WEST DALLAS BLK 2/7270 PT LT 3 ACS 0.1679 VOL2004005/6618 DD11242003 CO-DC;

Save and except BLK 7270 PT LTS 5-10-11 & 12 VOL99105/0813 DD05201999 CO-DC;

Save and except C H BROOKS BLK 7270 LT 6 VOL99105/0813 DD05271999 CO-DC;

Save and except JACK SCOTT HOMESTEAD BLK 7270 LT 7 AT BURR VOL95087/1323 DD042595 CO-DALLAS;

Save and except JACK SCOTT HOMESTEAD BLK 2/7270 LOT 8 INT200600163089 DD04272006 CO-DC;

Save and except JACK SCOTT HOMESTEAD BLK 2/7270 LOT 9 FABRICATION & PARVIA INT200600163089 DD04272006 CO-DC;

Save and except JACK SCOTT HOMESTEAD BLK 2/7270 LOT 13 BURR TO PARVIA INT20060016089 DD04272006 CO-DC;

Save and except ROBERTS & WRIGHTS BLK B/6820 LT 5 & PT LTS 4,6 & 7 ACS 0.6270 INT 200600445344 DD10172006 CO-DC;

Save and except ROBERTS & WRIGHT BLK B/6820 LT 7 & PT LT 6 ACS 0.1315 INT20080187701 DD06032008 CO-DC;

Save and except WESTCOM SUBDIVISION BLK 6821 LT 22A ACS 2.025 VOL85161 PG3409 CO-DALLAS;

Save and except WESTCOM SUBDIVISION BLK 6821 LT 23A ACS 1.837 VOL87145 PG1691 CO-DALLAS;

Save and except WEST WE GO BLK 6822 LTS 28-30 & PT 31 VOL94197/1276 DD100594 CO-DALLAS;

Save and except HUGHES BLK 6822 LT 61A ACS 0.1988 VOL2005091/1924 DD04072005 CO-DC;

Save and except MIRZAIIE LT 87A ACS 1.023 VOL2000198/3103 DD09292000 CO-DC;

Save and except WEST LEVEE SUBSTATION BLK 7084 LOT 2 ACS 4.8904 ;

Save and except TIPTON ADDITION BLK 4/7101 LT 9A ACS 0.296 VOL2001177/5892 DD09072001 CO-DC;

Save and except HUERTA BLK 4/7268 LT 1A ACS 0.4038 VOL2000173/6749 DD08162000 CO-DC;

Save and except HUERTA BLK 4/7268 LT 2A ACS 0.7762 VOL2000173/6749 DD08162000 CO-DC;

Save and except 5.43 MILES OF CORRIDOR DALLAS CITY ONLY 5.43 MILES RR CORRIDOR DALLAS;

(b) The following separately described parcels are also included as a part of and within the District:

ELHOGAR MEXICAN BLK 3/7089 W PT LT 3 40X74.8X48.5X44.3 INT20070296211 DD08082007 CO-DC;

ELHOGAR MEXICAN BLK 3/7089 W PT 4 40X103.2X48.5X74.8 INT20070296211 DD08082007 CO-DC;

ELHOGAR MEXICAN W PT 5 40X131X47.5X103.2 GULDEN INT20070144477 DD04202007 CO-DC;

EL HOGAR-MEXICANA BLK 3/7089 W PT LOT 7 40X182X49X156 GULDEN INT20070012261 DD01042007 CO-DC;

EL LUGAR MEXICANA LOT 11 PASTOR 11/70892 INT20080065923 DD02182008 CO-DC;

MAC ARTHUR HEIGHTS LOT 8 GUAM INT20080065904 DD02262008 CO-DC;

EL HAGAR MECICANA BLK 1/7089 LOT 16 INT20080065904 DD02262008 CO-DC;

BRANTLEY C M BLK A/7105 LOT 16 OBENCHAIN INT20070335018 DD09122007 CO-DC;

WEST END BY Z E COOMBS BLK 3/7265 LT 11 INT20080153903 DD05082008 CO-DC;

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 4789 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative B. Brown called up with senate amendments for consideration at this time,

HB 4789, A bill to be entitled An Act relating to the creation of the Kaufman County Parks Improvement District; providing authority to impose a tax and issue bonds; providing penalties.

Representative B. Brown moved to concur in the senate amendments to **HB 4789**.

The motion to concur in the senate amendments to **HB 4789** prevailed by (Record 1452): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Flores; Harper-Brown; Keffer; Kolkhorst; McClendon; Moody; Raymond.

STATEMENT OF VOTE

When Record No. 1452 was taken, I was temporarily out of the house chamber. I would have voted yes.

Moody

Senate Committee Substitute

CSHB 4789, A bill to be entitled An Act relating to the creation of the Kaufman County Parks Improvement District; providing authority to impose a tax and issue bonds; providing penalties.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3873 to read as follows:

CHAPTER 3873. KAUFMAN COUNTY PARKS IMPROVEMENT DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3873.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the City of Forney.

(3) "Commissioners court" means the Commissioners Court of Kaufman County.

(4) "County" means Kaufman County.

(5) "Director" means a board director.

(6) "District" means the Kaufman County Parks Improvement District.

(7) "Park" includes any land, including any improvements to the land, that is located in the district or owned or leased by the city for use of the general public.

Sec. 3873.002. NATURE OF DISTRICT. The Kaufman County Parks Improvement District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3873.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city, the county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the city or county from providing the level of services provided, as of the effective date of the Act enacting this chapter, to the area in the district. The district is created to supplement and not to supplant the city or county services provided in the area in the district.

Sec. 3873.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state; and

(2) preserve and conserve the natural resources of the state.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, employees, potential employees, visitors, and consumers in the district, and of the public;

(2) promote the health, safety, welfare, and enjoyment of the public by landscaping, developing, maintaining, financing, operating, and making capital improvements to parks in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty;

(3) conserve the natural resources of the district; and

(4) cooperate with the city in the furtherance of common purposes of the city and the district.

(e) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3873.005. INITIAL DISTRICT TERRITORY. The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

Sec. 3873.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code; or

(3) an enterprise zone created under Chapter 2303, Government Code.

Sec. 3873.007. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3873.008-3873.050 reserved for expansion]

SUBCHAPTER B. CONFIRMATION OF CREATION OF DISTRICT

Sec. 3873.051. CONFIRMATION ELECTION. (a) The commissioners court may order an election on the issue of confirming the creation of a district:

(1) on the commissioners court's own motion; or

(2) after the filing of a written petition signed by a number of the registered voters who reside in the area of the proposed district equal to at least five percent of the votes received in that area in the most recent gubernatorial general election.

(b) The petition or commissioners court's motion must include:

(1) the name of the district;

(2) an accurate description of the area included in the district by any appropriate method, including by metes and bounds and by public roads or rights-of-way; and

(3) an accurate plat of the area included in the district.

Sec. 3873.052. NOTICE OF HEARING. (a) If a petition is filed under Section 3873.051(a)(2), the commissioners court shall set a date for a hearing on the petition that is after the 20th day but on or before the 40th day after the date the petition is filed.

(b) The commissioners court shall publish notice of the petition and the hearing date in a newspaper of general circulation in the county.

(c) The notice must be published once each week for a period of two weeks before the hearing date.

Sec. 3873.053. HEARING. (a) At the hearing, evidence shall be taken as in civil cases in the county court. The commissioners court shall hear all arguments for and against confirming the creation of the district.

(b) The hearing may be adjourned from time to time on good cause shown.

(c) The commissioners court shall grant the petition and order the election on the issue of confirming the creation of the district if the commissioners court finds that:

(1) the petition is signed by the required number of registered voters;

(2) the district will serve the purposes prescribed by Sections 3873.003 and 3873.004; and

(3) the district includes any area within the boundaries of the city.

Sec. 3873.054. CONFIRMATION ELECTION. (a) The election shall be held in the area of the proposed district on the date of the first regularly scheduled countywide election that follows the date of the order of the election and for which there is sufficient time to comply with other requirements of law.

(b) The returns on the election shall be certified and canvassed and the results declared, in the same manner as provided for other county elections. If a majority of the votes received on the issue favor creation of the district, the commissioners court shall declare the creation of the district confirmed and shall enter the results in its minutes at its next regularly scheduled meeting.

Sec. 3873.055. COSTS OF CREATION, CONFIRMATION, AND ORGANIZATION. The costs necessarily incurred in the creation, confirmation, and organization of the district may be paid from the district's tax revenue or from revenue from bond anticipation notes, the first revenue bonds issued by the district, or any other source.

[Sections 3873.056-3873.100 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 3873.101. GOVERNING BODY; TERMS. The district is governed by a board of five directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

Sec. 3873.102. ELECTION DATE. The board shall hold elections for directors on the uniform election date in May in odd-numbered years. The elections of the first directors under this section shall be held on the first uniform election date in May that occurs in the years in which initial directors' terms expire under Section 3873.107.

Sec. 3873.103. ELIGIBILITY. (a) A director must be a citizen of the United States and must reside in the district.

(b) A director may not be an officer or employee of the county or the city.

(c) A director may not serve more than four consecutive full terms.

Sec. 3873.104. VACANCY. If a vacancy occurs on the board, the board shall appoint a person to fill the vacancy for the remainder of the unexpired term.

Sec. 3873.105. QUORUM. Three directors constitute a quorum of the board. The board may act on the majority of the vote of the assembled quorum.

Sec. 3873.106. COMPENSATION AND REIMBURSEMENT. A director is not entitled to compensation but is entitled to reimbursement for necessary expenses, including travel expenses, incurred in performing the duties of a director. If the amount of a director's reimbursement for necessary expenses exceeds \$250, the board must approve the reimbursement.

Sec. 3873.107. INITIAL VOTING DIRECTORS. (a) The initial board consists of five voting directors who meet the eligibility requirements described by Section 3873.103 and are appointed by the commissioners court.

(b) Of the initial directors, the terms of directors appointed for positions 1 through 3 expire June 1, 2011, and the terms of directors appointed for positions 4 and 5 expire June 1, 2013.

(c) Section 3873.102 does not apply to this section.

(d) If permanent directors have not been elected under Section 3873.102 and the terms of the initial directors expire, the commissioners court shall appoint successor initial directors to serve four-year terms.

[Sections 3873.108-3873.150 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Sec. 3873.151. DEPOSITORIES AND DISBURSEMENTS. (a) Money and other funds belonging to or under control of the board are public funds.

(b) The board shall select depositories for the money.

(c) A warrant or check for the withdrawal of money must be signed by two persons authorized to sign a warrant or check by resolution entered in the minutes of the board.

Sec. 3873.152. PERSONNEL. (a) The board may employ managers, secretaries, stenographers, bookkeepers, accountants, technical experts, and any other support personnel or agents the board considers necessary.

(b) The board shall determine the qualifications and set the duties of employees.

(c) The board may call on the county attorney, district attorney, or criminal district attorney of the county for the legal services it requires. In addition, or in the alternative, the board may contract for and compensate its own legal staff.

Sec. 3873.153. SEAL. The board shall adopt a seal to place on each lease, deed, or other instrument usually executed under seal and on other instruments as the board requires.

Sec. 3873.154. CONTRACTS. (a) The board may enter into any contract that the board considers necessary or convenient to carry out the purposes and powers granted by this chapter, including a lease or other contract connected with, incident to, or affecting the acquisition, financing, construction, equipment, maintenance, renovation, repair, improvement, or operation of real property or facilities.

(b) If the contract is for an amount less than or equal to the amount provided by Section 262.023, Local Government Code, the board may enter into the contract without advertisement. If the contract is for more than that amount, the contract is subject to the bidding provisions for contracts applicable to a county under that section.

(c) To be effective, a contract must be:

- (1) approved by resolution of the board;
- (2) executed by the president or vice president; and
- (3) attested by the secretary or treasurer.

Sec. 3873.155. SUITS. The board may sue and be sued in its own name.

Sec. 3873.156. DISTRICT RULES AND ORDERS; CRIMINAL PENALTY; CIVIL ENFORCEMENT. (a) The board may adopt reasonable rules and orders applicable to:

- (1) the administration, enforcement, and collection of district taxes;
- (2) littering and litter abatement in the parks in the district, including the possession and disposition of glass containers;
- (3) activities that endanger the health and safety of persons or property in parks in the district;
- (4) tenants, business privileges, concessionaires, users, and activities affecting district property and facilities, including any provision necessary to protect and conserve natural resources; and
- (5) a road that borders or runs through a park, subject to an applicable municipal ordinance.

(b) A police officer, constable, sheriff, or other law enforcement officer with jurisdiction in the county may arrest a person violating rules or orders of the board and carry out the prosecution of a person arrested under this subsection in the proper court.

(c) A person who violates a rule or order adopted under this section commits an offense. An offense under this section is a Class C misdemeanor.

(d) The county attorney, district attorney, and criminal district attorney or an attorney retained by the board for this purpose may bring an action to enjoin a violation of board rules or orders.

Sec. 3873.157. BOND NOT REQUIRED. If the board brings an action to enforce this subchapter or enjoin a violation of a rule or order adopted by the board under this subchapter, the board is not required to post a bond.

Sec. 3873.158. POWER TO ACQUIRE PROPERTY. (a) For the conservation of the district's natural resources, the board may acquire land in the county, inside or outside the district, including streams, lakes, submerged lands, and swamplands, to create parks. The board may develop, improve, protect, and promote the land in a manner the board considers conducive to the general welfare.

(b) The land may be acquired by:

- (1) gift or devise;
- (2) lump-sum payment; or
- (3) installment payments regardless of an option to purchase.

(c) The district does not have the power of eminent domain.

(d) The commissioners court by eminent domain may not acquire land for park purposes and subsequently transfer by any means the land or control of the land to the board for park purposes. If the commissioners court by eminent domain acquires land for purposes other than park purposes, the court may not subsequently transfer by any means the land or control of the land to the board for park purposes unless at least 10 years have expired after the date of the acquisition by the court. This subsection applies only to land that the commissioners court acquires by eminent domain.

Sec. 3873.159. SALE OR LEASE OF LANDS. (a) If the board determines that land owned by the district is not necessary for the purposes for which the land was acquired, the board may sell and dispose of the land on terms the board considers advisable.

(b) The board may lease or permit the use of land for purposes consistent with the purposes for which the land was acquired and on terms the board considers advisable.

(c) Before land owned by the district may be sold, once a week for four consecutive weeks in a newspaper of general circulation in the county the board must publish a notice of its intention to sell the land. The notice must include an accurate description of the land, the time of a public hearing that is before the 10th day before the disposition date, and the time and place at which sealed bids will be received.

Sec. 3873.160. ACCEPTANCE OF GRANTS AND GRATUITIES. To promote, establish, or accomplish a purpose of this chapter, the board may:

(1) accept grants and gratuities in any form from any source, including the United States government, this state, any state or federal agency, any private or public corporation, or any other person;

(2) accept donations of money or other property; and

(3) act as trustee of land, money, or other property.

Sec. 3873.161. COOPERATION WITH OTHER PUBLIC AUTHORITIES. Under an agreement with a public authority, including the city, in control of parkland in the county, the district may assume control of all or part of the parkland in or contiguous to the district or may contract or cooperate with the authority in connection with the use, development, improvement, and protection of the parkland.

Sec. 3873.162. REQUIREMENTS FOR RENTAL OF WATER-ORIENTED RECREATIONAL EQUIPMENT. (a) This section applies only to the rental of water-oriented recreational equipment in the district.

(b) A person may not rent water-oriented recreational equipment to a person younger than 18 years of age.

(c) A person may rent water-oriented recreational equipment to a person who is at least 18 years of age only if:

(1) each person who is at least 18 years of age who will use the equipment signs a written agreement for the rental of that equipment; and

(2) each person who will use the equipment, regardless of age, is listed on the agreement.

Sec. 3873.163. PLAN FOR DEVELOPMENT OF PARKS; ANNUAL BUDGET; FILING. (a) The board shall develop and approve a three-year master plan for capital development and the development of parks and district facilities.

(b) The board shall annually review and revise the master plan during the budget process and shall file a copy of the master plan and revisions with the county clerk.

(c) The board shall annually develop and approve a one-year budget that must include the suggested revisions and additions to the master plan.

(d) The board shall submit the annual budget to the commissioners court for approval and shall file a copy with the county clerk.

[Sections 3873.164-3873.200 reserved for expansion]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 3873.201. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3873.202. GENERAL OBLIGATION AND REVENUE BONDS. For the payment of all or part of the costs of a park improvement project or park services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from park improvements or services authorized under this chapter.

Sec. 3873.203. TERMS AND CONDITIONS OF BONDS. (a) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue.

(b) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any park improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds.

Sec. 3873.204. PLEDGES. (a) The board may pledge all or part of the income from park improvement projects financed under this chapter or from any other source to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds and, to the extent required by the order or resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this chapter.

(b) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this chapter owned or to be acquired by the district and by chattel mortgages, liens, or security interests on

personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(c) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenue, or income received or to be received from the United States government or any other public or private source.

Sec. 3873.205. MUNICIPAL APPROVAL. (a) A district must obtain the approval of the governing body of the city before issuing bonds for a park improvement project and for the plans and specifications of a park improvement project financed by the bond issuance.

(b) Instead of approval of bonds by the city, the district before finally approving a capital improvements budget may obtain approval from the governing body of the city of a capital improvements budget for a period not to exceed five years. If a district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the city.

(c) The district must obtain approval from the city of the plans and specifications of any park improvement project that involves the use of the rights-of-way of streets, roads, or highways or the use of city land or any easements granted by the city.

(d) The city is not obligated to pay any bonds, notes, or other obligations of the district.

Sec. 3873.206. AD VALOREM TAX; ELECTION. (a) The district must hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes an ad valorem tax.

(b) If authorized at an election under Subsection (a) and subject to Subsection (c), the district may impose an annual ad valorem tax on taxable property in the district to:

- (1) maintain and operate the district;
- (2) construct or acquire park improvements; or
- (3) provide a park service.

(c) The board shall determine the tax rate. The tax rate may not exceed 35 cents per \$100 valuation.

[Sections 3873.207-3873.250 reserved for expansion]

SUBCHAPTER F. DISSOLUTION

Sec. 3873.251. DISSOLUTION. (a) The commissioners court by order may dissolve the district. The order may be adopted:

- (1) on the commissioners court's own motion; or
- (2) after the filing of a written petition signed by a number of the registered voters who reside in the district equal to at least 10 percent of the votes received in the district in the most recent gubernatorial general election.

(b) The commissioners court shall give notice of a hearing on the petition and hold a hearing in the manner prescribed by Sections 3873.052 and 3873.053 for a petition for confirming the creation of the district.

(c) The commissioners court shall grant the petition and order the dissolution of the district if the court finds that the petition meets the requirements of this section and that the dissolution is in the best interest of the county.

(d) On dissolution of the district, the property and other assets, the debts and other liabilities, and the obligations of the district that are not related to city property become those of the county. The property and other assets, the debts and other liabilities, and the obligations of the district that are related to city property become those of the city.

SECTION 2. The Kaufman County Parks Improvement District initially includes all territory contained in Forney Independent School District that is not included in the boundaries of the City of Forney as it exists on the effective date of this Act.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 4817 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gattis called up with senate amendments for consideration at this time,

HB 4817, A bill to be entitled An Act relating to the creation of the Goodwater Municipal Utility District No. 1; providing authority to impose taxes and issue bonds; granting a limited power of eminent domain.

Representative Gattis 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 4817**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4817**: Gattis, chair; Ritter, Callegari, Creighton, and Frost.

**HB 4825 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Rose called up with senate amendments for consideration at this time,

HB 4825, A bill to be entitled An Act relating to the creation of the Driftwood Economic Development Municipal Management District; providing authority to impose a tax.

Representative Rose moved to concur in the senate amendments to **HB 4825**.

The motion to concur in the senate amendments to **HB 4825** prevailed by (Record 1453): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Kuempel; Lewis.

Absent — Pitts.

Senate Committee Substitute

CSHB 4825, A bill to be entitled An Act relating to the creation of the Driftwood Economic Development Municipal Management District; providing authority to impose a tax.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3858 to read as follows:

CHAPTER 3858. DRIFTWOOD ECONOMIC DEVELOPMENT MUNICIPAL
MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3858.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "City council" means the governing body of the City of Dripping Springs.

(3) "Commissioners court" means the Hays County Commissioners Court.

(4) "Director" means a member of the board.

(5) "District" means the Driftwood Economic Development Municipal Management District.

Sec. 3858.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3858.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve Hays County from providing the level of services provided as of the effective date of the Act creating this chapter to the area in the district. The district is created to supplement and not supplant county services provided in the district.

Sec. 3858.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing commerce in the state.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, consumers, and visitors in the district;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and viability of the district as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing trails, landscaping, and other services that are necessary for the restoration, preservation, and enhancement of the scenic beauty and environment of the area.

Sec. 3858.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act creating this chapter, as the territory may have been modified under:

(1) Section 375.043 or 375.044, Local Government Code; or

(2) other law.

(b) The boundaries and field notes of the district contained in Section 2 of the Act creating this chapter form a closure. A mistake in the field notes of the district contained in Section 2 of the Act creating this chapter or in copying the field notes in the legislative process does not in any way affect:

(1) the district's organization, existence, or validity;

(2) the district's right to contract, including the right to issue an obligation for a purpose for which the district is created;

(3) the district's right to impose or collect an assessment, tax, or other revenue; or

(4) the legality or operation of the board.

Sec. 3858.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

[Sections 3858.007-3858.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3858.051. GOVERNING BODY; TERMS. The district is governed by a board of five directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

Sec. 3858.052. APPOINTMENT OF DIRECTORS. The board consists of the following directors:

(1) Position 1: a person appointed by the commissioners court;

(2) Position 2: a person appointed by the commissioners court;

(3) Position 3: a person appointed by the city council;

(4) Position 4: a person appointed by the city council; and

(5) Position 5: a person appointed by the commissioners court, who must be the individual who owns more property in the district than any other individual except that if the commissioners court is unable to identify a person qualified for Position 5 who is willing and able to serve, the commissioners court shall appoint to the place a person who is:

(A) at least 18 years old; and

(B) a resident of this state.

Sec. 3858.053. VACANCY. A vacancy in the office of director shall be filled for the unexpired term by appointment in the same manner as the office was previously filled under Section 3858.052.

Sec. 3858.054. PETITION; ELECTION. (a) The owner or owners of at least 40 percent of the assessed value of property in the district may submit a petition to the commissioners court requesting an election of the board.

(b) If the commissioners court receives a petition under Subsection (a), the commissioners court shall order an election of board members in the district.

(c) The board shall give notice of the election not later than the 30th day before the date of the election.

(d) Of the directors elected to the board in an election under this section, the terms of the directors appointed for positions 1 through 3 expire on the third June 1 after the election, and the terms of directors appointed for positions 4 and 5 expire on June 1 following the election.

Sec. 3858.055. DIRECTOR'S BOND AND OATH. (a) Section 375.067, Local Government Code, does not apply to a director.

(b) Each director shall file the director's constitutional oath of office with the district, and the district shall retain the oath in the district's records.

Sec. 3858.056. INITIAL DIRECTORS. (a) The initial board consists of the following directors:

<u>Position</u>	<u>Name of Director</u>
<u>1</u>	<u>Silver Garza</u>
<u>2</u>	<u>Scott Roberts</u>
<u>3</u>	<u>Ginger Faught</u>
<u>4</u>	<u>Ken Manning</u>
<u>5</u>	<u>Michelle Fischer</u>

(b) The terms of the initial directors appointed for positions 1 through 3 expire June 1, 2013, and the terms of the initial directors appointed for positions 4 and 5 expire June 1, 2011.

(c) Section 3858.052 does not apply to this section.

(d) This section expires June 1, 2014.

[Sections 3858.057-3858.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3858.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district was created.

Sec. 3858.102. IMPROVEMENT PROJECTS. (a) The district may provide, or it may enter into contracts with a governmental or private entity to provide, the following types of improvement projects or activities in support of or incidental to those projects:

(1) the planning, design, construction, improvement, operation, and maintenance of:

(A) irrigation facilities and landscaping;

(B) highway right-of-way or transit corridor beautification and improvement;

(C) lighting, banners, and signs;

(D) a street or sidewalk;

(E) a hiking or cycling path or trail;

(F) a park, lake, garden, recreational facility, sports facility, open space, scenic area, or related exhibit or preserve;

(G) a fountain, plaza, or pedestrian mall;

(H) a drainage or storm-water detention improvement;

(I) a wastewater treatment and disposal facility;

(J) a water quality protection facility;

(K) a facility to enhance groundwater recharge;

(L) an alternative energy facility; or

(M) solid waste management services, including garbage collection, recycling, and composting;

(2) the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for:

(A) a conference, convention, or exhibition;

(B) a manufacturer, consumer, or trade show;

(C) a civic, community, or institutional event; or

(D) an exhibit, display, attraction, special event, or seasonal or cultural celebration or holiday; or

(3) a special or supplemental service for the improvement and promotion of the district or for the protection of public health and safety in the district, including:

(A) advertising;

(B) promotion;

(C) tourism;

(D) health and sanitation;

(E) public safety;

(F) security;

(G) fire protection or emergency medical services;

(H) business recruitment;

(I) development;

(J) elimination of traffic congestion;

(K) recreational, educational, or cultural improvements, enhancements, and services; or

(L) any similar public improvement, facility, or service.

(b) The district may not undertake a project under this section unless the board determines the project to be necessary to accomplish the public purpose of the district.

Sec. 3858.103. CONTRACTS; GIFTS; DONATIONS. The district may:

(1) contract with any person to accomplish any district purpose, including a contract for:

(A) the payment, repayment, or reimbursement of costs incurred by that person on behalf of the district, including all or part of the costs of an improvement project and interest on the reimbursed costs;

(B) the use, occupancy, lease, rental, operation, maintenance, or management of all or part of a proposed or existing improvement project; or

(C) the provision of law enforcement services to the district for a fee;

(2) apply for and contract with any person to receive, administer, and perform a duty or obligation of the district under a federal, state, local, or private gift, grant, loan, conveyance, transfer, bequest, or other financial assistance arrangement relating to investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or others of a proposed or existing improvement project; and

(3) accept a grant or donation from any person.

Sec. 3858.104. RULES; ENFORCEMENT. (a) The district may adopt and enforce rules:

(1) to administer or operate the district;

(2) for the use, enjoyment, availability, protection, security, and maintenance of the district's property and facilities; or

(3) to provide for public safety and security in the district.

(b) The district may enforce its rules by injunctive relief.

Sec. 3858.105. COMPETITIVE BIDDING. Section 375.221, Local Government Code, does not apply to the formation of a district contract.

Sec. 3858.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 3858.107-3858.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3858.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3858.152. NO AUTHORITY TO ISSUE BONDS. The district may not issue bonds.

Sec. 3858.153. AD VALOREM TAX; ELECTION. (a) The district must hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes an ad valorem tax.

(b) If authorized at an election under Subsection (a) and subject to Subsection (c), the district may impose an annual ad valorem tax on taxable property in the district to:

(1) maintain and operate the district;

(2) construct or acquire improvements; or

(3) provide a service.

(c) The board may impose a tax on residential property in the district only if the revenue requirements of the district are not satisfied by the other taxes imposed by the board.

(d) The board shall determine the tax rate. The tax rate may not exceed 15 cents per \$100 valuation.

Sec. 3858.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3858.155. SALES AND USE TAX; ELECTION. (a) Except as otherwise provided by this section, Subtitles A and B, Title 2, Tax Code, and Chapter 151, Tax Code, apply to a tax imposed under this section and to the administration and enforcement of that tax in the same manner that those laws apply to a state tax.

(b) Except as otherwise provided by this chapter, Chapter 321, Tax Code, applies to the imposition, computation, administration, and governance of a sales and use tax imposed under this section.

(c) The board may impose a tax on the receipts from the sale at retail of taxable items within the district, and an excise tax on the use, storage, or other consumption in the district of taxable items purchased, leased, or rented from a retailer in the district if authorized by a majority of the voters of the district voting at an election called for that purpose and held in the manner provided by Subchapter L, Chapter 375, Local Government Code.

(d) The tax may be imposed in one-eighth of one percent increments not to exceed the rate authorized by the district voters.

(e) A tax under this section is applied to the sales price of a taxable item.

(f) The board may not adopt a sales and use tax if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the board and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district.

(g) If the voters of the district approve the adoption of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves an increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district, the election to adopt a sales and use tax under this chapter has no effect.

Sec. 3858.156. HOTEL OCCUPANCY TAX. The district may impose a hotel occupancy tax in the manner that Chapter 351, Tax Code, provides for a municipality. A tax imposed under this section may not exceed seven percent of the price paid for lodging in the district.

Sec. 3858.157. ACCOUNTING. (a) On the conclusion of each fiscal year, the board shall obtain from an independent entity a review of the district's financial activities for the preceding fiscal year.

(b) Not later than September 1, the board annually shall submit to the commissioners court a written report containing:

(1) the findings of a review under Subsection (a);

(2) if not included in the review, accounting records of the preceding fiscal year; and

(3) a summary of the activities of the district during the preceding fiscal year.

(c) Notwithstanding Subsection (b), the board shall submit its initial annual report not later than September 1, 2010. This subsection expires October 1, 2010.

SECTION 2. The Driftwood Economic Development Municipal Management District initially contains all the territory contained in the following described area:

FIELDNOTE DESCRIPTION of a tract or parcel of land containing 500.286 acres situated in the Fannie A. D. Darden, Abstract No. 664 and the Freelove Woody Survey No. 23, Abstract No. 20, Hays County, Texas, being a portion of that tract conveyed to Masa Scott Roberts by deed recorded in Volume 966, Page 156 of the Deed Records of Hays County, Texas and further described as Tract 1 of 130 acres, Tract 2 of 100 acres and Tract 3 of 47 1/2 acres and Tract 4 of 200 acres, being further described by the deed recorded in Volume 168, Page 156 of the said Deed Records and all of that 44.1134 acre tract conveyed to Driftwood Equities, Ltd. By the deed recorded in Volume 1433, Page 776 of the said Deed Records, said 44.1134 acre tract being a portion of that 100 acre tract conveyed to Masa Scott Roberts by the deed recorded in Volume 301, Page 865 of the said Deed Records; the herein described 500.286 acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found in the east right-of-way line of State Highway FM 150 (80' right-of-way), being the west line of the above said 288 acre tract, for the northwest corner of a 12.00 acre tract conveyed to Horance Seiders and Violet Seiders by deed recorded in Volume 354, Page 763 of the said Deed Records, said 1/2" iron rod found bears N07°53'25"W, 329.46 feet from a TxDOT Type I concrete right-of-way monument found 40.00 feet left of State Highway FM 150 centerline station 281+96.9;

THENCE, N07°53'25"W, with the east right-of-way line of State Highway FM 150, a distance of 663.25 feet to a 1/2" iron rod found for the southwest corner of that 12.46 acre tract conveyed to Rudolph Kranse and Gregory Hargis by deed recorded in Volume 771, Page 651 of the said Deed Records, said 1/2" iron rod found bears S07°53'25"E, 73.86 feet from a TxDOT Type I concrete right-of-way monument found 40.00 feet left of State Highway centerline station 271+30.4;

THENCE, N88°02'55"E, crossing into the 288 acre tract, with the south line of the said 12.46 acre tract, 912.29 feet to a 1/2" iron rod set for the southeast corner of the aforesaid 12.46 acre tract;

THENCE, N06°46'55"W, 600.43 feet to a 1/2" iron rod found for the northeast corner of the said 12.46 acre tract;

THENCE, S89°02'53"W, with the north deed line of the said 12.46 acre tract, 77.37 feet to the calculated point of intersection of this north deed line, with the east deed line of that 5.2506 acre tract conveyed to Kathleen Collins and Thomas Wendt by deed recorded in Volume 1427, Page 454 of the said Deed Records, said 5.2506 acre tract being a portion of that 10.283 acre tract described in the deed to Warren Dunn, Jr. recorded in Volume 1376, Page 684 of the said Deed Records, the said calculated point bears N05°17'08"E, 2.95 feet from a 1/2" iron rod found for the southeast corner of the aforesaid 10.283 acre tract;

THENCE, N05°17'08"E, with the east line of the 10.283 acre tract, at a distance of 131.06 feet (record distance) pass the common east corner of the said 5.2506 acre tract and a 5.04 acre tract described in a deed to Michael Dunn and recorded in Volume 1296, Page 414 of the said Deed Records, and continuing for a total distance of 618.54 feet to a 5/8" iron rod found for the northeast corner of the said 10.283 acre tract and the 5.04 acre tract, being on the apparent common line between the above said 288 acre tract and the 100 acre tract, same being the POINT OF REFERENCE for the 5.336 acre tract described below;

THENCE, S86°24'25"W, with the above said common line between the 288 acre tract and the 100 acre tract, being the north line of the 5.04 acre tract and the 10.283 acre tract, 91.89 feet to a 1/2" iron rod found for the southeast corner of a 14 acre tract conveyed to Mrs. Elna Ludine Roberts by deed recorded in Volume 135, Page 38 of the said Deed Records and being the apparent southwest corner of the 100 acre tract (Tract 2) described above;

THENCE, N07°27'54"W, with the common line between the said 14 acre tract and the 100 acre tract, 1242.44 feet to a 1/2" iron rod found for the common north corner of the aforesaid 14 acre tract and the 100 acre tract, being in the south line of Lot 1-D, "Division of Lot 1, the J. V. Ash, Jr. Subdivision", a subdivision recorded in Volume 10, Page 217 of the Plat Records of Hays County, Texas;

THENCE, S89°18'23"E, 174.13 feet to a 1/2" iron rod found for the southeast corner of said Lot 1-D, being the southwest corner of that 0.83 acre tract conveyed to Masa Scott Roberts by deed recorded in Volume 333, Page 323 of the said Deed Records, and being in the common line between the said 100 acre tract and the 130 acre tract (Tract 1) described above;

THENCE, N08°44'17"W, with the east line of Lot 1-D, being the west line of the said 0.83 acre tract, 101.46 feet to a 1/2" iron rod found for an angle point;

THENCE, N33°27'31"E, with the west line of the said 0.83 acre tract, at 148.39 feet pass a 1/2" iron rod found for the common east corner of Lot 1-D, and Lot 1-B, of said "Division of Lot 1, The J. V. Ash, Jr. Subdivision", for a total distance of 209.96 feet to a fence corner post found for an angle point in said Lot 1-B, being the most northerly corner of the aforesaid 0.83 acre tract;

THENCE, S69°54'59"E, with the north line of the said 0.83 acre tract, 18.34 feet to a cotton gin spindle found in rock, for the southeast corner of said Lot 1-B, being the southwest corner of Lot 2, Block 'B', "Creek of Driftwood Subdivision", a subdivision recorded in Volume 8, Page 246 of the said Plat Records;

THENCE, along the centerline of Onion Creek, with the northeast and easterly line of the above said 130 acre tract, for the following twenty-six (26) courses:

1) S80°26'41"E, 216.51 feet to a calculated angle point in the south line of Lot 2, Block 'B', from which a 100d nail set for reference bears S85°22'12"W, 52.47 feet;

2) N89°33'24"E, 514.79 feet to the calculated southeast corner of said Lot 2, Block 'B';

3) S54°23'50"E, 13.02 feet to a calculated angle point on the south line of that 9.533 acre tract conveyed to Tom Hewett by deed recorded in Volume 363, Page 256 of the said Deed Records;

4) N89°54'14"E, 70.80 feet to a calculated angle point in the said south line of the 9.533 acre tract, from which a cotton gin spindle set for reference bears N69°02'42"E, 138.90 feet;

5) N59°58'53"E, 562.38 feet to the calculated southeast corner of the 9.583 acre tract, being the southwest corner of Lot 34, "Driftwood Falls Estates", a subdivision recorded in Volume 4, Page 111 of the said Plat Records;

6) N59°52'14"E, 343.26 feet to a calculated point for the southeast corner of said Lot 34, "Driftwood Falls Estates", from which a 1/2" iron rod found with cap, for the northeast corner of aforesaid Lot 34, bears N42°56'02"W, 386.89 feet and a 100d nail set for reference bears N20°35'12"E, 70.23 feet;

7) N22°45'14"E, at 257.83 feet pass a calculated point for the northeast corner of Lot 35, Driftwood Falls Estates, from said calculated point a 1/2" iron rod found for the most northerly corner of said Lot 35, bears N75°19'16"W, 355.71 feet, and continuing for a total distance of 752.70 feet to the calculated southeast corner of Lot 39, "Driftwood Falls Estates", from which a 100d nail set for reference bears N43°29'40"W, 26.48 feet;

8) N04°06'47"W, at 110.23 feet pass the calculated northeast corner of said Lot 39, bearing N82°20'00"E, 652.52 feet from a 1/2" iron rod found for the northwest corner of aforesaid Lot 39, and continuing for a total distance of 606.60 feet to a calculated angle point;

9) N13°19'47"W, at 68.75 feet pass a 1/2" iron rod found 0.31 feet to the east, at a distance of 179.17 feet pass a 1/2" iron rod found 0.06 feet to the east for the northeast corner of Lot 45, "Driftwood Falls Estates", from which a 1/2" iron rod found for the northwest corner of said Lot 45, bears N82°23'39"E, 666.13 feet, and continuing for a total distance of 568.40 feet to a calculated angle point, from which a 100d nail set for reference bears N75°41'33"W, 16.29 feet;

10) N03°18'47"W, at a distance of 54.87 feet pass the calculated northeast corner of Lot 49, "Driftwood Falls Estates", from which a 1/2" iron rod found for the northwest corner of said Lot 49, bears S82°13'14"W, 632.97 feet, continuing

for a total distance of 281.50 feet to the calculated southeast corner of Lot 53, "Driftwood Falls Estates", from which a 100d nail set for reference bears N36°16'47"W, 63.79 feet;

11) N51°37'43"E, 172.19 feet to the calculated southeast corner of Lot 1, being the southwest corner of Lot 2, "Pier Branch", a subdivision recorded in Volume 4, Page 105 of the said Plat Records, from which a cotton gin spindle set for reference bears N56°35'12"E, 95.36 feet;

12) N75°22'14"E, 537.60 feet to the calculated southeast corner of Lot 5, being the southwest corner of Lot 6, "Pier Branch", from which a cotton gin spindle set for reference bears S72°04'16"W, 122.85 feet;

13) S89°14'47"E, at 384.70 feet pass the calculated southeast corner of said Lot 6, "Pier Branch" and continuing for a total distance of 405.32 feet to a calculated point on the southwest line of Lot 4, "Onion Creek Ranch", a subdivision recorded in Volume 8, Page 65 of the said Plat Records;

14) S66°18'14"E, 117.62 feet to a calculated angle point in the southwest line of said Lot 4, "Onion Creek Ranch";

15) S46°24'35"E, at 58.92 feet pass the calculated southeast corner of said Lot 4, being the most westerly corner of Lot 5, "Onion Creek Ranch", for a total distance of 218.49 feet to a calculated angle point, from which a cotton gin spindle set for reference bears N03°41'39"W, 28.36 feet;

16) S01°39'52"E, 171.50 feet to the calculated south corner of said Lot 5, being the northwest corner of Lot 6, "Onion Creek Ranch";

17) S06°44'04"E, 158.73 feet to a calculated angle point on the west line of said Lot 6, "Onion Creek Ranch", from which a cotton gin spindle set for reference bears S46°29'20"E, 25.10 feet;

18) S34°51'10"E, 115.94 feet to the calculated south corner of said Lot 6, being the west corner of Lot 7, "Onion Creek Ranch", from said calculated corner, a 1/2" iron rod found for the common front corner of Lot 6 and said Lot 7, bears N54°35'38"E, 881.31 feet;

19) S34°58'00"E, 249.36 feet to the calculated south corner of said Lot 7, being the west corner of Lot 8, "Onion Creek Ranch", from which a cotton gin spindle set for reference bears S31°45'11"E, 39.10 feet;

20) S34°59'43"E, 265.58 feet to the calculated south corner of said Lot 8, being the west corner of Lot 9, "Onion Creek Ranch", from which a cotton gin spindle set for reference bears N15°34'10"W, 44.83 feet;

21) S38°03'26"E, 166.09 feet to the calculated south corner of said Lot 9, being the west corner of Lot 10, "Onion Creek Ranch", from which a 1/2" iron rod found for the common east corner of said Lot 9 and Lot 10, bears N65°58'15"E, 895.71 feet and a cotton gin spindle set for reference bears S17°14'52"E, 88.24 feet;

22) S04°43'33"E, 96.82 feet to the calculated southwest corner of said Lot 10, being the northwest corner of Lot 11, "Onion Creek Ranch", from which a 1/2" iron rod found for the common east corner of said Lot 10 and Lot 11, bears N88°35'17"E, 882.00 feet and a cotton gin spindle set for reference bears S56°06'07"W, 21.91 feet;

23) S04°49'35"E, 294.73 feet to an angle point, from which a cotton gin spindle set for reference bears S45°52'36"W, 2.36 feet;

24) S08°56'55"W, 526.01 feet to a calculated angle point on the west line of Lot 13, "Onion Creek Ranch", from which a 100d nail set for reference bears S05°50'22"E, 124.61 feet;

25) S11°13'40"E, at 599.04 feet pass the calculated southwest corner of Lot 15, "Onion Creek Ranch", from which a 1/2" iron rod found for the common east corner of said Lot 15 and Lot 16, "Onion Creek Ranch", bears N88°34'04"E, 826.89 feet, and continuing for a total distance of 636.74 feet to a calculated angle point, from which a 100d nail set for reference bears S59°05'05"W, 41.41 feet;

26) S16°48'00"W, 222.06 feet to the calculated southwest corner of said Lot 16, "Onion Creek Ranch";

THENCE, S63°57'25"W, 6.10 feet to a calculated point in the center of Onion Creek for the northwest corner of that 331.26 acre tract conveyed to R. L. Struhall by deed recorded in Volume 226, Page 633 of the said Deed Records;

THENCE, along the west line of the said 331.26 acre tract, being the east line of the 100 acre tract (Tract 2) and the 288 acre tract described above, with the centerline of Onion Creek, for the following thirteen (13) courses:

1) S26°38'17"W, 342.88 feet to a calculated point, from which a cotton gin spindle set for reference bears N38°46'17"E, 75.98 feet;

2) S28°39'17"W, 315.55 feet to a calculated point, from which a cotton gin spindle set for reference bears N61°51'06"E, 24.65 feet;

3) S22°31'17"W, 359.14 feet to a calculated point;

4) S16°18'43"E, 467.30 feet to a calculated point;

5) S17°10'43"E, 266.81 feet to a calculated point;

6) S25°12'43"E, 91.93 feet to a calculated point;

7) S34°24'43"E, 293.21 feet to a calculated point;

8) S36°58'43"E, 312.92 feet to a calculated point;

9) S41°11'43"E, 251.02 feet to a calculated point;

10) S52°15'43"E, 120.82 feet to a calculated point;

11) S63°34'43"E, 223.03 feet to a calculated point;

12) S10°53'43"E, 179.29 feet to a calculated point;

13) S40°43'43"E, 275.34 feet to the calculated southwest corner of the said 331.26 acre tract, being on or near the north line of the aforesaid 100 acre tract;

THENCE, N89°25'17"E, with the south line of the 331.26 acre tract and north line of the said 100 acre tract, at a distance of 474.40 feet pass a 1/2" iron rod found 0.70 feet to the north for an angle point on the north line of the aforesaid 44.1134 acre tract, at a distance of 2255.00 feet pass a 5/8" iron pipe found for the southeast corner of the said 331.26 acre tract, for a total distance of 2255.80 feet to the calculated point of intersection of this south line with the west right-of-way line of State Highway FM 1826 (80.00' right-of-way), from which a TxDOT Type I concrete monument found 40.00 feet right of State Highway centerline station 573+08.2, bears N25°31'18"E, 282.85 feet, said calculated point being the northeast corner of the 44.1134 acre tract described above;

THENCE, with the common north right-of-way line of State Highway FM 1826 and south line of the said 44.1134 acre tract and the 288 acre tract, for the following fourteen (14) courses:

1) S25°31'18"W, 505.14 feet to a TxDOT Type I concrete monument found 40.00 feet right of State Highway centerline station 580+96.2, for the point of curvature of a non-tangent curve to the right;

2) With the said curve to the right, having a central angle of 67°57'41", a radius of 1105.92 feet, a long chord of 1236.23 feet (chord bears S59°33'48"W), for an arc distance of 1311.78 feet to a TxDOT Type I concrete monument found 40.00 feet right of State Highway centerline station 594+56.2;

3) N86°27'23"W, 643.70 feet to a calculated angle point 40.00 feet right of State Highway centerline station 601+00, from which a TxDOT Type I concrete monument found bears S37°20'38"W, 0.41 feet;

4) N75°08'47"W, 101.98 feet to a calculated angle point 60.00 feet right of State Highway centerline station 602+00.0, from which a TxDOT Type I concrete monument found, bears S59°36'59"W, 0.62 feet;

5) N86°28'15"W, at a distance of 188.71 feet pass the calculated southeast corner of the above said 44.1134 acre tract, for a total distance of 399.82 feet to a TxDOT Type I concrete monument found 60.00 feet right of State Highway centerline station 606+00.0;

6) S82°14'29"W, 101.93 feet to a TxDOT Type I concrete monument found 40.00 feet right of State Highway centerline station 607+00.0;

7) N86°24'35"W, 95.03 feet to a TxDOT Type I concrete monument found 40.00 feet right of State Highway centerline station 607+94.8, for the point of curvature of a non-tangent curve to the right;

8) With the said curve to the right, having a central angle of 22°45'43", a radius of 1392.39 feet, a long chord of 549.53 feet (chord bears N75°04'48"W), for an arc distance of 553.16 feet to a TxDOT Type I concrete monument found 40.00 feet right of State Highway centerline station 613+64.0;

9) N63°38'40"W, 229.74 feet to a calculated point 40.00 feet right of State Highway centerline station 615+94.5, from which a TxDOT Type I concrete monument found bears N19°18'05"W, 0.71 feet and a TxDOT Type I concrete monument found, 40.00 feet left of centerline station 615+94.5, bears S26°48'33"E, 79.92 feet, said calculated point being the point of curvature of a non-tangent curve to the left;

10) With the said curve to the left, having a central angle of 49°34'00", a radius of 1185.92 feet, a long chord of 994.25 feet (chord bears N88°25'32"W), for an arc distance of 1025.94 feet to a TxDOT Type I concrete monument found, 40.00 feet right of State Highway centerline station 625+85.8, from which a TxDOT Type I concrete monument found, being 40.00 feet left of State Highway centerline station 625+85.8, bears S23°04'30"E, 79.56 feet;

11) S66°47'28"W, 428.70 feet to a calculated point 40.00 feet right of State Highway centerline station 630+14.5, from which a TxDOT Type I concrete monument found bears N57°25'35"W, 0.42 feet and a found TxDOT Type I

concrete monument found 40.00 feet left of State Highway centerline station 630+14.5, bears S23°05'58"E, 80.09 feet, said calculated point being the point of curvature of a non-tangent curve to the right;

12) With the said curve to the right, having a central angle of 24°24'00", a radius of 1105.92 feet, a long chord of 467.42 feet (chord bears S78°59'28"W), for an arc distance of 470.97 feet to a TxDOT Type I concrete monument found 40.00 feet right of State Highway centerline station 635+02.5;

13) N88°48'32"W, 1094.41 feet to a TxDOT Type I concrete monument found 40.00 feet right of State Highway centerline station 645+97.4, being the point of curvature of a curve to the right;

14) With the said curve to the right, having a central angle of 00°53'27", a radius of 5689.58 feet, a long chord of 88.47 feet (chord bears N88°22'12"W), for an arc distance of 88.47 feet to a calculated point for corner, from which a 1/2" iron rod found for the southeast corner of a 0.50 acre tract conveyed to Horance Seiders by deed recorded in Volume 501, Page 767 of the said Deed Records, bears S10°19'07"E, 0.07 feet;

THENCE, N10°19'07"W, with the east line of the said 0.50 acre tract, at a distance of 513.40 feet pass a 1/2" iron rod found, for a total distance of 662.29 feet to a 1/2" iron rod found for the most northerly corner of the aforesaid 0.50 acre tract, being the northeast corner of afore said 12.00 acre tract;

THENCE, S88°20'55"W, with the north line of the 12.00 acre tract, 867.39 feet to the POINT OF BEGINNING, CONTAINING within these metes and bounds 500.286 acres of land area, SAVE and EXCEPT the following 5.336 acres, being all of that 5.2 acre tract conveyed to Christella Alberado by deed recorded in Volume 302, Page 484 of the said Deed Records and is more particularly described by metes and bounds as follows:

COMMENING at the 5/8" iron rod found for the northeast corner of the 10.283 acre tract described above as the POINT OF REFERENCE:

THENCE, N86°13'55"E, with the south line of the above said 100 acre tract, for a distance of 49.97 feet to a 1/2" iron rod found for the northwest corner of the said 5.2 acre tract and the POINT OF BEGINNING of the herein described tract;

THENCE, N86°22'32"E, with the north line of the said 5.2 acre tract, 314.54 feet to a 1/2" iron rod found for an angle point;

THENCE, N87°39'46"E, 436.49 feet to a 1/2" iron rod found for the northeast corner of the said 5.2 acre tract;

THENCE, S05°36'14"W, 310.15 feet to a 60d nail found in a fence corner post for the southeast corner of the said 5.2 acre tract;

THENCE, S86°53'23"W, 377.12 feet to a 1/2" iron rod found for an angle point;

THENCE, S87°09'18"W, 372.19 feet to a 1/2" iron rod found for the southwest corner of the said 5.2 acre tract;

THENCE, N05°15'47"E, 311.23 feet to the POINT OF BEGINNING of the herein described tract, CONTAINING within these metes and bounds 5.336 acres of land area, SAVED AND EXCEPTED from the 500.286 acre tract described above, for a total NET AREA of 494.950 acres of land area.

Except as noted, "1/2 inch iron rod set" denotes a 1/2 inch iron rod, with a plastic cap marked "Capital Surveying Company, Inc.", set for corner.

The bearings shown in this survey are grid bearings based on the Texas State Plane Coordinate System, NAD 83 (HARN) Datum, South Central Zone, derived by Global Positioning Systems surveys

FIELDNOTE DESCRIPTION of a tract or parcel of land containing 44.1722 acres situated in the Freelove Woody Survey No. 23, Abstract No. 20, Hays County, Texas, being all of that portion of the 100 acre tract lying east of State Highway FM 1826, conveyed to Masa Scott Roberts by the deed recorded in Volume 301, Page 865 of the Deed Records of Hays County, Texas; the herein described 44.1722 acre tract is more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found, with plastic cap marked "Capital Surveying Company, Inc.", at the intersection of the north line of the said 100 acre tract with the east right-of-way line of State Highway FM 1826 (80' right-of-way), being the most westerly corner of that 1060.214 acre tract, described as Tract 2, conveyed to LSM Ranch, Ltd. by the deed recorded in Volume 1628, Page 206 of the said Deed Records and bears S25°31'20"W, 242.50 feet from a TxDOT Type I concrete monument found 40.00 feet left of State Highway centerline station 573+08.2;

THENCE, N88°31'49"E, with the south line of the 1060.214 acre tract, 1594.81 feet to a 1/2" iron rod found for an interior corner of the said 1060.214 acre tract and the northeast corner of the said 100 acre tract;

THENCE, S00°59'15"E, at a distance of 523.55 feet pass a 1/2" iron rod, with plastic cap marked "4542", for a southwest corner of the aforesaid 1060.214 acre tract and an interior northwest corner of that 700.03 acre tract conveyed to John Richard Rutherford by the deed recorded in Volume 1214, Page 548 of the said Deed Records, and continuing for a total distance of 1039.05 feet to a 60d nail found in a fence corner post for an interior corner of the said 700.03 acre tract and the southeast corner of the aforesaid 100 acre tract;

THENCE, S88°43'28"W, with the common line between the 700.03 acre tract and the 100 acre tract, at a distance of 2005.26 feet pass a 1/2" iron rod found for the most westerly corner of the said 700.03 acre tract, for a total distance of 2005.48 feet to the calculated intersection of this common line with the northeast right-of-way line of State Highway FM 967 (80' right-of-way);

THENCE, N41°10'54"W, with the northeast right-of-way line of State Highway FM 967, 85.90 feet to a TxDOT Type I concrete monument found at an angle point;

THENCE, N01°43'24"W, continuing with the northeast right-of-way line of State Highway FM 967, for a distance of 110.39 feet to a TxDOT Type I concrete monument found for an angle point at the existing right-of-way intersection with State Highway FM 1826;

THENCE, N30°05'26"E, leaving the northeast right-of-way line of State Highway FM 967, with the occupied east right-of-way line of State Highway FM 1826, for a distance of 435.14 feet to a TxDOT Type I concrete monument found 40.00 feet left of State Highway centerline station 580+96.2;

THENCE, N25°31'22"E, continuing across the 100 acre tract, with the east right-of-way line of State Highway FM 1826, for a distance of 544.25 feet to the POINT OF BEGINNING, CONTAINING within these metes and bounds 44.1722 acres of land area;

The bearings shown in this survey are grid bearings based on the Texas State Plane Coordinate System, NAD 83 (HARN) Datum, South Central Zone, derived by Global Positioning Systems surveys

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 2328 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Guillen called up with senate amendments for consideration at this time,

HB 2328, A bill to be entitled An Act relating to the punishment for certain fraud offenses committed against elderly individuals.

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 2328**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2328**: Guillen, chair; Riddle, Leibowitz, Creighton, and Raymond.

LEAVE OF ABSENCE GRANTED

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

Heflin on motion of Homer.

HR 2875 - ADOPTED
(by Pitts)

The following privileged resolution was laid before the house:

HR 2875, suspending limitations on conference committee jurisdiction,
SB 1.

HR 2875 was adopted by (Record 1454): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Dukes; Flores; Howard, C.; McClendon; Miller, S.

SB 1 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Pitts submitted the conference committee report on **SB 1**.

SB 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CHISUM: Mr. Pitts, are you familiar with the medical transportation rider in the HHSC bill pattern—rider 55, on page II-94?

REPRESENTATIVE PITTS: Yes, I am. That rider is intended to allow HHSC to see if a program for Medicaid non-emergency transportation, under the medical transportation program, could be implemented in areas of the state that the commission finds can sustain a regionalized full-risk brokerage system.

CHISUM: And you are aware that the medical transportation program is currently being conducted under a certain set of corrective actions related to the state's settlement on the *Frew v. Hawkins* lawsuit?

PITTS: Yes.

CHISUM: So, it was your intent when accepting this rider that before this rider can be implemented, the Office of the Attorney General and the Health and Human Services Commission must affirmatively find that this program will not jeopardize compliance with the corrective action order in *Frew v. Hawkins*?

PITTS: Yes, it was.

REMARKS ORDERED PRINTED

Representative Chisum moved to print remarks between Representative Pitts and Representative Chisum.

The motion prevailed.

Representative Pitts moved to adopt the conference committee report on **SB 1**.

The motion to adopt the conference committee report on **SB 1** prevailed by (Record 1455): 142 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Crabb; Miller, S.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Harper-Brown.

STATEMENTS OF VOTE

When Record No. 1455 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

When Record No. 1455 was taken, I was absent because of important business in the district. Had I been present, I would have voted yes.

Heflin

The speaker stated that **SB 1** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

SB 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE ISETT: Chairman Zerwas, I really appreciate all the great work you did. One of the major provisions, or differences, between our bill and the senate bill was moving \$209 million—a little shy of \$209 million—in Article II away from case management, and moving that around in other areas of the budget. So, I just need—if we could maybe—to just have a quick conversation about it.

In Section 48, which is in Article II, page 119, Special Provisions, sets in motion significant changes in our system to care for people with intellectual and developmental disabilities. The changes require adjustments in both MRA and HCS provider roles and responsibilities. I understand the intent of HCS provider rate increase, as authorized in Section 48, is to maintain provider stability by ensuring providers are able to meet their ongoing responsibilities for managing services, and to perform their new responsibilities of coordinating those services with the local MRA case manager. Is that the intent, as you see it?

REPRESENTATIVE ZERWAS: Yes, Representative Isett—you're correct. Your understanding of the intent of the rate increase of HCS providers—called for in Section 48—is correct.

ISETT: Okay. I also understand the intent of HCS provider rate increase is to be applied in such a way as to equally benefit each consumer, to the extent possible, by distributing the rate to the provider on a per-person, served basis, to one of three mutually exclusive core services—residential, foster care, or support home living—for the purposes of managing and coordinating those service delivery. Is that your intent, as well?

ZERWAS: Yes, that is, in fact, our intent, Representative Isett.

REMARKS ORDERED PRINTED

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

The motion prevailed.

REPRESENTATIVE HERRERO: Dr. Zerwas, I spoke to you a little while ago, earlier, as it pertains to funding in the budget pertaining to persons with intellectual disabilities, specifically, as it pertains to state schools. Is that correct?

REPRESENTATIVE ZERWAS: That's correct, you did.

HERRERO: In our conversations, and what I'm wanting to elicit from your presentation, is legislative intent as it pertains to funding that affects state school facilities across Texas. Along those lines, I noticed that there were riders in the budget that affect state schools. Is that correct?

ZERWAS: That is correct.

HERRERO: Is there anything in those riders that is intended to shut down or close state schools?

ZERWAS: No, there is nothing in the riders that would promote closure of the state schools.

HERRERO: Is there anything outside of those riders, but contained in the budget, that was voted on that is intended to close state schools?

ZERWAS: No, there's not. There is clearly an effort to, what we would call, "right-size" the state schools that have come out the interim studies that we have done, as well as some of the things from the Department of Justice.

HERRERO: Is there anything in the budget, either in riders or otherwise, contained in the budget we just passed that is intended to limit the funds appropriated to DADS that would require them to implement policies, procedures, or rules that would direct people purposely away from state schools?

ZERWAS: No, there's not. The only recognition is that we have to do better at what we are expected to do on behalf of our clients, and that is really reflected in the Department of Justice report.

HERRERO: Right, and along those lines, the riders contained in the budget, as well as any other provisions of the budget are intended, if at all, to ensure that individuals making decisions pertaining to their loved ones, that may have intellectual disabilities, to have choices to make between choosing state school facilities or other facilities that may be able to accommodate or assist those loved ones. Is that your understanding?

ZERWAS: Yes, our understanding is to create the best opportunity for individuals to live, whether it be an institutional setting within our state schools, or whether that be in a community setting. What we want to be sure is that, regardless of the setting that the client chooses, or the guardian chooses, is that it has the highest level of safety and quality that we can provide. So, there are things that are intended to bring a greater deal of scrutiny to the community settings, which has been lacking in previous years, and that's included within some of the provisions of this budget.

HERRERO: Dr. Zerwas, are you aware that there were bills filed this legislative session that would require the consolidation and/or closure of state schools?

ZERWAS: I'm aware that there were bills that considered that. I can't cite the number or the author per se, but I'm certainly very confident that none of that is embedded within this bill.

HERRERO: That was my purpose for asking that question. None of those bills made their way through the legislative process, and so I want to ensure that we don't somehow circumvent that legislative process in this budget and actually result in the consolidation, or closure, of state schools—but that's not the intent. Is that correct?

ZERWAS: That's correct.

HERRERO: Dr. Zerwas, in our exchange and communication and questions, I refer to state schools. You know that that reference is to the current term being used of the 13 state school facilities, although that reference, or identification, as state schools may be different. Whatever that reference may be now in statute, or law, in the future, is still known to be the facilities that we now know as state schools. Is that your understanding?

ZERWAS: That would be my understanding.

REMARKS ORDERED PRINTED

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

The motion prevailed.

HB 764 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Hartnett called up with senate amendments for consideration at this time,

HB 764, A bill to be entitled An Act relating to eligibility for assignment as a visiting judge.

Representative Hartnett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 764**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 764**: Hartnett, chair; Hughes, Martinez, Leibowitz, and Hunter.

(Harper-Brown in the chair)

HB 986 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Villarreal called up with senate amendments for consideration at this time,

HB 986, A bill to be entitled An Act relating to tax refunds to property owners following ad valorem tax appeals.

Representative Villarreal moved to concur in the senate amendments to **HB 986**.

The motion to concur in the senate amendments to **HB 986** prevailed by (Record 1456): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes;

Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Bohac; Isett; King, S.; Madden.

STATEMENT OF VOTE

When Record No. 1456 was taken, I was in the house but away from my desk. I would have voted yes.

Bohac

Senate Committee Substitute

CSHB 986, A bill to be entitled An Act relating to the appeal of ad valorem tax determinations.

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

SECTION 1. Section 42.21(a), Tax Code, is amended to read as follows:

(a) A party who appeals as provided by this chapter must file a petition for review with the district court within 60 [~~45~~] days after the party received notice that a final order has been entered from which an appeal may be had or at any time after the hearing but before the 60-day deadline. Failure to timely file a petition bars any appeal under this chapter.

SECTION 2. Section 42.43, Tax Code, is amended by amending Subsection (c) and adding Subsections (b-1), (e), (f), (g), (h), and (i) to read as follows:

(b-1) A taxing unit may not send a refund made under this section before the earlier of:

(1) the 21st day after the final determination of the appeal; or

(2) the date the property owner files the form prescribed by Subsection

(i) with the taxing unit.

(c) Notwithstanding Subsection (b), if a taxing unit does not make a refund, including interest, required by this section before the 60th day after the date the chief appraiser certifies a correction to the appraisal roll under Section 42.41, the taxing unit shall include with the refund interest on the amount refunded at an

annual rate of 12 percent, calculated from the delinquency date for the taxes until the date the refund is made. A refund is not considered made under this section until sent to the proper person as provided by this section.

(e) Except as provided by Subsection (f) or (g), a taxing unit shall send a refund made under this section to the property owner.

(f) The final judgment in an appeal under this chapter may designate to whom and where a refund is to be sent.

(g) If a form prescribed by the comptroller under Subsection (i) is filed with a taxing unit before the 21st day after the final determination of an appeal that requires a refund be made, the taxing unit shall send the refund to the person and address designated on the form.

(h) A form filed with a taxing unit under Subsection (g) remains in effect for all subsequent refunds required by this section until revoked in a written revocation filed with the taxing unit by the property owner.

(i) The comptroller shall prescribe the form necessary to allow a property owner to designate the person to whom a refund must be sent. The comptroller shall include on the form a space for the property owner to designate to whom and where the refund must be sent and provide options to mail the refund to:

(1) the property owner;

(2) the business office of the property owner's attorney of record in the appeal; or

(3) any other individual and address designated by the property owner.

SECTION 3. The changes in law made by this Act are procedural changes to existing law and are applicable to any appeals or refunds pending as of the effective date of this bill.

SECTION 4. The changes in law made by this Act apply only to a refund of ad valorem taxes required by Section 42.43 on or after the effective date of this Act. A refund required under that section before the effective date of this Act is governed by the law in effect when the refund was required, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 3221 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hancock called up with senate amendments for consideration at this time,

HB 3221, A bill to be entitled An Act relating to required notification by an insurer before automatic premium payments may be increased.

Representative Hancock 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 3221**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3221**: Hancock, chair; Taylor, Smithee, Martinez Fischer, and Eiland.

**HB 882 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Rodriguez called up with senate amendments for consideration at this time,

HB 882, A bill to be entitled An Act relating to a residential tenant's right of restoration of utilities after certain unlawful conduct.

Representative Rodriguez moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 882**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 882**: Rodriguez, chair; Thompson, Bolton, Harless, and Hughes.

**HB 1544 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Miklos called up with senate amendments for consideration at this time,

HB 1544, A bill to be entitled An Act relating to court proceedings for a plea of guilty or nolo contendere for a misdemeanor punishable by fine only.

Representative Miklos moved to concur in the senate amendments to **HB 1544**.

The motion to concur in the senate amendments to **HB 1544** prevailed by (Record 1457): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts;

Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Anderson.

Senate Committee Substitute

CSHB 1544, A bill to be entitled An Act relating to court proceedings for a plea of guilty or nolo contendere for a misdemeanor punishable by fine only.

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

SECTION 1. Article 27.14(b), Code of Criminal Procedure, is amended to read as follows:

(b) A defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the method provided in Subsection (a) of this article, mail or deliver in person to the court a plea of "guilty" or a plea of "nolo contendere" and a waiver of jury trial. The defendant may also request in writing that the court notify the defendant, at the address stated in the request, of the amount of an appeal bond that the court will approve. If the court receives a plea and waiver before the time the defendant is scheduled to appear in court, the court shall dispose of the case without requiring a court appearance by the defendant. If the court receives a plea and waiver after the time the defendant is scheduled to appear in court but at least five business days before a scheduled trial date, the court shall dispose of the case without requiring a court appearance by the defendant. The court shall notify the defendant either in person or by certified mail, return receipt requested, of the amount of any fine assessed in the case and, if requested by the defendant, the amount of an appeal bond that the court will approve. The defendant shall pay any fine assessed or give an appeal bond in the amount stated in the notice before the 31st day after receiving the notice.

SECTION 2. Articles 45.051(a), (a-1), (b), and (c), Code of Criminal Procedure, are amended to read as follows:

(a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, the judge may ~~[, at the judge's discretion,]~~ defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. In issuing the order of deferral, the judge may impose a special expense fee on the defendant in an amount not to exceed the amount of the fine that could be imposed on the defendant as punishment for the offense. The special expense fee may be collected at any time before the date on which the period of probation ends. The judge may elect not to impose the special expense fee for good cause shown by the defendant. If the judge orders the collection of a special expense fee, the judge shall require that the amount of the

special expense fee be credited toward the payment of the amount of the fine imposed by the judge. An order of deferral under this subsection terminates any liability under a bail bond or an appearance bond given for the charge.

(a-1) Notwithstanding any other provision of law, as an alternative to requiring a defendant charged with one or more offenses to make payment of all court costs as required by Subsection (a), the judge [~~in the judge's discretion,~~] may:

(1) allow the defendant to enter into an agreement for payment of those costs in installments during the defendant's period of probation;

(2) require an eligible defendant to discharge all or part of those costs by performing community service under Article 45.049; or

(3) take any combination of actions authorized by Subdivision (1) or (2).

(b) During the deferral period, the judge may [~~at the judge's discretion,~~] require the defendant to:

(1) post a bond in the amount of the fine assessed to secure payment of the fine;

(2) pay restitution to the victim of the offense in an amount not to exceed the fine assessed;

(3) submit to professional counseling;

(4) submit to diagnostic testing for alcohol or a controlled substance or drug;

(5) submit to a psychosocial assessment;

(6) participate in an alcohol or drug abuse treatment or education program;

(7) pay the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs;

(8) complete a driving safety course approved under Chapter 1001, Education Code, or another course as directed by the judge;

(9) present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article; and

(10) comply with any other reasonable condition.

(c) On determining that the defendant has complied with the requirements imposed by the judge under this article, the judge shall dismiss the complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction. [~~If the complaint is dismissed, a special expense not to exceed the amount of the fine assessed may be imposed.~~]

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2009.

(Speaker in the chair)

**HB 4583 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Pitts called up with senate amendments for consideration at this time,

HB 4583, A bill to be entitled An Act relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

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 4583**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4583**: Pitts, chair; Otto, Morrison, Hochberg, and Edwards.

**HB 1796 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Chisum called up with senate amendments for consideration at this time,

HB 1796, A bill to be entitled An Act relating to the offshore geologic storage of carbon dioxide.

Representative Chisum 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 1796**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1796**: Chisum, chair; Cook, Weber, Veasey, and Dunnam.

**HB 2425 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Morrison called up with senate amendments for consideration at this time,

HB 2425, A bill to be entitled An Act relating to engineering recruitment programs at public or private institutions of higher education and to certain degree programs at public junior colleges.

Representative Morrison moved to concur in the senate amendments to **HB 2425**.

The motion to concur in the senate amendments to **HB 2425** prevailed by (Record 1458): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Elkins; Flores; King, S.

Senate Committee Substitute

CSHB 2425, A bill to be entitled An Act relating to engineering recruitment programs at public or private institutions of higher education and to certain degree programs at public junior colleges.

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

SECTION 1. Section 61.791(a), Education Code, is amended to read as follows:

(a) The board shall establish and administer, using funds appropriated for that purpose, a one-week summer program to take place on the campus of each general academic teaching institution or private or independent institution of higher education that offers an engineering degree program. The summer program must be designed for middle and high school students and to expose those students to math, science, and engineering concepts that a student in an engineering degree program may encounter.

SECTION 2. Sections 61.792(a) and (b), Education Code, are amended to read as follows:

(a) The board shall establish and administer, using funds appropriated for that purpose, scholarships for students pursuing a degree in engineering at a general academic teaching institution or a private or independent institution of higher education.

(b) To qualify for a scholarship under this section, a student must:

(1) have graduated with a grade point average in the top 20 percent of the student's high school graduating class;

(2) have graduated from high school with a grade point average of at least 3.5 on a four-point scale or the equivalent in mathematics and science courses offered under the recommended or advanced high school program under Section 28.025(a); and

(3) maintain an overall grade point average of at least 3.0 on a four-point scale at the general academic teaching institution or the private or independent institution of higher education in which the student is enrolled.

SECTION 3. Section 130.0012, Education Code, is amended by adding Subsection (k) to read as follows:

(k) The board shall conduct a study relating to the success of baccalaureate degree programs offered under this section and to the feasibility of expanding the offering of baccalaureate degrees by public junior colleges. The study must consider the economic viability of expanding the degree programs, the workforce needs served by the degree programs for various areas of the state, current and potential university course offerings, and other methods for making baccalaureate degrees available, such as distance education programs and multi-institutional teaching centers. Not later than November 15, 2010, the board shall report the results of the study to each standing committee of the legislature with primary jurisdiction over higher education. This subsection expires January 1, 2011.

SECTION 4. (a) Sections 61.791 and 61.792, Education Code, as amended by this Act, apply beginning with the 2009-2010 academic year.

(b) The Texas Higher Education Coordinating Board shall adopt rules for the administration of Sections 61.791 and 61.792, Education Code, as amended by this Act, as soon as practicable after this Act takes effect. For that purpose, the coordinating board may adopt the rules in the manner provided by law for emergency rules.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 4586 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Pitts called up with senate amendments for consideration at this time,

HB 4586, A bill to be entitled An Act relating to making supplemental appropriations and reductions in appropriations and giving direction and adjustment authority and prescribing limitations regarding appropriations.

Representative Pitts moved to concur in the senate amendments to **HB 4586**.

The motion to concur in the senate amendments to **HB 4586** prevailed by (Record 1459): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Deshotel; King, S.; Morrison; Peña; Ritter; Swinford.

STATEMENTS OF VOTE

When Record No. 1459 was taken, I was in the house but away from my desk. I would have voted yes.

Deshotel

When Record No. 1459 was taken, my vote failed to register. I would have voted yes.

S. King

When Record No. 1459 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

The speaker stated that **HB 4586** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

Senate Committee Substitute

CSHB 4586, A bill to be entitled An Act relating to making supplemental appropriations and reductions in appropriations and giving direction and adjustment authority and prescribing limitations regarding appropriations.

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

SECTION 1. DEPARTMENT OF STATE HEALTH SERVICES: SWINE FLU. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$11,796,415 is appropriated out of the

general revenue fund to the Department of State Health Services for the two-year period beginning on the effective date of this Act for the purpose of paying for costs associated with the swine flu.

SECTION 2. CANCER PREVENTION AND RESEARCH INSTITUTE: OPERATIONS. (a) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$917,389 is appropriated out of the general revenue fund to the Cancer Prevention and Research Institute for the two-year period beginning on the effective date of this Act for the purpose of providing for salaries and wages, travel, acquisition of information technology, computers, furniture, legal counseling, and contracts.

(b) In addition to the number of full-time equivalent employees (FTEs) the Cancer Prevention and Research Institute is authorized by other law to employ during the state fiscal year ending August 31, 2009, the center may employ an additional 16.0 FTEs during that state fiscal year.

SECTION 3. TEXAS FACILITIES COMMISSION: UTILITY COSTS.

(a) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$2,396,612 is appropriated out of the general revenue fund to the Texas Facilities Commission under Strategy C.2.1, Facilities Operation, for the two-year period beginning on the effective date of this Act for the purpose of providing for payment of increased utility costs as a result of an increase in utility rates.

(b) Notwithstanding Article IX, Section 14.01, Appropriation Transfers, or similar provisions of Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), funds appropriated by this section may not be transferred by the commission to another appropriation item or be used by the commission for a purpose other than payment of utility expenses without the prior written approval of the Legislative Budget Board.

SECTION 4. TEXAS ETHICS COMMISSION: *FREE MARKET ASSOCIATION V. TEXAS ETHICS COMMISSION*. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$188,349 is appropriated out of the general revenue fund to the Texas Ethics Commission for the fiscal year ending August 31, 2009, for the purpose of reimbursing the commission for the payment of the judgment on October 2, 2008, in *Free Market Association of Texas v. Texas Ethics Commission* in the United States District Court for the Western District of Texas, Austin Division.

SECTION 5. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION: LORENZO DE ZAVALA BUILDING. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$1,894,676 is appropriated out of the general revenue fund to the Texas State Library and Archives Commission for the two-year period beginning on the effective date of this Act for the purchase of furniture and shelving for the Lorenzo de Zavala Building.

SECTION 6. PRESERVATION BOARD OR HISTORICAL COMMISSION: RESTORATION OF THE GOVERNOR'S MANSION. Out of reimbursements received from the Federal Emergency Management Agency for expenditures that were paid for with funds transferred from the Health and

Human Services Commission to the Department of Public Safety during the state fiscal year ending August 31, 2009, an amount not to exceed \$11,000,000 is appropriated for the two-year period beginning on the effective date of this Act, in addition to other amounts appropriated for the state fiscal biennium ending August 31, 2009, for costs associated with the restoration of the Governor's Mansion. The appropriation is to:

(1) the State Preservation Board, contingent on the enactment and becoming law of **SB 2307** or similar legislation by the 81st Legislature in regular session that imposes responsibility on the State Preservation Board for the preservation and maintenance of the Governor's Mansion; or

(2) the Texas Historical Commission, if the 81st Legislature in regular session does not enact **SB 2307** or similar legislation that becomes law that imposes responsibility on the State Preservation Board for the preservation and maintenance of the Governor's Mansion.

SECTION 7. HEALTH AND HUMAN SERVICES COMMISSION: RED LIGHT CAMERA TRAUMA FUND. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, all revenue deposited to the Regional Trauma Account 5137 (Red Light Camera Trauma Fund) (estimated to be \$6,712,284) is appropriated under Strategy A.1.1, Enterprise Oversight and Policy, to the Health and Human Services Commission for the state fiscal year ending August 31, 2009, to be used to reimburse uncompensated trauma care.

SECTION 8. TEXAS EDUCATION AGENCY: CRIMINAL HISTORY BACKGROUND CHECKS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$2,630,206 is appropriated out of the general revenue fund to the Texas Education Agency for the two-year period beginning on the effective date of this Act to conduct criminal history background checks pursuant to Chapter 1372 (**SB 9**), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 9. TEXAS SOUTHERN UNIVERSITY: APPROPRIATION REPURPOSING. (a) The unencumbered appropriations from the general revenue fund appropriated to Texas Southern University for use during the state fiscal biennium ending August 31, 2009, by Article III, Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), under Strategy B.1.2, Tuition Revenue Bond Retirement, are reduced by the amount of \$3,729,808.

(b) Notwithstanding any limitation made by Article III, Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), under Section 6(9) of the Special Provisions Relating Only to State Agencies of Higher Education, the amount of \$3,729,808 is appropriated out of the general revenue fund to Texas Southern University for the two-year period beginning on the effective date of this Act for the purpose of paying for, or reimbursing payments made for, costs incurred by the university associated with damages caused by natural disasters that occurred before the effective date of this Act during the state fiscal biennium that began September 1, 2007.

SECTION 10. TEXAS SOUTHERN UNIVERSITY: DEBT SERVICE. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$2,350,000 is appropriated out of the general revenue fund to Texas Southern University for the two-year period beginning on the effective date of this Act for debt service payments.

SECTION 11. HIGHER EDUCATION GROUP INSURANCE CONTRIBUTIONS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the following amounts are appropriated out of the general revenue fund for the two-year period beginning on the effective date of this Act to the following community and junior colleges for the purpose of restoring fiscal year 2009 proportional state contributions for health benefits and providing a transitional adjustment sufficient to set the restoration total for each institution at an amount equal to the amount of the fiscal year 2009 higher education group insurance contribution for each institution included in the line item veto for Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act):

(1) \$12,185,357 is appropriated out of the general revenue fund to Alamo Community College;

(2) \$1,574,860 is appropriated out of the general revenue fund to Alvin Community College;

(3) \$3,758,285 is appropriated out of the general revenue fund to Amarillo College;

(4) \$1,367,325 is appropriated out of the general revenue fund to Angelina College;

(5) \$7,164,544 is appropriated out of the general revenue fund to Austin Community College;

(6) \$3,054,600 is appropriated out of the general revenue fund to Blinn College;

(7) \$1,373,650 is appropriated out of the general revenue fund to Brazosport College;

(8) \$2,731,087 is appropriated out of the general revenue fund to Central Texas College;

(9) \$990,189 is appropriated out of the general revenue fund to Cisco Junior College;

(10) \$461,040 is appropriated out of the general revenue fund to Clarendon College;

(11) \$1,497,422 is appropriated out of the general revenue fund to Coastal Bend College;

(12) \$2,138,088 is appropriated out of the general revenue fund to the College of the Mainland;

(13) \$3,784,295 is appropriated out of the general revenue fund to Collin County Community College;

(14) \$15,758,341 is appropriated out of the general revenue fund to the Dallas County Community College District;

(15) \$4,018,340 is appropriated out of the general revenue fund to Del Mar College;

(16) \$6,182,391 is appropriated out of the general revenue fund to El Paso Community College;

(17) \$585,527 is appropriated out of the general revenue fund to Frank Phillips College;

(18) \$943,016 is appropriated out of the general revenue fund to Galveston College;

(19) \$1,468,952 is appropriated out of the general revenue fund to Grayson County College;

(20) \$954,181 is appropriated out of the general revenue fund to Hill College;

(21) \$10,278,053 is appropriated out of the general revenue fund to Houston Community College;

(22) \$1,813,685 is appropriated out of the general revenue fund to Howard College;

(23) \$2,129,068 is appropriated out of the general revenue fund to Kilgore College;

(24) \$3,342,228 is appropriated out of the general revenue fund to Laredo Community College;

(25) \$2,119,681 is appropriated out of the general revenue fund to Lee College;

(26) \$8,670,589 is appropriated out of the general revenue fund to the Lone Star College System;

(27) \$2,724,160 is appropriated out of the general revenue fund to McLennan Community College;

(28) \$2,065,163 is appropriated out of the general revenue fund to Midland College;

(29) \$1,470,933 is appropriated out of the general revenue fund to Navarro College;

(30) \$1,418,908 is appropriated out of the general revenue fund to North Central Texas College;

(31) \$874,764 is appropriated out of the general revenue fund to Northeast Texas Community College;

(32) \$1,963,198 is appropriated out of the general revenue fund to Odessa College;

(33) \$945,499 is appropriated out of the general revenue fund to Panola College;

(34) \$1,278,367 is appropriated out of the general revenue fund to Paris Junior College;

(35) \$474,991 is appropriated out of the general revenue fund to Ranger College;

(36) \$6,628,666 is appropriated out of the general revenue fund to San Jacinto College;

(37) \$3,338,955 is appropriated out of the general revenue fund to South Plains College;

(38) \$3,985,978 is appropriated out of the general revenue fund to South Texas College;

(39) \$1,666,736 is appropriated out of the general revenue fund to Southwest Texas Junior College;

(40) \$9,207,978 is appropriated out of the general revenue fund to Tarrant County College;

(41) \$1,330,783 is appropriated out of the general revenue fund to Temple College;

(42) \$1,667,329 is appropriated out of the general revenue fund to Texarkana College;

(43) \$1,706,940 is appropriated out of the general revenue fund to Trinity Valley Community College;

(44) \$3,361,192 is appropriated out of the general revenue fund to Tyler Junior College;

(45) \$1,120,729 is appropriated out of the general revenue fund to Vernon College;

(46) \$1,519,013 is appropriated out of the general revenue fund to Victoria College;

(47) \$1,397,289 is appropriated out of the general revenue fund to Weatherford College;

(48) \$694,843 is appropriated out of the general revenue fund to Western Texas College; and

(49) \$1,789,670 is appropriated out of the general revenue fund to Wharton County Junior College.

SECTION 12. TEXAS FOREST SERVICE: VOLUNTEER FIRE DEPARTMENT ASSISTANCE PROGRAM. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$2,500,000 is appropriated out of general revenue fund dedicated account number 5064 to the Texas Forest Service for the two-year period beginning on the effective date of this Act for grants to volunteer fire departments for training and equipment through the Volunteer Fire Department Assistance Program.

SECTION 13. UNIVERSITY OF TEXAS MEDICAL BRANCH: HIGHER EDUCATION GROUP INSURANCE CONTRIBUTIONS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$500,000 is appropriated out of the general revenue fund to The University of Texas Medical Branch at Galveston for the two-year period beginning on the effective date of this Act for additional contributions made to higher education group insurance made on behalf of 47 full-time equivalent positions transferred under a contract with the Texas Youth Commission from the Texas Tech University Health Sciences Center to The University of Texas Medical Branch.

SECTION 14. THE UNIVERSITY OF NORTH TEXAS SYSTEM: REIMBURSEMENT FOR PLANNING AND DESIGN. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$2,800,000 is appropriated out of the general revenue fund to the University of North Texas System for the two-year period beginning on the effective date of this Act for the purpose of reimbursing the cost of planning and

design for construction of a second academic building at the Dallas campus. The legislature finds there is a demonstrated need for undertaking the planning and design process for this building.

SECTION 15. TEXAS DEPARTMENT OF CRIMINAL JUSTICE: OPERATIONS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$164,230,000 is appropriated out of the general revenue fund to the Texas Department of Criminal Justice for the two-year period beginning on the effective date of this Act for the purpose of providing for salaries and wages, hazardous duty and longevity pay, overtime pay, food for wards of the state, costs of damages resulting from natural disasters, contracted temporary capacity, utilities, information technology services, and fuel.

SECTION 16. TEXAS DEPARTMENT OF CRIMINAL JUSTICE: CORRECTIONAL MANAGED HEALTH CARE. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$48,144,918 is appropriated out of the general revenue fund to the Texas Department of Criminal Justice for the two-year period beginning on the effective date of this Act for the purpose of providing for correctional managed health and psychiatric care, the use of infirmary beds at The University of Texas Health Science Center at Tyler, outpatient cancer treatment, and the rental of a CT scanner.

SECTION 17. WATER DEVELOPMENT BOARD: MEDINA LAKE DAM. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$4,000,000 is appropriated out of the general revenue fund to the Water Development Board for the two-year period beginning on the effective date of this Act to be transferred to the Water Assistance Fund to provide a grant to the Bexar-Medina Atascosa Water Control and Improvement District #1 for structural improvements to the Medina Lake Dam.

SECTION 18. SOIL AND WATER CONSERVATION BOARD: MILEAGE REIMBURSEMENT. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the following amounts are appropriated to the Soil and Water Conservation Board for the two-year period beginning on the effective date of this Act to provide mileage reimbursement for soil and water conservation district directors:

- (1) \$54,664 is appropriated out of the general revenue fund; and
- (2) the unexpended and unencumbered balance of the amounts appropriated by Section 19.63, Article IX, Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act).

SECTION 19. TEXAS DEPARTMENT OF TRANSPORTATION: HIGHWAY AND BRIDGE CONSTRUCTION. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$662,200,000 is appropriated out of funds received under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) to the Texas Department of Transportation for the two-year period beginning on the effective date of this Act for the purpose of highway and bridge construction.

SECTION 20. RACING COMMISSION: REVENUE SHORTFALL. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$178,525 is appropriated out of the general revenue fund to the Racing Commission for the two-year period beginning on the effective date of this Act for the purpose of providing for current operations as a result of a revenue shortfall.

SECTION 21. APPROPRIATION REDUCTION: THE UNIVERSITY OF HOUSTON. The unencumbered appropriations from the general revenue fund appropriated to the University of Houston for use during the state fiscal biennium ending August 31, 2009, by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), by the Section 55 special item appropriation for the University of Houston - Wind Energy under the Special Provisions of Article III of that Act are reduced by \$4,245,244.

SECTION 22. THE UNIVERSITY OF HOUSTON: WIND ENERGY. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$4,245,244 is appropriated out of the general revenue fund to the University of Houston for the two-year period beginning on the effective date of this Act for the purpose of developing and constructing the National Large Wind Turbine Research and Testing Facility. The legislature finds there is a demonstrated need to develop and construct this facility.

SECTION 23. JUDICIARY SECTION, COMPTROLLER'S DEPARTMENT: TRANSFERS. Notwithstanding the transfer limitations of Section 14.01, Article IX, or Rider 4 following the appropriations to the Judiciary Section, Comptroller's Department, in Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Judiciary Section, Comptroller's Department, may transfer appropriations among items of appropriations appropriated by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), in any amount during the state fiscal biennium ending August 31, 2009. The Judiciary Section, Comptroller's Department, may use any funds transferred under this section to pay for personnel expenses of the 435th District Court in Montgomery County.

SECTION 24. APPROPRIATION REDUCTION: OFFICE OF ATTORNEY GENERAL. As a result of savings created by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) in providing a temporary exemption for the use of federal incentives to increase federal funds, the unencumbered appropriations from the general revenue fund appropriated to the Office of the Attorney General for use during the state fiscal biennium ending August 31, 2009, by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), under Strategy B.1.1, Child Support Enforcement, are reduced by \$27,300,000.

SECTION 25. APPROPRIATION REDUCTION: TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER; HIGHER EDUCATION GROUP INSURANCE CONTRIBUTIONS. The unencumbered appropriations from the general revenue fund appropriated to the Texas Tech University Health Sciences Center for use during the state fiscal biennium ending August 31, 2009,

by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), under the Article III appropriations for Higher Education Employees Group Insurance Contributions (Strategy C.1.22, Texas Tech University Health Sciences Center), are reduced by \$500,000 to reflect the transfer of 47 full-time equivalent employee positions (FTEs) from the Texas Tech University Health Sciences Center to The University of Texas Medical Branch at Galveston under a contract with the Texas Youth Commission.

SECTION 26. APPROPRIATION REDUCTION: TEXAS EDUCATION AGENCY. The unencumbered appropriations from the foundation school fund appropriated to the Texas Education Agency for use during the state fiscal biennium ending August 31, 2009, made by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), under Strategy A.1.1, FSP-Equalized Operations, are reduced by \$500,000,000.

SECTION 27. HEALTH AND HUMAN SERVICES COMMISSION: RESTORATION OF TRANSFER AUTHORITY. (a) Notwithstanding any limitation on transfer among appropriation items prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Health and Human Services Commission for the fiscal year ending August 31, 2009, but subject to the limitations prescribed by Subsections (b)-(e) of this section, the Health and Human Services Commission may allocate the amount appropriated by Section 52(1) of this Act among the items of appropriation listed under Goal B, Medicaid.

(b) Any unexpended balances of general revenue funds appropriated by Section 52(1) of this Act for the state fiscal year ending August 31, 2009 (estimated to be \$0), are appropriated to the Health and Human Services Commission for the fiscal year beginning September 1, 2009, for the purposes of Goal B, Medicaid, but the amounts may be spent only with the prior approval of the Legislative Budget Board and the governor obtained as prescribed by this section.

(c) The commission shall submit a written request for prior approval to the Legislative Budget Board and the governor and concurrently provide a copy of the request to the comptroller. The request for prior approval must be organized by fiscal year as provided by this subsection. The commission shall provide the following information:

- (1) for the fiscal year with an unexpended balance:
 - (A) an explanation of the causes for the unexpended balance;
 - (B) the amount of the unexpended balance by strategy; and
 - (C) the associated incremental change in service levels compared to applicable performance targets for that fiscal year; and
- (2) for the fiscal year receiving the funds:
 - (A) an explanation of the purposes for which the unexpended balances will be used and whether the expenditures will be one-time or ongoing;
 - (B) the amount of the expenditures by strategy;
 - (C) the incremental change in service levels compared to applicable performance targets for that fiscal year; and
 - (D) the capital budget impact.

(d) The request made under Subsection (c) of this section is considered to be approved unless the Legislative Budget Board or the governor issues a written disapproval on or before the 15th business day after the date on which the staff of the Legislative Budget Board concludes its review of the proposal to expend the funds and forwards its review to the chair of the House Appropriations Committee, chair of the Senate Finance Committee, speaker of the house of representatives, and lieutenant governor.

(e) The comptroller may not allow the use of unexpended balance amounts appropriated by this section if the Legislative Budget Board provides notification to the comptroller that the requirements of this section have not been satisfied.

SECTION 28. TEXAS EDUCATION AGENCY: APPROPRIATION REDUCTION. The unencumbered appropriations from the general revenue fund appropriated to the Texas Education Agency for use during the state fiscal biennium ending August 31, 2009, made by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), are reduced by the following amounts:

(1) \$19,251,340 from Strategy A.2.1, Student Success;

(2) \$1,037,973 from Strategy A.2.4, School Improvement and Support Programs;

(3) \$108,007 from Strategy B.2.1, Educational Technology; and

(4) \$1,300,434 from Strategy B.2.2, Safe Schools.

SECTION 29. OFFICE OF ATTORNEY GENERAL: ADDITIONAL APPROPRIATION. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$27,300,000 is appropriated out of funds received under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) to the Office of the Attorney General for the two-year period beginning on the effective date of this Act for the purpose of providing child support enforcement.

SECTION 30. AMERICAN RECOVERY AND REINVESTMENT ACT: LIMITATION ON THE USE OF FUNDS. (a) None of the federal funds made available under the American Recovery and Reinvestment Act (ARRA) and appropriated by this Act may be expended for any purpose other than those identified by this Act without prior approval of the governor and Legislative Budget Board obtained in accordance with this section and Section 34 of this Act.

(b) A state agency or institution receiving federal ARRA funds appropriated by this Act shall notify the governor, comptroller, Legislative Budget Board, and state auditor's office whenever the federal government, including a federal agency, does not approve an application by the agency or institution to spend the federal ARRA funds in a particular manner. The notice may include a proposed alternative use of the funds that the agency or institution considers to be consistent with the purposes, as identified by this Act, for which the funds may be used. Unless the governor and the Legislative Budget Board issue a written disapproval of a proposed alternative use within 15 business days after receiving the notification of federal disapproval that contains the proposed alternative use, the agency or institution may expend the funds in accordance with the proposed alternative use. If the governor and the Legislative Budget Board issue a written

disapproval of the proposed alternative use, the governor and Legislative Budget Board may approve expenditure of the funds in accordance with a modified alternative use identified by the governor and the Legislative Budget Board.

(c) Before expending any federal ARRA funds appropriated by this Act, each agency or institution shall notify the Legislative Budget Board, the governor, and the comptroller of any changes in federal law, rules, or regulations related to programs that receive appropriations under this Act that could create a future fiscal obligation to the state beyond the state fiscal year beginning September 1, 2010. If after the 15th business day after notification from the agency or institution the Legislative Budget Board and the governor have not both issued a written disapproval of the expenditure, the agency or institution may expend the funds.

(d) Each state agency or institution that receives federal ARRA funds appropriated by this Act shall certify to the Legislative Budget Board, the governor, and the comptroller how the use of the funds or the programs receiving the funds comply with applicable state law, federal law, rules, regulations, and other relevant guidance, including any changes in guidance or interpretation and any changes in information reported under this section. The certification must include a statement that the agency's chief executive and executive staff have knowledge of the American Recovery and Reinvestment Act law and of federal agency actions regarding that law and that those persons in their official capacity accept responsibility that the agency's or institution's use of federal ARRA funds appropriated by this Act comply with applicable federal law, state law, rules, regulations, and relevant guidance.

(e) The comptroller, in cooperation with the state auditor, may prescribe and implement any payment and post-payment audit procedures considered necessary to ensure compliance with this section. The comptroller may provide consultation and training for agencies and institutions prior to obligation or expenditure of funds, and the comptroller shall provide technical assistance with these matters as needed during the two-year period beginning with the effective date of this Act. The comptroller shall coordinate with the state auditor to ensure appropriate use of the funds throughout the two-year period. Each state agency receiving federal ARRA funds under this Act must comply with reporting requirements prescribed by the comptroller and state auditor.

SECTION 31. AMERICAN RECOVERY AND REINVESTMENT ACT: PRIORITY OF FUNDING. (a) To the extent allowed under the American Recovery and Reinvestment Act (ARRA), from funds appropriated in this Act, agencies and institutions shall give priority to expenditures that do not recur beyond the two-year period that begins on the effective date of this Act.

(b) To the extent allowed under ARRA, an agency or institution may not create a liability that will cause the state to make:

(1) repayment to the United States treasury ("clawback") of ARRA funds already expended in the event of a future discontinuation of payments to the direct or indirect beneficiaries of a program or strategy; or

(2) payments to direct or indirect beneficiaries of a program or strategy in an amount that exceeds the amount of ARRA funds actually received by the state from the United States treasury.

SECTION 32. AMERICAN RECOVERY AND REINVESTMENT ACT: INFORMATIONAL RIDER: REDUCTION IN GENERAL. The amounts of general revenue reductions shown in certain agency appropriations in this Act are in accordance with Title V, State Fiscal Relief, American Recovery and Reinvestment Act.

SECTION 33. AMERICAN RECOVERY AND REINVESTMENT ACT: FMAP ALLOCATIONS. Appropriations made by this Act to the Health and Human Services Commission for Medicaid Enhanced FMAP shall be allocated by the commission to affected agencies. The commission shall submit a plan for that allocation to the Legislative Budget Board and the governor not later than the 30th day after the effective date of this Act.

SECTION 34. AMERICAN RECOVERY AND REINVESTMENT ACT: REPORTING REQUIREMENTS. (a) Each state agency and institution of higher education receiving appropriations under this Act or under Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), shall develop and submit a plan to the Legislative Budget Board and the governor providing details on the entity's intended use of appropriations received from money available under the American Recovery and Reinvestment Act (ARRA). The plan shall include a summary of any ARRA funds spent, allocated, or encumbered on or before August 31, 2009. The report shall be delivered not later than September 30, 2009. Unless the Legislative Budget Board and the governor issue a written disapproval of proposed expenditures under the plan within 15 business days after September 30, 2009, the agency or institution may expend the funds in accordance with the plan, subject to Section 30 of this Act.

(b) Each of the agencies and institutions receiving appropriations under this Act shall submit quarterly reports on the expenditure of funds received from money available under the American Recovery and Reinvestment Act (ARRA). The report shall be in the format prescribed by the Legislative Budget Board and must include the estimated number of jobs that will be created or retained in this state and the number of full-time equivalent positions that will be created at the agency or institution. The quarterly reports must be submitted on or before December 31, March 31, June 30, and September 30 of each year to the governor, Legislative Budget Board, state auditor's office, and comptroller.

(c) Each agency or institution that receives funds from money available under the American Recovery and Reinvestment Act and that provides reports to the Legislative Budget Board and federal agencies regarding funding received from that money shall post on the agency's or institution's Internet website the agency's or institution's ARRA report and provide a link to the state auditor's office fraud hotline.

SECTION 35. AMERICAN RECOVERY AND REINVESTMENT ACT: LEGISLATIVE INTENT. It is the intent of the legislature that all American Recovery and Reinvestment Act funding appropriated by this Act or by **SB 1**, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), be allocated as prescribed in each respective Act.

SECTION 36. DEPARTMENT OF AGING AND DISABILITY SERVICES: LIMITATION ON CASELOADS. From amounts appropriated by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), for the fiscal year ending August 31, 2009, the Department of Aging and Disability Services may not at any time during the period beginning on the effective date of this Act and ending August 31, 2009, exceed the following limitations on the total number of clients served under the following appropriation items:

- (1) 26,087 clients under Strategy A.3.1, Community Based Alternatives (CBA);
- (2) 15,516 clients under Strategy A.3.2, Home and Community-based Services (HCS);
- (3) 4,199 clients under Strategy A.3.3, Community Living Assistance and Support Services (CLASS);
- (4) 154 clients under Strategy A.3.4, Deaf-blind Multiple Disabilities (DBMD);
- (5) 2,745 clients under Strategy A.3.5, Medically Dependent Children Program (MDCP);
- (6) 160 clients under Strategy A.3.6, Consolidated Waiver Program;
- (7) 994 clients under Strategy A.3.7, Texas Home Living Waiver;
- (8) 39,005 clients under Strategy A.4.1, Non-Medicaid Services;
- (9) 13,109 clients under Strategy A.4.2, MR Community Services;
- (10) 4,590 clients under Strategy A.4.4, In-Home and Family Support;
- (11) 3,060 clients under Strategy A.4.5, Mental Retardation In-Home Services; and
- (12) 902 clients under Strategy A.5.1, Program of All-Inclusive Care for the Elderly (PACE).

SECTION 37. HEALTH AND HUMAN SERVICES COMMISSION: TRANSFER OF FUNDS APPROPRIATED FOR CHIP SERVICES. Notwithstanding any provision of another Act making appropriations to the contrary, the Health and Human Services Commission, without the necessity of prior approval by another office or entity, may transfer funds appropriated to the commission under Goal C, CHIP Services, or Goal B, Medicaid by Chapter 1428 (**HB 1**) Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act) between Goal C, CHIP Services and Goal B, Medicaid, for the fiscal year ending August 31, 2009.

SECTION 38. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES: APPROPRIATION REDUCTION. The unencumbered appropriations made by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), from the general revenue fund for Vocational Rehabilitation (Fund 8007) to the Department of

Assistive and Rehabilitative Services for use during the state fiscal biennium ending August 31, 2009, under Strategy B.3.1, Vocational Rehabilitation-General, are reduced by \$2,931,371.

SECTION 39. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES: APPROPRIATION REDUCTION AND RELATED TRANSFER AUTHORITY. (a) The unencumbered appropriations from the general revenue fund appropriated to the Department of Family and Protective Services for use during the state fiscal biennium ending August 31, 2009, made by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), are reduced by the following amounts:

- (1) \$3,961,399 under Strategy A.2.1, CPS Direct Delivery Staff;
- (2) \$1,769,065 under Strategy A.2.12, STAR Program;
- (3) \$1,100,000 under Strategy A.2.13, CYD Program; and
- (4) \$1,368,000 under Strategy A.2.16, Other At-Risk Prevention

Programs.

(b) Notwithstanding any limitation on transfer among appropriation items prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), for the fiscal year ending August 31, 2009, the Department of Family and Protective Services may transfer federal funds from the following items of appropriation to Strategy A.2.1, CPS Direct Delivery Staff:

- (1) Strategy A.2.12, STAR Program;
- (2) Strategy A.2.13, CYD Program;
- (3) Strategy A.2.14, Texas Families Program; and
- (4) Strategy A.2.16, Other At-Risk Prevention Programs.

SECTION 40. HEALTH AND HUMAN SERVICES COMMISSION: TEMPORARY ASSISTANCE TO NEEDY FAMILIES GRANTS. Notwithstanding any provision of Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Health and Human Services Commission may use current unexpended TANF balances for the purpose of funding an additional \$75 one-time grant for a total of \$105 in the state fiscal year ending August 31, 2009, for each TANF child in an effort to maximize funds received by this state under the American Recovery and Reinvestment Act of 2009.

SECTION 41. TEXAS YOUTH COMMISSION: RESTORATION OF TRANSFER AUTHORITY. Notwithstanding any limitation on transfers among appropriation items prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Texas Youth Commission may transfer an amount not to exceed \$5,589,975 from Strategy A.1.3, Contracted Capacity, to Strategy A.1.2, Institutional Services.

SECTION 42. DEPARTMENT OF AGING AND DISABILITY SERVICES: APPROPRIATION REDUCTION. As a result of savings created by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) providing a temporary exemption for the use of federal incentives to increase federal funds, the unencumbered appropriations from the general revenue fund appropriated to the Department of Aging and Disability Services for use during

the state fiscal biennium ending August 31, 2009, by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act) under Strategy A.6.1, Nursing Facility Payments, are reduced by \$473,774,915.

SECTION 43. DEPARTMENT OF AGING AND DISABILITY SERVICES: RESTORATION OF TRANSFER AUTHORITY. (a) Notwithstanding any limitation on transfer among appropriation items prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Department of Aging and Disability Services for the fiscal year ending August 31, 2009, may allocate the reduction in appropriations under Section 42 of this Act among the items of appropriation listed by Subsection (c) of this section.

(b) Notwithstanding any limitation on transfer among appropriation items prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Department of Aging and Disability Services for the fiscal year ending August 31, 2009, may allocate the additional amount appropriated under Section 49 of this Act among the items of appropriation listed by Subsection (c) of this section.

(c) The Department of Aging and Disability Services may allocate the additional and reduced amounts appropriated as described by Subsections (a) and (b) of this section among the following items of appropriation:

- (1) A.2.1, Primary Home Care;
- (2) A.2.2, Community Attendant Services;
- (3) A.2.3, Day Activity and Health Services (DAHS);
- (4) A.3.1, Community-based Alternatives (CBA);
- (5) A.3.2, Home and Community-based Services (HCS);
- (6) A.3.3, Community Living Assistance and Support Services (CLASS);
- (7) A.3.4, Deaf-blind Multiple Disabilities (DBMD);
- (8) A.3.5, Medically Dependent Children Program (MDCP);
- (9) A.3.6, Consolidated Waiver Program;
- (10) A.3.7, Texas Home Living Waiver;
- (11) A.5.1, Program of All-Inclusive Care for the Elderly (PACE);
- (12) A.6.1, Nursing Facility Payments;
- (13) A.6.2, Medicare Skilled Nursing Facility;
- (14) A.6.3, Hospice;
- (15) A.6.4, Promoting Independence by Providing Community-based Client Services;
- (16) A.7.1, Intermediate Care Facilities - Mental Retardation (ICF/MR); and
- (17) A.8.1, MR State Schools Services.

SECTION 44. DEPARTMENT OF CRIMINAL JUSTICE: CORRECTIONAL SECURITY EQUIPMENT. (a) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$10,000,000 is appropriated out of the general revenue fund to the

Texas Department of Criminal Justice for the two-year period beginning on the effective date of this Act for the purpose of purchasing correctional security equipment.

(b) In addition to the capital budget authority previously granted for the state fiscal biennium ending August 31, 2009, the Department of Criminal Justice may use \$10,000,000 in capital budget authority for an additional capital budget item for the acquisition of capital equipment and items.

SECTION 45. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES: APPROPRIATION REDUCTION. As a result of savings created by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) providing a temporary exemption for the use of federal incentives to increase federal funds, the unencumbered amounts appropriated from the general revenue fund to the Department of Family and Protective Services for use during the state fiscal biennium ending August 31, 2009, by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), are reduced by the following amounts:

- (1) \$10,976,561 under Strategy A.2.10, Foster Care Payments; and
- (2) \$7,565,224 under Strategy A.2.11, Adoption Subsidy Payments.

SECTION 46. HEALTH AND HUMAN SERVICES COMMISSION: APPROPRIATION REDUCTION. As a result of savings created by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) providing a temporary exemption for the use of federal incentives to increase federal funds, the unencumbered amounts appropriated from the general revenue fund to the Health and Human Services Commission for use during the state fiscal biennium ending August 31, 2009, by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), under Strategy B.1.4, Children and Medically Needy, are reduced by \$1,127,526,993.

SECTION 47. HEALTH AND HUMAN SERVICES COMMISSION: RESTORATION OF TRANSFER AUTHORITY. (a) Notwithstanding any limitation on transfer among appropriation items prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Health and Human Services Commission for the fiscal year ending August 31, 2009, may allocate the reduction in appropriations under Section 46 of this Act among the items of appropriation listed under Goal B, Medicaid.

(b) Notwithstanding any limitation on transfer among appropriation items prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Health and Human Services Commission for the fiscal year ending August 31, 2009, may allocate the additional amount appropriated under Section 52(2) of this Act among the items of appropriation listed under Goal B, Medicaid.

SECTION 48. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES: APPROPRIATION REDUCTION. The unencumbered amounts appropriated to the Department of Family and Protective Services for use during the state fiscal biennium ending August 31, 2009, by Chapter 1428 (**HB 1**), Acts

of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), under Strategy A.2.10, Foster Care Payments, are reduced by the following amounts:

- (1) \$30,100,979 out of the general revenue fund appropriations for that strategy; and
- (2) \$28,959,773 out of the federal funds (TANF) appropriations for that strategy.

SECTION 49. DEPARTMENT OF AGING AND DISABILITY SERVICES: ADDITIONAL APPROPRIATIONS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$62,351,306 is appropriated out of the general revenue fund to the Department of Aging and Disability Services under Strategy A.6.1, Nursing Facility Payments, for the fiscal year ending August 31, 2009.

SECTION 50. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES: ADDITIONAL APPROPRIATIONS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the Department of Family and Protective Services is appropriated for the fiscal year ending August 31, 2009, the following amounts for the following purposes:

- (1) \$5,917,242 from the general revenue fund under Strategy A.2.11, Adoption Subsidy Payments;
- (2) \$6,657,839 from the general revenue fund under Strategy C.1.1, CPS Reform Continued;
- (3) \$3,732,979 in federal funds (TANF) under Strategy C.1.1, CPS Reform Continued;
- (4) \$13,126,361 from the general revenue fund under Strategy A.3.1, APS Direct Delivery Staff, for the loss of Medicaid federal funds;
- (5) \$12,460,353 in federal funds (TANF) under Strategy A.2.1, CPS Direct Delivery Staff, for enterprise support services; and
- (6) \$5,280,315 from the general revenue fund under Strategy A.2.3, TWC Foster Day Care.

SECTION 51. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES: RESTORATION OF TRANSFER AUTHORITY. (a) Notwithstanding any limitation on transfer among appropriation items prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), for the fiscal year ending August 31, 2009, the Department of Family and Protective Services may allocate any amounts appropriated in Sections 50(4) and 50(5) of this Act among the following items of appropriation:

- (1) Strategy A.1.1, Statewide Intake Services;
- (2) Strategy A.2.1, CPS Direct Delivery Staff;
- (3) Strategy A.2.2, CPS Program Support;
- (4) Strategy A.3.1, APS Direct Delivery Staff;
- (5) Strategy A.3.2, APS Program Support;
- (6) Strategy A.3.3, MH and MR Investigations;
- (7) Strategy A.4.1, Child Care Regulation;
- (8) Strategy B.1.1, Central Administration;

- (9) Strategy B.1.2, Other Support Services;
- (10) Strategy B.1.3, Regional Administration; and
- (11) Strategy B.1.4, IT Program Support.

(b) Notwithstanding any limitation on transfer among appropriation items prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Department of Family and Protective Services for the fiscal year ending August 31, 2009, may transfer to Strategy A.2.4, TWC Protective Day Care, amounts appropriated by Section 50(6) of this Act to Strategy A.2.3, TWC Foster Day Care.

SECTION 52. HEALTH AND HUMAN SERVICES COMMISSION: ADDITIONAL APPROPRIATIONS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the Health and Human Services Commission is appropriated for the fiscal year ending August 31, 2009, the following amounts for the following purposes:

- (1) \$790,589,278 from the general revenue fund under Goal B, Medicaid; and
- (2) \$323,850,650 from the general revenue fund under Strategy B.2.3, Medicare Federal Give Back.

SECTION 53. DEPARTMENT OF STATE HEALTH SERVICES: REMOVAL OF CERTAIN LIMITATIONS. (a) In order to meet an expected shortfall within the mental health hospital system, the limitations prescribed by the following provisions of Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), do not limit appropriations made to the Department of State Health Services for the fiscal year ending August 31, 2009:

- (1) Section 8.03(e), Article IX (Reimbursements and Payments);
- (2) Section 14.01, Article IX (Appropriation Transfers);
- (3) Section 49, Article II, Special Provisions, Contingent Appropriation of Medicare Part D Savings;
- (4) Rider 46, State Owned Multicategorical Teaching Hospital Account (UTMB), following the appropriations to the Department of State Health Services; and
- (5) Rider 55, County Indigent Health Care, following the appropriations to the Department of State Health Services.

(b) The Department of State Health Services shall report to the Legislative Budget Board not later than October 1, 2009, regarding each instance in which the Department of State Health Services transferred funds to meet the shortfall within the mental health hospital system. The report shall include at a minimum the items of appropriation from which the funds were transferred, the items of appropriation to which the funds were transferred, the amount and method of finance of funds used in each transfer, and any other information requested by the Legislative Budget Board.

SECTION 54. HEALTH AND HUMAN SERVICES COMMISSION: ADDITIONAL FEDERAL MEDICAID FUNDING. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$1,619,843,693 is appropriated out of funds received under the

American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) to the Health and Human Services Commission for the two-year period beginning on the effective date of this Act for the purpose of increased federal funding for Medicaid and foster care/adoption subsidies.

SECTION 55. APPROPRIATIONS FOR GENERAL COSTS CAUSED BY NATURAL DISASTERS. (a) The following amounts are appropriated out of the general revenue fund to the following agencies and institutions of higher education for the two-year period beginning on the effective date of this Act for the purpose of paying for, or reimbursing payments made for, costs incurred by the agencies or institutions associated with damages or disruptions caused by natural disasters that occurred before the effective date of this Act during the state fiscal biennium that began September 1, 2007:

- (1) UT Medical Branch at Galveston: \$150,000,000;
- (2) Brazosport College: \$120,111;
- (3) Parks and Wildlife Department: \$12,000,000;
- (4) UT M.D. Anderson Cancer Center: \$1,725,995;
- (5) Alvin College: \$2,358,771;
- (6) Texas A&M Galveston: \$5,700,000;
- (7) Texas Forest Service: \$385,091;
- (8) Houston Community College: \$1,507,670;
- (9) Commission on Environmental Quality: \$4,600,000;
- (10) San Jacinto College: \$3,045,820;
- (11) Galveston College: \$407,406;
- (12) Texas Engineering Extension Service: \$1,200,000;
- (13) Adjutant General's Department: \$1,244,007;
- (14) The University of Texas at Brownsville: \$1,200,000;
- (15) Lamar University: \$2,803,561;
- (16) Lamar Institute of Technology: \$2,007,758;
- (17) Lamar State College: Port Arthur: \$829,530;
- (18) Texas Southern University: \$9,720,192;
- (19) College of the Mainland: \$176,236;
- (20) The University of Texas Pan American: \$102,258;
- (21) The University of Texas Health Center at Tyler: \$1,461,557;
- (22) The University of Texas Health Science Center at Houston: \$1,000,000;
- (23) University of Houston System Administration: \$7,339,000;
- (24) Texas State Technical College: Harlingen: \$904,558;
- (25) Lamar State College: Orange: \$600,000;
- (26) Prairie View A&M University: \$488,864;
- (27) Lee College: \$137,554; and
- (28) Department of Agriculture: \$20,000,000.

(b) For each appropriation made to an entity by this section in an amount that exceeds \$5,000,000, the comptroller shall separately account for expenditures from that item of appropriation and for reimbursements to the general revenue fund made in connection with that item of appropriation in accordance with Section 62 of this Act by creating, for accounting purposes, a

separate account within the general revenue fund. Expenditures from each item of appropriation subject to this section shall be made from the separate account created for that item and reimbursements to the general revenue fund made in connection with that item of appropriation in accordance with Section 62 of this Act shall be deposited to that separate account. It is the intent of the 81st Legislature that the 82nd Legislature appropriate for further recovery efforts from the natural disaster that are still being made or paid for by the entity that received the appropriation any money received as reimbursements to the general revenue fund in connection with the appropriation to that entity and separately accounted for in accordance with this subsection.

(c) The amount appropriated by this section to UT Medical Branch at Galveston may be spent only to provide matching funds for FEMA qualifying projects, except that if that amount cannot be prudently and effectively spent in that manner, the remainder of the \$150,000,000 appropriation may be spent only with the prior written approval of the Legislative Budget Board.

(d) The amounts appropriated by this section to the Department of Agriculture shall be spent to compensate the Texas Boll Weevil Eradication Foundation for a portion of the foundation's increased expenses incurred because of Hurricane Ike and Hurricane Dolly. The Texas Boll Weevil Eradication Foundation and the Department of Agriculture must approve the allocation of funds appropriated by this section to each eligible boll weevil eradication zone. The Department of Agriculture shall remit the amounts appropriated by this section to the Texas Boll Weevil Eradication Foundation, and the foundation shall credit the funds to the accounts of the following boll weevil eradication zones:

- (1) Southern Blacklands;
- (2) Northern Blacklands;
- (3) Upper Coastal Bend;
- (4) South Texas/Winter Garden; and
- (5) Lower Rio Grande Valley.

SECTION 56. APPROPRIATIONS FOR GENERAL COSTS CAUSED BY WILDFIRES. The amount of \$31,478,218 is appropriated out of the general revenue fund to the Texas Forest Service for the two-year period beginning on the effective date of this Act for the purpose of paying for, or reimbursing payments made for, costs incurred by the Texas Forest Service associated with wildfires that occurred before the effective date of this Act during the state fiscal biennium that began September 1, 2007.

SECTION 57. APPROPRIATIONS FOR GENERAL COSTS CAUSED BY FLOODING. The amount of \$69,339 is appropriated out of the general revenue fund to the Texas Forest Service for the two-year period beginning on the effective date of this Act for the purpose of paying for, or reimbursing payments made for, costs incurred by the forest service associated with flooding that occurred before the effective date of this Act during the state fiscal biennium that began September 1, 2007.

SECTION 58. CERTAIN APPROPRIATIONS FOR DISASTER RELIEF.

(a) An amount not to exceed \$52 million is appropriated out of the general revenue fund for transfer to the disaster contingency fund and is appropriated for

expenditure out of the disaster contingency fund to the Trusteed Programs within the Office of the Governor for the two-year period beginning on the effective date of this Act for the purpose of providing disaster relief in accordance with this section. Money may not be transferred out of the general revenue fund or expended from the disaster contingency fund under this section without the prior written approval of the Legislative Budget Board given in response to a request for that approval from the Office of the Governor.

(b) The amounts appropriated by Subsection (a) of this section may be transferred to the disaster contingency fund and expended out of the disaster contingency fund only serially as conditions warrant.

(c) Out of amounts appropriated in Subsection (a) of this section, it is the intent of the legislature that \$1,508,450 be used to pay for air ambulance services in connection with emergency evacuation operations during Hurricane Rita conducted from September 21 through September 29, 2005.

SECTION 59. UNIVERSITY OF TEXAS AT AUSTIN: HOLD HARMLESS. (a) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$9,902,630 is appropriated out of the general revenue fund to The University of Texas at Austin for the two-year period beginning on the effective date of this Act for the purpose of providing The University of Texas the 2008-2009 biennium formula hold harmless amount.

(b) From appropriations made by Subsection (a) of this section, The University of Texas at Austin shall direct the amount of \$700,000 to the Marine Science Institute to support the National Estuarine Research Reserve.

SECTION 60. TRUSTEED PROGRAMS WITHIN THE OFFICE OF THE GOVERNOR: DEBRIS REMOVAL. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$16,565,040 is appropriated out of the general revenue fund to the Trusteed Programs within the Office of the Governor for the two-year period beginning on the effective date of this Act for the Governor's Division of Emergency Management to remove debris from Harris County, Jefferson County, Chambers County, Brazoria County, Galveston County, and the City of Houston.

SECTION 61. TEXAS STATE UNIVERSITY SYSTEM: DISASTER RECOVERY REIMBURSEMENTS. It is the intent of the legislature that all funds received after the effective date of this Act by the Texas State University System or its component institutions for reimbursement of disaster recovery related expenditures associated with Hurricane Katrina and Hurricane Rita shall be immediately deposited to the credit of unappropriated general revenue. These funds include, but are not limited to, an estimated \$9,100,000 in Federal Emergency Management Agency (FEMA) reimbursements.

SECTION 62. REIMBURSEMENT TO GENERAL REVENUE FUND. If any state agency or institution of higher education receives reimbursement from the federal government, an insurer, or another source for an expenditure paid for or reimbursed under Section 9, 15, 52, 55, 56, 57, 58, or 60 of this Act, the agency or institution shall reimburse the state in an amount equal to the general revenue funds expended for damages that is proportional to the total expenditures

for damages described under Section 9, 15, 52, 55, 56, 57, 58, or 60 of this Act, and that amount shall be deposited to the credit of the general revenue fund within the state treasury.

SECTION 63. DEBT SERVICE PAYMENTS - NON-SELF SUPPORTING GENERAL OBLIGATION WATER BONDS: APPROPRIATION REDUCTION. The unencumbered appropriations from the general revenue fund appropriated to the Water Development Board for Debt Service Payments for Non-Self Supporting G.O. Water Bonds for use during the state fiscal biennium ending August 31, 2009, made by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), are reduced by the following amounts:

- (1) \$15,820,198 from Strategy A.1.2, State Participation Debt Service;
- (2) \$15,231,801 from Strategy A.1.1, EDAP Debt Service;
- (3) \$3,354 from Strategy A.1.3, AG Water Conservation Debt; and
- (4) \$1,894,416 from Strategy A.1.4, WIF Debt Service.

SECTION 64. STATE AUDITOR AUTHORITY: DISASTER RELIEF APPROPRIATIONS. An entity receiving funds under this Act appropriated for disaster relief, including an entity receiving funds appropriated in response to a natural disaster and a unit of local government receiving funds appropriated for transfer to and expenditure out of the disaster contingency fund, is subject to audit by the state auditor based on a risk assessment made by the state auditor in developing the annual audit plan under Chapter 321, Government Code. As part of the risk assessment of an entity, including a unit of local government, the state auditor may consider:

(1) the amount of money directly appropriated to an entity by this Act or received by a unit of local government out of money appropriated for transfer to and expenditure out of the disaster contingency fund by this Act;

(2) the amount of money reimbursed under a provision of this Act requiring that the general revenue fund or disaster contingency fund be reimbursed under certain circumstances; and

(3) the methodology used by an entity, including a unit of local government, to estimate a loss caused by a disaster.

SECTION 65. GENERAL LAND OFFICE: FEMA REIMBURSEMENTS. (a) Reimbursements received from the Federal Emergency Management Agency (an estimated amount of \$39 million) for expenses incurred by the General Land Office in removing debris caused by Hurricane Ike and paid for with \$39 million in emergency funds transferred from the Texas Public Finance Authority are appropriated to the General Land Office for the period ending on May 30, 2011, for the purpose of funding coastal management programs of the land office, including debris and structure removal, derelict structure buyouts, shoreline stabilization, dune restoration, beach renourishment, coastal erosion mitigation, and other coastal projects authorized by statute.

(b) Not later than May 31, 2011, the General Land Office shall deposit to the credit of undedicated general revenue an amount equal to the amount of reimbursements received and appropriated to the General Land Office under Subsection (a) of this section.

SECTION 66. APPROPRIATIONS ALLOCATED TO APPROPRIATE GENERAL APPROPRIATIONS ACT STRATEGIES. Except as otherwise provided by this Act, the agencies and institutions receiving appropriations made by this Act shall allocate the appropriations to the appropriate General Appropriations Act strategies.

SECTION 67. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES: AUTISM. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$6,600,000 is appropriated out of the general revenue fund to the Department of Assistive and Rehabilitative Services for the two-year period beginning on the effective date of this Act to provide autism services for children ages three to eight.

SECTION 68. CONTINGENCY FOR DEPARTMENT OF JUSTICE SETTLEMENT. (a) Contingent on the State of Texas and the United States Department of Justice reaching a settlement agreement, the Department of Aging and Disability Services is appropriated the amount of \$22,648,532 out of the general revenue fund for the fiscal year ending August 31, 2010, for the purpose of providing for additional staffing, monitoring activities, training, and other one-time costs.

(b) Also contingent upon the State of Texas and the United States Department of Justice reaching a settlement agreement, in addition to the number of full-time equivalent employees (FTEs) the Department of Aging and Disability Services is authorized by other law to employ during the state fiscal year ending August 31, 2010, the department may employ an additional 37.0 FTEs during that state fiscal year. In addition to the number of full-time equivalent employees (FTEs) the Department of Aging and Disability Services is authorized by other law to employ during the state fiscal year ending August 31, 2011, the department may employ an additional 43.0 FTEs during that state fiscal year.

(c) Contingent on the State of Texas and the United States Department of Justice reaching a settlement agreement, the Department of Family and Protective Services is appropriated the amount of \$1,544,907 out of the general revenue fund for the fiscal year ending August 31, 2010, and \$1,606,426 out of the general revenue fund for the period beginning on September 1, 2010, and ending on the last effective day of this Act for incident management and to ensure the protection from harm, abuse, or neglect for residents of state schools.

SECTION 69. TEXAS STATE TECHNICAL COLLEGE SYSTEM ADMINISTRATION: RENOVATIONS AND CAPITAL EXPENDITURES. Contingent on the enactment of **HB 2654** or similar legislation relating to imposition of the motor vehicle sales tax on motor vehicles transferred as the result of a gift by the 81st Legislature, Regular Session, 2009, and also contingent on the comptroller certifying that the estimated amount of additional general revenue produced by the enactment of **HB 2654** or similar legislation relating to imposition of the motor vehicle sales tax on motor vehicles transferred as the result of a gift exceeds \$10,000,000, the Texas State Technical College System Administration is appropriated the amount of \$10,000,000 out of the general

revenue fund for the fiscal year ending August 31, 2010, for capital expenditures and renovations for collaborative research projects. The legislature finds a demonstrated need for these capital expenditures and renovations.

SECTION 70. TEXAS SOUTHERN UNIVERSITY: MICKEY LELAND AND BARBARA JORDAN PAPERS. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$150,000 is appropriated out of the general revenue fund to Texas Southern University for the two-year period beginning on the effective date of this Act to ensure the proper preservation and display of the Mickey Leland and Barbara Jordan papers maintained by the university.

SECTION 71. TEXAS PARKS AND WILDLIFE DEPARTMENT: TEXAS STATE RAILROAD. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$1,000,000 is appropriated to the Texas Parks and Wildlife Department out of the general revenue fund for the two-year period beginning on the effective date of this Act for the purpose of supporting the operations of the Texas State Railroad. The comptroller shall release funds provided in this section contingent on review and approval by the Legislative Budget Board of a signed contract between the Texas State Railroad Authority and the railroad operator describing loan terms and regular reporting to the Legislative Budget Board on the revolving account.

SECTION 72. EFFECTIVE DATE. This Act takes effect immediately.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 4586** (senate committee printing) as follows:

(1) In the heading to SECTION 10 of the bill (page 2, line 62), strike "DEBT SERVICE" and substitute "ADMINISTRATIVE EXPENSES".

(2) In SECTION 10 of the bill (page 2, line 67), strike "debt service payments" and substitute "administrative operation expenses".

(3) In SECTION 16 of the bill (page 5, line 12), between the period and "In addition", insert "(a)".

(4) Immediately following SECTION 16 of the bill (page 5, between lines 20 and 21), insert the following:

(b) Out of the funds appropriated in Subsection (a) of this section, the Department of Criminal Justice and the Correctional Managed Health Care Committee shall identify and evaluate mechanisms to lower the cost of, or increase the quality of care in, health or pharmacy services and submit a report to the Legislative Budget Board and the Governor no later than May 1, 2010.

(5) In SECTION 17 of the bill (page 5, line 21), strike "In" and substitute "Contingent on an interlocal agreement among interested parties, including the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1, the Edwards Aquifer Authority, the Bexar Metropolitan Water District and the San Antonio River Authority, regarding repairs to the Lake Medina Dam, in".

(6) In SECTION 20 of the bill (page 5, line 53), strike "\$178,525" and substitute "\$348,525".

(7) In SECTION 36 of the bill (page 9, line 60), strike "26,087" and substitute "26,400".

(8) In SECTION 36 of the bill (page 9, line 62), strike "15,516" and substitute "15,629".

(9) In SECTION 36 of the bill (page 10, line 9), strike "4,590" and substitute "5,442".

(10) In SECTION 42 of the bill (page 11, lines 10 and 11), strike "providing a temporary exemption for the use of federal incentives to increase federal funds".

(11) In SECTION 45 of the bill (page 12, lines 7 and 8), strike "providing a temporary exemption for the use of federal incentives to increase federal funds".

(12) In SECTION 46 of the bill (page 12, lines 21 and 22), strike "providing a temporary exemption for the use of federal incentives to increase federal funds".

(13) In SECTION 48 of the bill (page 12, line 52), strike "\$30,100,979" and substitute "\$24,041,141".

(14) In SECTION 48 of the bill (page 12, line 54), strike "\$28,959,773" and substitute "\$25,534,391".

(15) In SECTION 49 of the bill (page 12, line 59), strike "\$62,351,306" and substitute "\$74,351,306".

(16) In SECTION 50 of the bill (page 12, line 69), strike "\$5,917,242" and substitute "\$7,211,846".

(17) In SECTION 50 of the bill (page 13, line 6), strike "\$13,126,361" and substitute "\$14,248,456".

(18) In SECTION 50 of the bill (page 13, line 9), strike "\$12,460,353" and substitute "\$18,620,948".

(19) In SECTION 50 of the bill (page 13, line 12), strike "\$5,280,315" and substitute "\$6,693,100".

(20) In SECTION 52 of the bill (page 13, line 46), strike "\$790,589,278" and substitute "\$759,113,979".

(21) In SECTION 55(6) of the bill (page 14, line 32), strike "\$5,700,000" and substitute "\$6,200,000".

(22) Strike Subsection (a) of SECTION 58 of the bill (page 15, lines 48-58) and substitute the following:

(a) The amount of \$62 million is appropriated out of the general revenue fund to the Trusteed Programs within the Office of the Governor for the two-year period beginning on the effective date of this Act for the purpose of providing disaster relief in accordance with this section. The prior approval of the Legislative Budget Board given or considered to be given as provided by this subsection is required to expend funds for the purpose of providing reimbursements for post disaster recovery expenditures. The Governor's Division of Emergency Management shall provide information regarding proposed expenditures of funds for this purpose to the Legislative Budget Board in a format provided by the board. If the Legislative Budget Board does not disapprove a proposed reimbursement for post disaster recovery expenditures within 10 days of receiving the required information, the proposed expenditure is considered automatically approved.

(23) Immediately following Subsection (c) of SECTION 58 of the bill (page 15, between lines 67 and 68), insert the following:

(d) Out of amounts appropriated by Subsection (a) of this section, it is the intent of the legislature that the governor coordinate with the Texas Education Agency to reimburse eligible school districts in an aggregate amount not to exceed \$10 million for qualifying disaster remediation costs.

(e) Out of amounts appropriated by Subsection (a) of this section, it is the intent of the legislature that the Governor's Division of Emergency Management shall reimburse the Texas Engineering Extension Service for costs incurred in connection with the response of the Texas Task Force 1 to certain flooding.

(f) Out of amounts appropriated by Subsection (a) of this section, it is the intent of the legislature that the Governor's Division of Emergency Management may reimburse the General Land Office for repairs made to the protective dune system for County Road 257.

(24) Strike SECTION 62 (page 16, lines 28 through 37), and substitute the following:

SECTION 62. REIMBURSEMENT TO GENERAL REVENUE FUND.

(a) If any state agency or institution of higher education receives reimbursement from the federal government, an insurer, or another source for an expenditure paid for or reimbursed under Sections 9, 15, 52, 55, 56, or 57 of this Act, the agency or institution shall reimburse the state in an amount equal to the general revenue funds expended for damages that is proportional to the total expenditures for damages described under Sections 9, 15, 52, 55, 56, or 57 of this Act, and that amount shall be deposited to the credit of the general revenue fund.

(b) If any state agency or institution of higher education receives reimbursement from the federal government, an insurer, or another source for an expenditure paid for or reimbursed under Section 58 or 60 of this Act, the agency or institution shall reimburse the state by depositing the amount of the reimbursement to the credit of the Trusteed Programs within the Office of the Governor. Amounts deposited under this subsection are reappropriated to the Trusteed Programs within the Office of the Governor for disaster preparedness and recovery costs for the two-year period beginning on the effective date of this Act.

(25) In SECTION 67 of the bill (page 17, line 28), between the "." and "In" insert "(a)".

(26) In SECTION 67 of the bill, on page 17, between lines 33 and 34, insert the following:

(b) Out of the funds appropriated in this section, the Department of Assistive and Rehabilitative Services shall make every effort to attain the following performance measure targets:

(1) provide autism services to an average of 127 children per month for the fiscal year ending August 31, 2010, and provide autism services to an average of 127 children per month for the fiscal year ending August 31, 2011;

(2) provide autism services at an average monthly cost per child of \$2,185 for the fiscal year ending August 31, 2010, and provide autism services at an average monthly cost per child of \$2,185 for the fiscal year ending August 31, 2011;

(3) provide autism services to 224 children by the end of the fiscal year ending August 31, 2010, and provide autism services to 224 children by the end of the fiscal year ending August 31, 2011.

(27) In Subsection (a), SECTION 68 of the bill (page 17, line 38), strike "\$22,648,532" and substitute "\$45,069,658".

(28) In Subsection (a), SECTION 68 of the bill (page 17, lines 38 and 39), strike "fiscal year ending August 31, 2010" and substitute "two-year period beginning on the effective date of this Act".

(29) In SECTION 68 of the bill, strike Subsection (b) (page 17, lines 42 through 52), and substitute the following:

(b) Also contingent upon the State of Texas and the United States Department of Justice reaching a settlement agreement, in addition to the number of full-time equivalent employees (FTEs) the Department of Aging and Disability Services is authorized by other law to employ during the state fiscal year ending August 31, 2010, the department may employ an additional 1,160.0 FTEs during that state fiscal year. In addition to the number of full-time equivalent employees (FTEs) the Department of Aging and Disability Services is authorized by other law to employ during the state fiscal year ending August 31, 2011, the department may employ an additional 1,160.0 FTEs during that state fiscal year.

(30) At the end of SECTION 68 of the bill (page 17, between lines 61 and line 62), insert the following:

(d) Also contingent upon the State of Texas and the United States Department of Justice reaching a settlement agreement, in addition to the number of full-time equivalent employees (FTEs) the Department of Family and Protective Services is authorized by other law to employ during the state fiscal year ending August 31, 2010, the department may employ an additional 37.0 FTEs during that state fiscal year. In addition to the number of full-time equivalent employees (FTEs) the Department of Family and Protective Services is authorized by other law to employ during the state fiscal year ending August 31, 2011, the department may employ an additional 43.0 FTEs during that state fiscal year.

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

SECTION _____. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$2,000,000 is appropriated out of the general revenue dedicated account number 550 to the Texas Commission on Environmental Quality for the two-year period beginning on the effective date of this Act for conducting hazardous substance removal and disposal activities at Ballard Pits, a state superfund site in Nueces County.

SECTION _____. DEPARTMENT OF AGING AND DISABILITY SERVICES:

CONTINGENCY FOR **SB 643**. (a) Contingent on the enactment by the 81st Legislature, Regular Session, 2009, and becoming law of **SB 643** or similar legislation relating to the protection and care of persons with mental retardation, the Department of Aging and Disability Services is appropriated, in addition to

amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$19,000,000 from the general revenue fund and \$19,000,000 from federal funds for the two-year period beginning on the effective date of this Act to fully implement the provisions of the legislation; to install video surveillance equipment in areas defined as nonprivate space for residents of state developmental centers and the ICF/MR component of the Rio Grande State Center; and to monitor video across shifts to detect and prevent abuse and exploitation of residents and clients.

(b) In addition to the number of full-time equivalent employees (FTEs) the Department of Aging and Disability Services is authorized by other law to employ during the state fiscal biennium ending August 31, 2011, the department may employ an additional 186.0 FTEs during that state fiscal biennium.

(c) Also contingent on enactment by the 81st Legislature, Regular Session, 2009 and becoming law of **SB 643** or similar legislation relating to the protection and care of persons with mental retardation, the Department of Aging and Disability Services shall use amounts appropriated by **SB 1**, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to implement name changes, mortality reviews, on-site annual surveys of group homes, the Forensic State Supported Living Center, an independent ombudsman, a new assistance commissioner, behavioral support specialists for alleged offenders, and employee background checks, finger printing, and drug testing.

SECTION _____. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY: TEXAS EMISSIONS REDUCTION PLAN ACCOUNT. The Texas Commission on Environmental Quality is appropriated the amount of \$37,000,000 out of the Texas Emissions Reduction Plan Account No. 5071 for the two year period beginning on the effective date of this Act for the implementation of activities under Subsection (a) of 386.252 of the Health and Safety Code.

SECTION _____. DEPARTMENT OF PUBLIC SAFETY: EMERGENCY PREPAREDNESS. The Department of Public Safety is appropriated the amount of \$4,500,000 from the general revenue fund under Goal D, Emergency Management, for the two year period beginning on the effective date of this Act to be transferred to the Division of Emergency Management for staffing and emergency systems to apply lessons learned in multiple major disasters in 2007 and 2008 to enhance the capability of the state to plan and coordinate emergency preparedness, emergency response, and disaster recovery operations with local governments and state and federal agencies and to fully incorporate the support of industry and volunteer groups into emergency operations. Of the funds appropriated in this section, the amount of \$1,550,000 shall be used to enhance the capabilities of the State Operations Center and the remainder shall be used to fund 29 full-time equivalent positions to improve preparedness and response capabilities, the delivery of disaster assistance, and staffing for disaster-related financial management.

SECTION _____. TEXAS WORKFORCE COMMISSION: FEDERALLY FUNDED BENEFITS. To minimize the impact on state funds appropriated in this Act or in **SB 1**, Acts of the 81st Legislature, Regular Session, 2009, (the

General Appropriations Act) for the fiscal biennium ending August 31, 2011, for unemployment benefits, the Texas Workforce Commission may adjust unemployment eligibility periods as necessary to maximize receipt of any 100 percent federally funded benefit. This provision does not appropriate state funds, nor may additional state funds be appropriated as a result of this authorization. Additional federal funds received by the State of Texas resulting from the authorized adjustment are appropriated as necessary to comply with Section 2005 of Public Law No. 111-5.

SECTION _____. EMPLOYEES RETIREMENT SYSTEM: PILOT PROGRAM TO TEST ALTERNATIVE PAYMENT SYSTEMS. Out of funds appropriated to the Employees Retirement System in **SB 1**, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), for the fiscal biennium ending August 31, 2011, the Employees Retirement System is authorized to establish a pilot program under which physicians and health care providers who provide health care services to employees and retirees participating in the group benefits program are compensated under a payment system designed to test alternatives to traditional fee-for-service payments. To the extent practicable, the program must be based on nationally recognized quality of care standards and evidence-based best practices, and must include policies designed to promote provider collaboration and other policies and practices as necessary to ensure high-quality and effective health care services.

SECTION _____. TEXAS PARKS AND WILDLIFE DEPARTMENT: LOCAL PARK RESTORATION. Contingent on enactment by the 81st Legislature, Regular Session, 2009, and becoming law of **HB 3391**, **SB 1010**, or similar legislation relating to the continuation and functions of the Parks and Wildlife Department, out of funds appropriated to the Texas Parks and Wildlife Department in Strategy B.2.1, Local Parks Grants in **SB 1**, Acts of the 81st Legislature, Regular Session, 2009, (the General Appropriations Act) for the fiscal biennium ending August 31, 2011, it is the intent of the legislature that an amount not to exceed \$1,500,000 be provided as matching grants to the City of Waco as follows:

(1) \$373,000 shall be allocated for a one-to-one matching grant for the purpose of replacing the existing Oscar Du Conge Pool with safe and appropriate public recreational water activities in East Waco, such as a splash pad/spray park; and

(2) \$1,127,000 shall be allocated for a two-to-one matching grant for the purpose of restoring, upgrading, or replacing the existing public skate park to provide a safe, family recreational skating facility.

SECTION _____. APPROPRIATIONS FOR ADVANCED CLEAN ENERGY PROJECT. Amounts appropriated by **SB 1**, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), to the Trusteed Programs within the Office of the Governor for transfer to the Texas Emerging Technology Fund may be used for the two-year period beginning on the effective date of this Act for expenditures related to clean energy programs or projects, as authorized by general law.

SECTION _____. UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT HOUSTON: TRAUMA CARE. The University of Texas Health Science Center at Houston is appropriated \$6,000,000 from the general revenue dedicated account 5111 for the two year period beginning on the effective date of this Act to provide reimbursements for uncompensated care.

SECTION _____. UNIVERSITY OF TEXAS M.D. ANDERSON CANCER CENTER: UNCOMPENSATED CARE FOR HURRICANE IKE PATIENTS. The University of Texas M.D. Anderson Cancer Center is appropriated \$2,000,000 from the general revenue fund for the two year period beginning on the effective date of this Act to provide reimbursements for uncompensated care for Hurricane Ike patients.

SECTION _____. UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER AT FORT WORTH: TRAUMA CARE. The University of North Texas Health Science Center at Fort Worth is appropriated \$2,000,000 from the general revenue fund for the two year period beginning on the effective date of this Act to provide reimbursements for uncompensated care.

SECTION _____. TEXAS PARKS AND WILDLIFE DEPARTMENT: VARIOUS FUNCTIONS. The Texas Parks and Wildlife Department is appropriated from the general revenue fund for the two year period beginning on the effective date of this Act the following amounts:

(1) \$2,000,000 to repair hurricane-related damages to the Sea Rim State Park ;and

(2) \$1,000,000 for information technology services.

SECTION _____. NAVARRO COLLEGE: REIMBURSEMENTS. Navarro College is appropriated \$1,500,000 from the general revenue fund for the two year period beginning on the effective date of this Act to reimburse the Higher Education Coordinating Board for new campus funding.

SECTION _____. TEXAS DEPARTMENT OF LICENSING AND REGULATION: OPERATIONS. The Texas Department of Licensing and Regulation is appropriated \$956,000 from the general revenue fund for the two year period beginning on the effective date of this Act for operations.

SECTION _____. CANCER PREVENTION AND RESEARCH INSTITUTE: CERTAIN SALARIES. (a) Notwithstanding any limitation on salary rates prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), the Executive Director of the Cancer Prevention and Research Institute shall be compensated at a rate not to exceed \$214,000 per fiscal year for the fiscal year ending August 31, 2009, and the Chief Scientific Officer of the institute may be compensated at a rate not to exceed \$212,000 per year for the fiscal year ending August 31, 2009.

(b) In addition to the rates provided in Subsection (a) of this section, the Executive Director may receive a salary supplement not to exceed \$86,000 for a total combined salary of \$300,000 out of state and foundation funds for the fiscal year ending August 31, 2009. In addition to the rates provided in Subsection (a) of this section, the Chief Scientific Officer may receive a salary supplement not to exceed \$488,000 for a total combined salary of \$700,000 out of state and foundation funds for the fiscal year ending August 31, 2009. The respective

salaries paid out of appropriated state funds and foundation funds for each fiscal year of the biennium to the Executive Director and the Chief Scientific Officer of the Institute may not exceed the highest salary paid to a chancellor of a public university system.

SECTION _____. GENERAL LAND OFFICE: DISASTER MITIGATION BUYOUTS. The General Land Office is appropriated \$10,000,000 from the general revenue fund for the two year period beginning on the effective date of this Act for structure buyouts as authorized by Chapter 33, Natural Resources Code.

SECTION _____. DEPARTMENT OF STATE HEALTH SERVICES: NORTHSTAR BEHAVIORAL HEALTH WAIVER. (a) Notwithstanding any limitations prescribed by Chapter 1428 (**HB 1**), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act), for the fiscal year ending August 31, 2009, to the extent that the NorthSTAR managed care organization is able to obtain cost savings associated with state-approved purchasing arrangements for the purchase of new generation medications under Department of State Health Services Strategy B.2.4, NorthSTAR Behavioral Health Waiver, NorthSTAR managed care organization may expend an equivalent amount from Strategy B.2.4, NorthSTAR Behavioral Health Waiver on direct services to clients.

(b) In addition to amounts previously appropriated for the state fiscal biennium ending August 31, 2009, the amount of \$5,000,000 is appropriated out of the general revenue fund to the Department of State Health Services under Strategy B.2.4, NorthSTAR Behavioral Health Waiver to provide direct client services.

SECTION _____. APPROPRIATION FOR A SINGLE RETENTION PAYMENT FOR WORK PERFORMED BY STATE EMPLOYEES. (a) As used in this section, retention payment means a single employee compensation payment in the amount of eight hundred dollars (\$800) authorized to be paid to employees in August, 2009, by each agency of the State of Texas through the payroll system, to each employee who was continuously employed by the agency from March 31, 2009 through August 1, 2009 for work performed by the state employees, but subject to the exclusions and limitations under this section.

(b) The Comptroller of Public Accounts is appropriated an amount estimated to be \$42,183,779 out of the General Revenue Fund, an amount estimated to be \$3,915,109 out of General Revenue-Dedicated, an amount estimated to be \$21,904,727 out of federal funds, and an amount estimated to be \$20,260,422 out of other funds and accounts, to fund a retention payment for work performed by the state employees as described in Subsection (a) of this section for employees of state agencies including employees of the Higher Education Coordinating Board and employees of a Texas A&M University System service agency.

(c) This section shall not apply to employees of institutions of higher education (except for employees of a service agency of The Texas A&M University System), statewide elected officials, justices and judges of the appellate and district courts, district attorneys, criminal district attorneys, county

attorneys performing the duties of a district attorney, or line item exempt (non-classified) employees. Additionally, this section shall not apply to the following employees:

(1) At the Texas Department of Criminal Justice:

(A) Correctional Officer series; and Ranking Staff (including Sergeants, Lieutenants, Captains, Majors, Assistant Wardens, and Wardens) otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(B) Laundry Managers otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(C) Food Service Managers otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(D) Parole Officer series otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium; and

(E) Other unit staff otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(2) At the Texas Youth Commission:

(A) Juvenile Correctional Officers series otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium; and

(B) Other unit staff otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(3) Law Enforcement Employees classified under Schedule C under Part 2, Article IX of the General Appropriations Act for the 2010-11 Biennium otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium;

(4) At the Parks and Wildlife Department, in the event the Comptroller certifies the additional revenue of \$11,328,892 from the Game, Fish and Water Safety Account No. 9, the employees provided pay raises from these amounts during the 2010-11 Biennium may not participate in the \$800 retention payment for classified employees provided by this Act.

(5) In the Judicial branch of state government:

(A) At the Supreme Court and the Court of Criminal Appeals:

(1) the staff attorneys;

(2) law clerks; and

(3) court administrative staff;

(B) At the 14 Appellate Courts:

(1) staff attorneys;

(2) law clerks; and

(3) employees whom a Court of Appeals designates as receiving salary increases from the block grant appropriated for the 14 Courts of Appeals in the 2010-11 Biennium;

(C) At the State Law Library, all positions; and

(D) At the State Commission on Judicial Conduct, the General Counsel and attorney staff;

(6) At all agencies, financial examiners otherwise provided a pay increase under the General Appropriations Act for the 2010-11 Biennium; and

(7) At all agencies, employees who earned amounts greater than \$100,000.00 per year calculated as may be prescribed by rules adopted by the Comptroller in order to achieve the legislative objective of excluding employees who earn salaries greater than either \$8,334.00 per month or \$100,000.00 per year from receiving the retention payment.

(d) For employees paid the retention payment authorized under this section, any increase in employee benefits costs associated with the retention payment as described above shall be paid exclusively from appropriations made above in Subsection (b) of this section except for county extension agents who may receive a retention payment solely from appropriations made from the general revenue fund.

(e) Provisions requiring salaries and benefits to be proportional to the source of funds shall apply to all sums allocated under this section for the payment of a retention payment as if the retention payment was a part of the employee's regular compensation, except as may otherwise be provided. Each agency shall pay the retention payment from funds held in the state treasury and from local funds in the same proportion as the employee's regular compensation.

(f) The Comptroller shall adopt rules as necessary to administer this section. Funds appropriated in this section shall be allocated to each agency, and to the appropriate employee benefit appropriation items, in accordance with such rules and may be used only for the purpose of providing a retention payment and paying associated employee benefit costs.

(g) This section does not authorize an increase of classified salary rates above the rates listed in the classified salary schedules A, B, and C (as applicable) under Part 2, Article IX of the General Appropriations Act for the 2010-11 Biennium. This section authorizes each agency to pay a retention payment to each eligible employee of that agency from funds appropriated by this Act.

(h) Agencies subject to a special provisions rider "Appropriations Limited to Revenue Collections" of the General Appropriations Act for the 2010-11 Biennium shall increase revenues as necessary to cover the increased retention payment amounts appropriated above. Revenues to general revenue and general revenue dedicated funds due to the retention payment increase described above are estimated to be at least \$3,400,000.

SECTION _____. DEPARTMENT OF PUBLIC SAFETY: APPROPRIATIONS FOR CERTAIN SALARIES. (a) Notwithstanding the Position Classification Plan, under Section 2.01, Article IX, **SB 1**, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), the Department of Public Safety is appropriated for the two year period beginning on the effective date of this Act the following amounts for the following purposes:

(1) \$3,369,476 out of general revenue dedicated fund 99 to fund the reclassification of positions for the police communications operators and supervisors at the Bureau of Law Enforcement Communications and Technology within the Department of Public Safety; and

(2) \$350,000 out of the general revenue dedicated fund 99 to fund the reclassification of positions for the forensic scientists in the Forensic Breath Laboratory Services within the Department of Public Safety.

(b) The State Classification Officer shall review and properly classify the positions affected by Subsection (a) of this section pursuant to authority provided under Chapter 654, Government Code.

SECTION _____. DEPARTMENT OF PUBLIC SAFETY: CERTAIN BORDER SECURITY FUNDS. (a) Notwithstanding amounts appropriated under **SB 1**, Acts of the 81st Legislature, Regular Session, 2009, (the General Appropriations Act), in the appropriation to the Department of Public Safety for the fiscal year ending August 31, 2010, the amount of general revenue dedicated account 99 appropriated to the Department of Public Safety under Strategy D.1.1., Emergency Preparedness, is reduced by \$5,500,000.

(b) Subsection (a), Rider 54, of the bill pattern of the Department of Public Safety, under Article V in **SB 1**, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), has no effect.

SECTION _____. TEXAS A&M INTERNATIONAL UNIVERSITY. OUTREACH AND ENROLLMENT. Texas A&M International University is appropriated \$1,000,000 out of the general revenue fund for the fiscal year ending August 31, 2010, and \$1,000,000 out of the general revenue fund for the period beginning on September 1, 2010, and ending on the second anniversary of the effective date of this Act for outreach, access, enrollment, advising, tutoring, and retention support.

SECTION _____. CONTINGENT APPROPRIATION FOR **SB 2534**. Contingent on the enactment of **SB 2534** or similar legislation relating to the creation of an interagency task force on economic growth and endangered species by the 81st Legislature, Regular Session, 2009, \$250,000 is appropriated out of the general revenue fund for the fiscal year ending August 31, 2010, to the Texas A&M University System for the purpose of operating the Task Force on Economic Growth and Endangered Species.

SECTION _____. TEXAS PUBLIC FINANCE AUTHORITY: DEBT SERVICE. The Texas Public Finance Authority is appropriated \$3,200,000 from the general revenue fund for the two year period beginning on the effective date of this Act to pay debt service on general obligation bonds.

SECTION _____. CONTINGENCY APPROPRIATION FOR **HB 1511**. (a) Contingent on enactment by the 81st Legislature, Regular Session, 2009 and becoming law of **HB 1511**, **HB 2860**, or **SB 1411**, or similar legislation relating to financial assistance programs in connection with certain children in the conservatorship of the Department of Family and Protective Services, the Department of Family and Protective Services is appropriated \$2,250,638 out of the general revenue fund for the fiscal year ending August 31, 2010, and \$1,980,067 out of the general revenue fund for the period beginning on September 1, 2010, and ending on the second anniversary of the effective date of this Act, to implement the legislation.

(b) Also contingent on enactment by the 81st Legislature, Regular Session, 2009 and becoming law of **HB 1511**, **HB 2860**, or **SB 1411**, or similar legislation relating to financial assistance programs in connection with certain children in the conservatorship of the Department of Family and Protective Services, the Department of Family and Protective Services, in addition to the number of full-time equivalent employees (FTEs) the Department of Family and Protective Services is authorized by other law to employ during the state fiscal biennium ending August 31, 2011, is authorized to employ an additional 17.0 FTEs during that state fiscal biennium.

SECTION _____. CONTINGENCY APPROPRIATION FOR **SB 2323**. Contingent on enactment by the 81st Legislature, Regular Session, 2009 and becoming law of **SB 2323** or similar legislation relating to the functions of the Texas School Safety Center, Texas State University-San Marcos is appropriated out of the general revenue fund for Strategy C.1.3, School Safety Center, the amounts of \$308,612 in the fiscal year ending August 31, 2010, and \$308,612 for the period beginning on September 1, 2010 and ending on the second anniversary of the effective date of this Act and is authorized to employ an additional four FTEs in each year of the biennium to implement provisions of the legislation.

SECTION _____. CONTINGENCY APPROPRIATION FOR **HB 1684**. Contingent upon the enactment by the 81st Legislature, Regular Session, 2009, and becoming law of **HB 1684** or similar legislation relating to the creation and administration of the rural veterinarian loan repayment program, the Office of Rural Community Affairs is appropriated \$500,000 out of the general revenue fund for the two year period beginning on the effective date of this Act to implement provisions of the legislation.

SECTION _____. CONTINGENCY APPROPRIATION FOR **SB 174**. Contingent upon the enactment by the 81st Legislature, Regular Session, 2009, and becoming law of **SB 174** or similar legislation relating to educator preparation programs, the Texas Education Agency is appropriated \$275,000 in State Board for Educator Certification fees for the two year period beginning on the effective date of this Act to implement provisions of the legislation. The Texas Education Agency may employ an additional two Full-Time Equivalents in each fiscal year during the fiscal biennium ending August 31, 2011.

SECTION _____. UNIVERSITY OF TEXAS AT TYLER: PALESTINE CAMPUS. The University of Texas at Tyler is appropriated \$1,300,000 out of the general revenue fund for the two year period beginning on the effective date of this Act for faculty salaries and facility operations at the Palestine campus.

SECTION _____. OFFICE OF THE GOVERNOR: RIDER 4. Rider 4 of the bill pattern of the Office of the Governor in **SB 1**, Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act), has no effect.

SECTION _____. CONTINGENCY APPROPRIATION FOR **SB 1362**. Contingent upon the enactment by the 81st Legislature, Regular Session, 2009 and becoming law of **SB 1362** or similar legislation relating to a Texas Youth Commission comprehensive plan to improve student reading skills and behavior, the Texas Education Agency is appropriated \$375,000 out of the general revenue fund for each fiscal year of the biennium beginning September 1, 2009. On a

determination by the commissioner of education that the Texas Youth Commission has developed a comprehensive plan based on research that will improve the reading skills and behavior of students served by the commission, the commissioner of education shall transfer the funds to the Texas Youth Commission for use in implementing the comprehensive plan.

SECTION _____. CONTINGENCY APPROPRIATION FOR **SB 1313**. Contingent on enactment by the 81st Legislature, Regular Session, 2009, and becoming law of **SB 1313** or similar legislation relating to the quality and accessibility of public school career and technical training programs and to assistance to students concerning postsecondary education and training, the Texas Education Agency is appropriated \$1,350,000 for the state fiscal year ending August 31, 2011, out of the general revenue fund for industry certification examinations to non-economically disadvantaged students, \$540,000 in fiscal year 2011 out of the general revenue fund for the State Board Education to conduct a course review, and \$100,000 in fiscal year 2011 out of the general revenue fund to expand the Best Practices Clearinghouse to include career and technology education. The Texas Workforce Commission is appropriated \$100,000 for the state fiscal year ending August 31, 2011, out of the general revenue fund to develop a list of high-demand, high-wage, high-skill occupations that require licensure, certification, an associate degree, or a bachelor's degree. The Higher Education Coordinating Board is appropriated out of the general revenue fund the amount of \$2,290,000 for the state fiscal year ending August 31, 2011, for training and materials dealing with the "College for Texans" program and the amount of \$100,000 for the state fiscal year ending August 31, 2011, to conduct an economic impact study to determine the economic impact to the state of secondary and post-secondary training and education. The "Number of Full-Time Equivalents" in the Higher Education Coordinating Board bill pattern is increased by two FTEs in the state fiscal year ending August 31, 2011.

(Thompson in the chair)

HB 4765 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Oliveira called up with senate amendments for consideration at this time,

HB 4765, A bill to be entitled An Act relating to the total revenue exemption for the franchise tax.

Representative Oliveira moved to concur in the senate amendments to **HB 4765**.

The motion to concur in the senate amendments to **HB 4765** prevailed by (Record 1460): 144 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee;

Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson(C); Truitt; Turner, C.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Turner, S.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Senate Committee Substitute

CSHB 4765, A bill to be entitled An Act relating to the computation of the franchise tax.

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

SECTION 1. (a) Section 171.002(d), Tax Code, is amended to read as follows:

(d) A taxable entity is not required to pay any tax and is not considered to owe any tax for a period if:

(1) the amount of tax computed for the taxable entity is less than \$1,000; or

(2) the amount of the taxable entity's total revenue from its entire business is less than or equal to \$1 million [~~\$300,000~~] or the amount determined under Section 171.006 per 12-month period on which margin is based.

(b) This section takes effect only if **HB 2154**, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. If **HB 2154**, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section has no effect.

(c) If this section takes effect, this section expires December 31, 2011.

(d) This section applies only to a report originally due on or after the effective date of this section.

SECTION 2. (a) Section 171.002(d), Tax Code, is amended to read as follows:

(d) A taxable entity is not required to pay any tax and is not considered to owe any tax for a period if:

(1) the amount of tax computed for the taxable entity is less than \$1,000; or

(2) the amount of the taxable entity's total revenue from its entire business is less than or equal to \$600,000 [~~\$300,000~~] or the amount determined under Section 171.006 per 12-month period on which margin is based.

(b) This section takes effect January 1, 2012, if **HB 2154**, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. If **HB 2154**, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section takes effect January 1, 2010.

(c) This section applies only to a report originally due on or after the effective date of this section.

SECTION 3. (a) Section 171.0021(a), Tax Code, is amended to read as follows:

(a) A taxable entity is entitled to a discount of the tax imposed under this chapter that the taxable entity is required to pay after determining its taxable margin under Section 171.101, applying the appropriate rate of the tax under Section 171.002(a) or (b), and subtracting any other allowable credits, as follows:

(1) [~~for a taxable entity for which the total revenue from its entire business is greater than \$300,000 but less than \$400,000, the taxable entity is entitled to a discount of 80 percent;~~

[~~(2) for a taxable entity for which the total revenue from its entire business is equal to or greater than \$400,000 but less than \$500,000, the taxable entity is entitled to a discount of 60 percent;~~

[~~(3)~~] for a taxable entity for which the total revenue from its entire business is [~~equal to or~~] greater than \$600,000 [~~\$500,000~~] but less than \$700,000, the taxable entity is entitled to a discount of 40 percent; and

(2) [~~(4)~~] for a taxable entity for which the total revenue from its entire business is equal to or greater than \$700,000 but less than \$900,000, the taxable entity is entitled to a discount of 20 percent.

(b) This section takes effect January 1, 2012, if **HB 2154**, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. If **HB 2154**, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section takes effect January 1, 2010.

(c) This section applies only to a report originally due on or after the effective date of this section.

SECTION 4. Except as otherwise provided by this Act, this Act takes effect January 1, 2010.

**HB 10 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Solomons called up with senate amendments for consideration at this time,

HB 10, A bill to be entitled An Act relating to the regulation of residential mortgage loan originators; providing a penalty.

Representative Solomons moved to concur in the senate amendments to **HB 10**.

The motion to concur in the senate amendments to **HB 10** prevailed by (Record 1461): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson(C); Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Pitts; Villarreal.

Senate Committee Substitute

CSHB 10, A bill to be entitled An Act relating to the regulation of residential mortgage loan originators; providing a penalty.

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

SECTION 1. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 180 to read as follows:

CHAPTER 180. RESIDENTIAL MORTGAGE LOAN ORIGINATORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 180.001. SHORT TITLE. This chapter may be cited as the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

Sec. 180.002. DEFINITIONS. In this chapter:

(1) "Clerical or support duties," following the receipt of an application from a consumer, includes:

(A) the receipt, collection, distribution, and analysis of information related to the processing or underwriting of a residential mortgage loan; and

(B) communication with a consumer to obtain information necessary to process or underwrite a loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling the consumer about residential mortgage loan rates or terms.

(2) "Credit union" means a state or federal credit union operating in this state.

(3) "Credit union subsidiary organization" means an agency, association, or company wholly or partly owned by a credit union that is designed primarily to serve or otherwise assist credit union operations. The term includes a credit union service organization authorized by:

(A) Section 124.351(a)(1);

(B) Credit Union Commission rule; or

(C) Part 712 of the National Credit Union Administration's Rules and Regulations.

(4) "Depository institution" has the meaning assigned by Section 3, Federal Deposit Insurance Act (12 U.S.C. Section 1813). The term includes a credit union but does not include a credit union subsidiary organization.

(5) "Dwelling" has the meaning assigned by Section 103(v) of the Truth in Lending Act (15 U.S.C. Section 1602(v)).

(6) "Federal banking agency" means:

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Office of Thrift Supervision;

(D) the National Credit Union Administration;

(E) the Federal Deposit Insurance Corporation; or

(F) the successor of any of those agencies.

(7) "Finance commission" means the Finance Commission of Texas.

(8) "Immediate family member" means the spouse, child, sibling, parent, grandparent, or grandchild of an individual. The term includes a stepparent, stepchild, and stepsibling and a relationship established by adoption.

(9) "Individual" means a natural person.

(10) "License" means a license issued under the laws of this state to an individual acting as or engaged in the business of a residential mortgage loan originator.

(11) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of an individual licensed as a residential mortgage loan originator or exempt from licensure under Section 180.003.

(12) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of state residential mortgage loan originators.

(13) "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage.

(14) "Person" means an individual, corporation, company, limited liability company, partnership, or association.

(15) "Real estate brokerage activity" means an activity that involves offering or providing real estate brokerage services to the public, including:

(A) acting as a real estate broker or salesperson for a buyer, seller, lessor, or lessee of real property;

(B) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(C) negotiating, on a party's behalf, any provision of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than a negotiation conducted in connection with providing financing with respect to such a transaction;

(D) engaging in an activity for which a person is required to be registered or licensed by the state as a real estate broker or salesperson; and

(E) offering to engage in an activity described by Paragraphs (A) through (D) or to act in the same capacity as a person described by Paragraphs (A) through (D).

(16) "Registered mortgage loan originator" means an individual who:

(A) is a residential mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is:

(a) owned and controlled by a depository institution; and

(b) regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration;

and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(17) "Regulatory official" means:

(A) with respect to Subtitles A, F, and G of this title, the banking commissioner of Texas;

(B) with respect to Chapters 156 and 157 except as provided by Paragraph (D), the savings and mortgage lending commissioner;

(C) with respect to Chapters 342, 347, 348, and 351, the consumer credit commissioner; and

(D) with respect to credit unions, to the examination, investigation, or inspection of employees of credit union subsidiary organizations licensed under Chapter 156, and to the enforcement of compliance with this chapter and Chapter 156 by those employees, the credit union commissioner.

(18) "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate.

(19) "Residential mortgage loan originator":

(A) means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates the terms of a residential mortgage loan; and

(B) does not include:

(i) an individual who performs solely administrative or clerical tasks on behalf of an individual licensed as a residential mortgage loan originator or exempt from licensure under Section 180.003, except as otherwise provided by Section 180.051;

(ii) an individual who performs only real estate brokerage activities and is licensed or registered by the state as a real estate broker or salesperson, unless the individual is compensated by:

(a) a lender, mortgage broker, or other residential mortgage loan originator; or

(b) an agent of a lender, mortgage broker, or other residential mortgage loan originator;

(iii) an individual licensed under Chapter 1201, Occupations Code, unless the individual is directly compensated for arranging financing for activities regulated under that chapter by:

(a) a lender, mortgage broker, or other residential mortgage loan originator; or

(b) an agent of a lender, mortgage broker, or other residential mortgage loan originator;

(iv) an individual who receives the same benefits from a financed transaction as the individual would receive if the transaction were a cash transaction; or

(v) an individual who is involved solely in providing extensions of credit relating to timeshare plans, as defined by 11 U.S.C. Section 101(53D).

(20) "Residential real estate" means real property located in this state on which a dwelling is constructed or intended to be constructed.

(21) "Rulemaking authority" means:

(A) the finance commission, except as provided by Paragraph (B);
or

(B) with respect to credit unions and the rulemaking authority granted by Section 15.4024, the Credit Union Commission.

(22) "S.A.F.E. Mortgage Licensing Act" means the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(23) "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Sec. 180.003. EXEMPTION. The following persons are exempt from this chapter:

(1) a registered mortgage loan originator when acting for an entity described by Section 180.002(16)(A)(i), (ii), or (iii);

(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(3) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney:

(A) takes a residential mortgage loan application; and

(B) offers or negotiates the terms of a residential mortgage loan;

(4) an individual who:

(A) is an exclusive agent of a registered financial services company;

(B) is exempt from regulation under Chapter 156 as provided by Section 156.202(5); and

(C) is individually enrolled as a registered mortgage loan originator with the Nationwide Mortgage Licensing System and Registry;

(5) an individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as the individual's residence; and

(6) a nonprofit organization providing self-help housing that originates zero interest residential mortgage loans for borrowers who have provided part of the labor to construct the dwelling securing the loan.

Sec. 180.004. ADMINISTRATIVE AUTHORITY; RULEMAKING. (a) A regulatory official has broad authority to administer, interpret, and enforce this chapter.

(b) The finance commission may implement rules necessary to comply with this chapter and as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(c) This chapter does not limit the authority of a regulatory official to take disciplinary action against a license holder for a violation of this chapter or the rules adopted by the regulatory official under this chapter. A regulatory official has broad authority to investigate, revoke a license, and inform the proper authority when fraudulent conduct or a violation of this chapter occurs.

Sec. 180.005. SEVERABILITY. The provisions of this chapter or applications of those provisions are severable as provided by Section 311.032(c), Government Code.

[Sections 180.006-180.050 reserved for expansion]

SUBCHAPTER B. LICENSING AND REGISTRATION REQUIREMENTS

Sec. 180.051. STATE LICENSE REQUIRED; RENEWAL. (a) Unless exempted by Section 180.003, an individual may not engage in business as a residential mortgage loan originator with respect to a dwelling located in this state unless the individual:

(1) is licensed to engage in that business under Chapter 156, 157, 342, 347, 348, or 351; and

(2) complies with the requirements of this chapter.

(b) Unless exempted by Section 180.003, a loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains the appropriate residential mortgage loan originator license and complies with the requirements of this chapter.

(c) The individual must renew the license annually to be considered licensed for purposes of this section.

(d) Notwithstanding any provision of law listed in Subsection (a)(1), the regulatory official shall provide for annual renewal of licenses for individuals seeking to engage in residential mortgage loan origination activities.

Sec. 180.052. ENROLLMENT OR REGISTRATION WITH NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY. (a) A licensed residential mortgage loan originator must enroll with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(b) A non-federally insured credit union that employs loan originators, as defined by the S.A.F.E. Mortgage Licensing Act, shall register those employees with the Nationwide Mortgage Licensing System and Registry by furnishing the information relating to the employees' identity set forth in Section 1507(a)(2) of the S.A.F.E. Mortgage Licensing Act.

(c) Each independent contractor loan processor or underwriter licensed as a residential mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(d) The regulatory official who administers the law under which a residential mortgage loan originator is licensed shall require the residential mortgage loan originator to be enrolled with the Nationwide Mortgage Licensing System and Registry.

(e) For purposes of implementing Subsection (d), the regulatory official may participate in the Nationwide Mortgage Licensing System and Registry.

Sec. 180.053. APPLICATION FORM. (a) A regulatory official shall prescribe application forms for a license as a residential mortgage loan originator.

(b) A regulatory official may change or update an application form as necessary to carry out the purposes of this chapter.

Sec. 180.054. CRIMINAL AND OTHER BACKGROUND CHECKS. (a) In connection with an application for a license as a residential mortgage loan originator, the applicant shall, at a minimum, furnish in the form and manner prescribed by the regulatory official and acceptable to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive the information to conduct a state, national, and international criminal background check; and

(2) personal history and experience information in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the appropriate regulatory official to obtain:

(A) an independent credit report obtained from a consumer reporting agency described by Section 603(p), Fair Credit Reporting Act (15 U.S.C. Section 1681a(p)); and

(B) information related to any administrative, civil, or criminal findings by a governmental jurisdiction.

(b) For purposes of this section and to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of Subsection (a)(1), a regulatory official may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the United States Department of Justice, any governmental agency, or any source at the regulatory official's direction.

(c) For purposes of this section and to reduce the points of contact that a regulatory official may have to maintain for purposes of Subsection (a) or (b), the regulatory official may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to and from any source as directed by the regulatory official.

Sec. 180.055. ISSUANCE OF LICENSE. (a) The regulatory official may not issue a residential mortgage loan originator license to an individual unless the regulatory official determines, at a minimum, that the applicant:

(1) has not had a residential mortgage loan originator license revoked in any governmental jurisdiction;

(2) has not been convicted of, or pled guilty (2) or nolo contendere to, a felony in a domestic, foreign, or military court:

(A) during the seven-year period preceding the date of application;

or

(B) at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;

(3) demonstrates financial responsibility, character, and general fitness so as to command the confidence of the community and to warrant a determination that the individual will operate honestly, fairly, and efficiently as a residential mortgage loan originator within the purposes of this chapter and any other appropriate regulatory law of this state;

(4) provides satisfactory evidence that the applicant has completed prelicensing education courses described by Section 180.056;

(5) provides satisfactory evidence of having passed a written test that meets the requirements of Section 180.057; and

(6) has paid a recovery fund fee or obtained a surety bond as required under the appropriate state regulatory law.

(b) A revocation that has been formally vacated may not be considered a license revocation for purposes of Subsection (a)(1).

(c) A conviction for which a full pardon has been granted may not be considered a conviction for purposes of Subsection (a)(2).

(d) For purposes of Subsection (a)(3), an individual is considered not to be financially responsible if the individual has shown a lack of regard in managing the individual's own financial affairs or condition. A determination that an individual has not shown financial responsibility may include:

(1) an outstanding judgment against the individual, other than a judgment imposed solely as a result of medical expenses;

(2) an outstanding tax lien or other governmental liens and filings;

(3) a foreclosure during the three-year period preceding the date of the license application; and

(4) a pattern of seriously delinquent accounts during the three-year period preceding the date of the application.

Sec. 180.056. PRELICENSING EDUCATIONAL COURSES. (a) An applicant for a residential mortgage loan originator license must complete education courses that include, at a minimum, at least the minimum number of hours and type of courses required by the S.A.F.E. Mortgage Licensing Act and the minimum number of hours of training related to lending standards for the nontraditional mortgage product marketplace required by that Act.

(b) Education courses required under this section must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry in accordance with the S.A.F.E. Mortgage Licensing Act.

(c) Nothing in this section precludes any education course approved in accordance with the S.A.F.E. Mortgage Licensing Act from being provided by:

(1) an applicant's employer;

(2) an entity affiliated with the applicant by an agency contract; or

(3) a subsidiary or affiliate of the employer or entity.

(d) Education courses required under this section may be offered in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(e) An individual who has successfully completed prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry for another state shall be given credit toward completion of the prelicensing education requirements of this section.

(f) An applicant who has previously held a residential mortgage loan originator license that meets the requirements of this chapter and other appropriate regulatory law, before being issued a new original license, must demonstrate to the appropriate regulatory official that the applicant has completed all continuing education requirements for the calendar year in which the license was last held by the applicant.

(g) If the appropriate federal regulators and the Nationwide Mortgage Licensing System and Registry establish additional educational requirements for licensed residential mortgage loan originators, the rulemaking authority shall adopt necessary rules to implement the changes to the educational requirements of this section.

Sec. 180.057. TESTING REQUIREMENTS. (a) An applicant for a residential mortgage loan originator license must pass a qualified, written test that:

(1) meets the standards and requirements established by the S.A.F.E. Mortgage Licensing Act;

(2) is developed by the Nationwide Mortgage Licensing System and Registry; and

(3) is administered by a test provider in accordance with the S.A.F.E. Mortgage Licensing Act.

(b) An individual may retake the test the number of times and within the period prescribed by the S.A.F.E. Mortgage Licensing Act.

(c) An individual who fails to maintain a residential mortgage loan originator license for at least five consecutive years must retake the test.

(d) This section does not prohibit a test provider approved in accordance with the S.A.F.E. Mortgage Licensing Act from providing a test at the location of:

(1) the license applicant's employer;

(2) a subsidiary or affiliate of the applicant's employer; or

(3) an entity with which the applicant holds an exclusive arrangement to conduct the business of a residential mortgage loan originator.

Sec. 180.058. RECOVERY FUND FEE OR SURETY BOND REQUIREMENT. (a) A regulatory official may not issue a residential mortgage loan originator license unless the official determines that the applicant meets the surety bond requirement or has paid a recovery fund fee, as applicable, in accordance with the requirements of the S.A.F.E. Mortgage Licensing Act.

(b) Each regulatory official shall adopt rules requiring an individual licensed as a residential mortgage loan originator to obtain a surety bond or pay a recovery fund fee as the official determines appropriate to comply with the S.A.F.E. Mortgage Licensing Act.

Sec. 180.059. STANDARDS FOR LICENSE RENEWAL. A license to act as a residential mortgage loan originator may be renewed on or before its expiration date if the license holder:

(1) continues to meet the minimum requirements for license issuance;

(2) pays all required fees for the renewal of the license; and

(3) provides satisfactory evidence that the license holder has completed the continuing education requirements of Section 180.060.

Sec. 180.060. CONTINUING EDUCATION COURSES. (a) To renew a residential mortgage loan originator license, a license holder must annually complete the minimum number of hours and type of continuing education courses required by the S.A.F.E. Mortgage Licensing Act, the minimum requirements established by the Nationwide Mortgage Licensing System and Registry, and any additional requirements established by the regulatory official.

(b) Continuing education courses, including the course provider, must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry as required by the S.A.F.E. Mortgage Licensing Act. Course credit must be granted in accordance with that Act.

(c) Nothing in this section precludes any continuing education course approved in accordance with the S.A.F.E. Mortgage Licensing Act from being provided by:

- (1) the employer of the license holder;
- (2) an entity affiliated with the license holder by an agency contract; or
- (3) a subsidiary or affiliate of the employer or entity.

(d) A person who successfully completes continuing education requirements approved by the Nationwide Mortgage Licensing System and Registry for another state shall be given credit toward completion of the continuing education requirements of this section.

Sec. 180.061. RULEMAKING AUTHORITY. A rulemaking authority may adopt rules establishing requirements as necessary for:

- (1) conducting background checks by obtaining:

(A) criminal history information through fingerprint or other databases;

(B) civil administrative records;

(C) credit history information; or

(D) any other information considered necessary by the Nationwide Mortgage Licensing System and Registry;

(2) payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry;

(3) setting or resetting, as necessary, license renewal dates or reporting periods;

(4) amending or surrendering a license or any other activity a regulatory official considers necessary for participation in the Nationwide Mortgage Licensing System and Registry; and

(5) investigation and examination authority for purposes of investigating a violation or complaint arising under this chapter or for purposes of examining, reviewing, or investigating any license holder or individual subject to this chapter.

Sec. 180.062. CONFIDENTIALITY OF INFORMATION. (a) Except as otherwise provided by this section, a requirement under federal or state law regarding the privacy or confidentiality of information or material provided to the Nationwide Mortgage Licensing System and Registry, and a privilege arising under federal or state law, or under the rules of a federal or state court, continue to apply to the information or material after the disclosure of the information or material to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with federal and state regulatory officials with mortgage industry oversight authority without the loss of any privilege or confidentiality protections afforded by federal or state laws.

(b) Information or material subject to a privilege or confidential under Subsection (a) may not be subject to:

(1) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or this state; or

(2) subpoena, discovery, or admission into evidence in a private civil action or administrative proceeding.

(c) A person who is the subject of information or material in the Nationwide Mortgage Licensing System and Registry may waive, wholly or partly, any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material.

(d) A regulatory official may enter into an agreement or sharing arrangement with another governmental agency, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing appropriate governmental agencies as established by rule of the rulemaking authority or order issued by the regulatory official. A protection provided by Subsection (a) also applies to information and material shared under an agreement or sharing arrangement entered into under this subsection.

(e) To the extent of a conflict between Subsection (a) and Chapter 552, Government Code, or another state law relating to the disclosure of confidential information or information or material described by Subsection (a), Subsection (a) controls to the extent Chapter 552, Government Code, or the other law provides less confidentiality or a weaker privilege than is provided by Subsection (a).

(f) This section does not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a residential mortgage loan originator that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

[Sections 180.063-180.100 reserved for expansion]

SUBCHAPTER C. REPORTING AND OTHER REQUIREMENTS REGARDING NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY

Sec. 180.101. MORTGAGE CALL REPORTS. Each licensed residential mortgage loan originator shall submit to the Nationwide Mortgage Licensing System and Registry a report of condition that is in the form and contains the information required by the Nationwide Mortgage Licensing System and Registry.

Sec. 180.102. REPORT OF VIOLATIONS AND ENFORCEMENT ACTIONS. Subject to the confidentiality provisions of this chapter, a regulatory official shall report to the Nationwide Mortgage Licensing System and Registry on a regular basis regarding violations of, enforcement actions under, or information relevant to this chapter or the S.A.F.E. Mortgage Licensing Act under the regulatory official's licensure, regulation, or examination of a licensed residential mortgage loan originator or person registered under the S.A.F.E. Mortgage Licensing Act.

Sec. 180.103. INFORMATION CHALLENGE PROCESS. The applicable rulemaking authority by rule shall establish a process by which licensed residential mortgage loan originators may dispute information submitted by the regulatory official to the Nationwide Mortgage Licensing System and Registry.

[Sections 180.104-180.150 reserved for expansion]

SUBCHAPTER D. BUSINESS PRACTICES; PROHIBITED ACTS

Sec. 180.151. DISPLAY OF UNIQUE IDENTIFIER. The unique identifier of a person originating a residential mortgage loan must be clearly shown on each residential mortgage loan application form, solicitation, or advertisement, including business cards and websites, and any other document required by rule of the rulemaking authority.

Sec. 180.152. REPRESENTATIONS. An individual who is engaged exclusively in loan processor or underwriter activities may not represent to the public, through the use of advertising, business cards, stationery, brochures, signs, rate lists, or other means, that the individual can or will perform any of the activities of a residential mortgage loan originator unless the individual is licensed as a residential mortgage loan originator.

Sec. 180.153. PROHIBITED ACTS AND PRACTICES. An individual or other person subject to regulation under this chapter may not:

(1) employ, directly or indirectly, a scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud a person;

(2) engage in an unfair or deceptive practice toward a person;

(3) obtain property by fraud or misrepresentation;

(4) solicit or enter into a contract with a borrower that provides in substance that the individual or other person subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan was actually obtained for the borrower;

(5) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) conduct any business regulated by this chapter without holding a license as required by this chapter;

(7) assist, aid, or abet an individual in the conduct of business without a license required by this chapter;

(8) fail to make disclosures as required by this chapter and any other applicable state or federal law, including rules or regulations under applicable state or federal law;

(9) fail to comply with this chapter or rules adopted under this chapter;

(10) fail to comply with any other state or federal law, including rules or regulations adopted under that law, applicable to a business or activity regulated by this chapter;

(11) make, in any manner, a false or deceptive statement or representation;

(12) negligently make a false statement or knowingly or wilfully make an omission of material fact in connection with:

(A) information or a report filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry; or

(B) an investigation conducted by the regulatory official or another governmental agency;

(13) make a payment, threat, or promise, directly or indirectly, to a person for purposes of influencing the person's independent judgment in connection with a residential mortgage loan, or make a payment, threat, or promise, directly or indirectly, to an appraiser of property, for purposes of influencing the appraiser's independent judgment with respect to the property's value;

(14) collect, charge, attempt to collect or charge, or use or propose an agreement purporting to collect or charge a fee prohibited by this chapter;

(15) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(16) fail to truthfully account for money belonging to a party to a residential mortgage loan transaction.

[Sections 180.154-180.200 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT PROVISIONS

Sec. 180.201. ENFORCEMENT AUTHORITY. To ensure the effective supervision and enforcement of this chapter, a regulatory official may:

(1) deny, suspend, revoke, condition, or decline to renew a license for a violation of this chapter, a rule adopted under this chapter, or an order or directive issued under this chapter;

(2) deny, suspend, revoke, condition, or decline to renew a license if an applicant or license holder:

(A) fails to meet the requirements of Subchapter B; or

(B) withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) order restitution against a person subject to regulation under this chapter for a violation of this chapter;

(4) impose an administrative penalty on a person subject to regulation under this chapter, subject to Section 180.202; or

(5) issue orders or directives as provided by Section 180.203.

Sec. 180.202. ADMINISTRATIVE PENALTY. (a) A regulatory official may impose an administrative penalty on a residential mortgage loan originator or other person subject to regulation under this chapter, if the official, after notice and opportunity for hearing, determines that the residential mortgage loan originator or other person subject to regulation under this chapter has violated or failed to comply with:

(1) this chapter;

(2) a rule adopted under this chapter; or

(3) an order issued under this chapter.

(b) The penalty may not exceed \$25,000 for each violation.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm to property caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

Sec. 180.203. CEASE AND DESIST ORDERS. A regulatory official may:

(1) order or direct a person subject to regulation under this chapter to cease and desist from conducting business, including issuing an immediate temporary order to cease and desist from conducting business;

(2) order or direct a person subject to regulation under this chapter to cease a violation of this chapter or a harmful activity in violation of this chapter, including issuing an immediate temporary order to cease and desist;

(3) enter immediate temporary orders against a person subject to regulation under this chapter to cease engaging in business under a license if the regulatory official determines that the license was erroneously granted or the license holder is in violation of this chapter; and

(4) order or direct other affirmative action as the regulatory official considers necessary.

[Sections 180.204-180.250 reserved for expansion]

SUBCHAPTER F. DUTIES OF REGULATORY OFFICIALS

Sec. 180.251. GENERAL DUTIES OF REGULATORY OFFICIALS. (a) Except as provided by Subsection (b), the savings and mortgage lending commissioner shall administer and enforce this chapter with respect to individuals licensed under Chapter 156 or 157.

(b) The credit union commissioner shall:

(1) examine, inspect, or investigate employees of credit union subsidiary organizations who are licensed to act as residential mortgage loan originators under Chapter 156; and

(2) enforce compliance by employees of credit union subsidiary organizations described by Subdivision (1) with the applicable requirements of Chapter 156 and this chapter and any applicable rules adopted under Section 15.4024.

(c) The consumer credit commissioner shall administer and enforce this chapter with respect to individuals licensed under Chapter 342, 347, 348, or 351.

(d) To the extent permitted or required by this chapter and as reasonably necessary for the implementation and enforcement of the S.A.F.E. Mortgage Licensing Act, the banking commissioner of Texas may administer and enforce this chapter with respect to a person otherwise under the commissioner's jurisdiction under Subtitle A, F, or G of this title.

Sec. 180.252. AUTHORITY OF REGULATORY OFFICIALS TO ESTABLISH RELATIONSHIP WITH NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY; CONTRACTING AUTHORITY. To fulfill the purposes of this chapter, a regulatory official may establish a relationship with or contract with the Nationwide Mortgage Licensing System and Registry or an entity designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensed residential mortgage loan originators or other persons subject to regulation under this chapter.

SECTION 2. Section 14.107(b), Finance Code, is amended to read as follows:

(b) The finance commission by rule shall set the fees for licensing and examination under Chapter 342, 347, 348, 351, or 371 at amounts or rates necessary to recover the costs of administering those chapters. The rules may provide that the amount of a fee charged to a license holder is based on the volume of the license holder's regulated business and other key factors. The commissioner may provide for collection of a single annual fee from a person licensed under Chapter 342, 347, 348, 351, or 371 to include amounts due for both licensing and examination.

SECTION 3. Subchapter E, Chapter 15, Finance Code, is amended by adding Section 15.4024 to read as follows:

Sec. 15.4024. RULES RELATING TO CERTAIN EMPLOYEES OF CREDIT UNION SUBSIDIARY ORGANIZATIONS. (a) In this section, "credit union subsidiary organization" has the meaning assigned by Section 180.002.

(b) The commission may adopt and enforce rules necessary for the commissioner to:

(1) examine, inspect, or investigate employees of credit union subsidiary organizations who are licensed to act as residential mortgage loan originators under Chapter 156; and

(2) enforce compliance by employees of credit union subsidiary organizations described by Subdivision (1) with the applicable requirements of Chapters 156 and 180.

SECTION 4. Section 156.101, Finance Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-2), the [The] commissioner shall administer this chapter.

(a-1) The commissioner shall perform all duties relating to the issuance and renewal of licenses under Section 156.2015 for employees of credit union subsidiary organizations who act as residential mortgage loan originators.

(a-2) The credit union commissioner is responsible for:

(1) the examination, inspection, or investigation of employees of credit union subsidiary organizations who are licensed to act as residential mortgage loan originators under this chapter; and

(2) the enforcement of compliance by employees of credit union subsidiary organizations described by Subdivision (1) with the applicable requirements of this chapter and Chapter 180.

SECTION 5. Section 156.102(a), Finance Code, is amended to read as follows:

(a) The finance commission may adopt and enforce rules necessary for the intent of or to ensure compliance with this chapter, except as provided by Section 15.4024 with respect to employees of credit union subsidiary organizations subject to regulation under Section 156.2015.

SECTION 6. Subchapter C, Chapter 156, Finance Code, is amended by adding Section 156.2015 to read as follows:

Sec. 156.2015. RESIDENTIAL MORTGAGE LOAN ORIGINATION ACTIVITIES. (a) In this section, "credit union subsidiary organization," "Nationwide Mortgage Licensing System and Registry," and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) An individual required to be licensed under this chapter may not act as a residential mortgage loan originator unless:

(1) the individual's license under this chapter otherwise authorizes the individual to act as a residential mortgage loan originator;

(2) the individual is enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) the individual complies with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) An employee of a credit union subsidiary organization may not act as a residential mortgage loan originator unless the employee:

(1) is licensed under this chapter;

(2) is enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) complies with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(d) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 7. Sections 156.214(b) and (f), Finance Code, as added by Chapter 228 (**HB 1716**), Acts of the 80th Legislature, Regular Session, 2007, are amended to read as follows:

(b) To be eligible to register as a registered financial services company, a person must:

(1) be a depository institution exempt from this chapter under Section 156.202(1)(A) or (B) and chartered and regulated by the Office of Thrift Supervision or the Office of the Comptroller of the Currency, or be a subsidiary [~~or affiliate~~] of the institution;

(2) provide the commissioner with satisfactory evidence of an undertaking of accountability in a form acceptable to the commissioner, supported by a surety bond equal to \$1 million to cover the person's responsibility for mortgage broker activities of each exclusive agent;

(3) provide a business plan satisfactory to the commissioner that sets forth the person's plan to provide education to its exclusive agents, handle consumer complaints relating to its exclusive agents, and supervise the mortgage origination [~~broker~~] activities of its exclusive agents;

(4) pay an annual registration fee of the lesser of:

(A) one-half of the license fee for a loan officer under Section 156.203(c)(1), multiplied by the number of exclusive agents under contract to act for the person in this state; or

(B) \$200,000; and

(5) designate an officer of the person to be responsible for the activities of the exclusive agents.

(f) Prior to permitting an exclusive agent to solicit, process, negotiate, or place a mortgage loan, the registered financial services company shall submit to the commissioner such information as the commissioner may require relating to the exclusive agent, and the exclusive agent must have enrolled with the Nationwide Mortgage Licensing System and Registry as a registered residential mortgage loan originator and provided to the commissioner the exclusive agent's unique identifier. In this subsection, "Nationwide Mortgage Licensing System and Registry," "residential mortgage loan originator," and "unique identifier" have the meanings assigned by Section 180.002 [person together with a fingerprint imprint of the person. The commissioner shall obtain criminal history record information as provided in Section 156.206(b). The commissioner may assess a fee in an amount determined by the finance commission to cover the cost of the criminal background check. This section does not apply to a person who is licensed as a mortgage broker or loan officer under Chapter 156 at the time he becomes an exclusive agent of a registered financial services company].

SECTION 8. Chapter 157, Finance Code, is amended by adding Section 157.012 to read as follows:

Sec. 157.012. LICENSE REQUIRED FOR CERTAIN EMPLOYEES OF MORTGAGE BANKERS. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) An employee of a mortgage banker may not act in the capacity of a residential mortgage loan originator unless the employee:

(1) is licensed under this chapter and enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(2) complies with other applicable requirements of Chapter 180 and rules adopted by the finance commission under that chapter.

(c) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(d) To be eligible to be licensed as a residential mortgage loan originator, an employee of a mortgage banker, in addition to the requirements of Subsection (b), must:

(1) satisfy the commissioner as to the employee's good moral character, including the employee's honesty, trustworthiness, and integrity;

(2) not be in violation of this chapter or a rule adopted under this chapter; and

(3) provide the commissioner with satisfactory evidence that the employee meets the qualifications provided by Chapter 180.

SECTION 9. Chapter 341, Finance Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. STATE-LICENSED RESIDENTIAL MORTGAGE LOAN ORIGINATOR RECOVERY FUND

Sec. 341.601. DEFINITION. In this subchapter, "fund" means the state-licensed residential mortgage loan originator recovery fund.

Sec. 341.602. STATE-LICENSED RESIDENTIAL MORTGAGE LOAN ORIGINATOR RECOVERY FUND. (a) The commissioner under Chapter 180 shall establish, administer, and maintain a state-licensed residential mortgage loan originator recovery fund as provided by this subchapter. The amounts received by the commissioner for deposit in the fund shall be held by the commissioner in trust for carrying out the purposes of the fund.

(b) Subject to this subsection, the fund shall be used to reimburse residential mortgage loan applicants for actual damages incurred because of acts committed by a state-licensed residential mortgage loan originator who was licensed under Chapter 342, 347, 348, or 351 when the act was committed. The use of the fund is limited to reimbursement for out-of-pocket losses caused by an act that constitutes a violation of Chapter 180 or this subtitle. Payments from the fund may not be made to a lender who makes a residential mortgage loan originated by the state-licensed residential mortgage loan originator or who acquires a residential mortgage loan originated by the state-licensed residential mortgage loan originator.

(c) The fund may be used at the discretion of the commissioner to reimburse expenses incurred to secure and destroy residential mortgage loan documents that have been abandoned by a current or former state-licensed residential mortgage loan originator under the regulatory authority of the agency.

(d) Payments from the fund shall be reduced by the amount of any recovery from the state-licensed residential mortgage loan originator or from any surety, insurer, or other person or entity making restitution to the applicant on behalf of the originator.

(e) The commissioner, as manager of the fund, is entitled to reimbursement for reasonable and necessary costs and expenses incurred in the management of the fund, including costs and expenses incurred with regard to applications filed under Section 341.605.

(f) Amounts in the fund may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from those investments shall be deposited to the credit of the fund. An investment may not be made under this subsection if the investment will impair the necessary liquidity required to satisfy payment of judgments awarded under this subchapter.

Sec. 341.603. FUNDING. (a) An applicant for an original residential mortgage loan originator license issued under Chapter 342, 347, 348, or 351 or for renewal of a residential mortgage loan originator license issued under Chapter 342, 347, 348, or 351 shall, in addition to paying the original application fee or renewal fee, pay a fee in an amount determined by the commissioner. The fee shall be deposited in the fund.

(b) If the balance remaining in the fund at the end of a calendar year is more than \$2.5 million, the amount of money in excess of that amount shall be available to the commissioner to offset the expenses of participating in and sharing information with the Nationwide Mortgage Licensing System and Registry in accordance with Chapter 180.

Sec. 341.604. STATUTE OF LIMITATIONS. (a) An application for the recovery of actual damages from the fund under Section 341.605 may not be filed after the second anniversary of the date of the alleged act or omission causing the actual damages or the date the act or omission should reasonably have been discovered.

(b) This section does not apply to a subrogation claim brought by the commissioner for recovery of money paid out of the fund.

Sec. 341.605. PROCEDURE FOR RECOVERY. (a) To recover from the fund, a residential mortgage loan applicant must file a written sworn application with the commissioner in the form prescribed by the commissioner. A person who knowingly makes a false statement in connection with applying for money out of the fund may be subject to criminal prosecution under Section 37.10, Penal Code.

(b) The residential mortgage loan applicant is required to show:

(1) that the applicant's claim is based on facts allowing recovery under Section 341.602; and

(2) that the applicant:

(A) is not a spouse of the state-licensed residential mortgage loan originator;

(B) is not a child, parent, grandchild, grandparent, or sibling, including relationships by adoption, of the state-licensed residential mortgage loan originator;

(C) is not a person sharing living quarters with the state-licensed residential mortgage loan originator or a current or former employer, employee, or associate of the originator;

(D) is not a person who has aided, abetted, or participated other than as a victim with the state-licensed residential mortgage loan originator in any activity that is illegal under this subtitle or Chapter 180 or is not the personal representative of a state-licensed residential mortgage loan originator; and

(E) is not licensed as a state-licensed residential mortgage loan originator who is seeking to recover any compensation in the transaction or transactions for which the application for payment is made.

(c) On receipt of the verified application, the commissioner's staff shall:

(1) notify each appropriate license holder and the issuer of any surety bond issued in connection with their licenses; and

(2) investigate the application and issue a preliminary determination, giving the applicant, the license holder, and any surety an opportunity to resolve the matter by agreement or to dispute the preliminary determination.

(d) If the preliminary determination under Subsection (c)(2) is not otherwise resolved by agreement and is not disputed by written notice to the commissioner before the 31st day after the notification date, the preliminary determination automatically becomes final and the commissioner shall make payment from the fund, subject to the limits of Section 341.606.

(e) If the preliminary determination under Subsection (c)(2) is disputed by the applicant, license holder, or any surety by written notice to the commissioner before the 31st day after the notification date, the matter shall be set for a hearing governed by Chapter 2001, Government Code, and the hearing rules of the finance commission.

Sec. 341.606. RECOVERY LIMITS. (a) A person entitled to receive payment out of the fund is entitled to receive reimbursement of actual, out-of-pocket damages as provided by this section.

(b) A payment from the fund may be made as provided by Section 341.605 and this section. A payment for claims:

(1) arising out of the same transaction, including interest, is limited in the aggregate to \$25,000, regardless of the number of claimants; and

(2) against a single person licensed as a residential mortgage loan originator under Chapter 342, 347, 348, or 351 is limited in the aggregate to \$50,000 until the fund has been reimbursed for all amounts paid.

(c) In the event there are concurrent claims under Subsections (b)(1) and (2) that exceed the amounts available under the fund, the commissioner shall prorate recovery based on the amount of damage suffered by each claimant.

Sec. 341.607. REVOCATION OF LICENSE FOR PAYMENT FROM FUND. (a) The commissioner may revoke a residential mortgage loan originator license issued under this subtitle on proof that the commissioner has made a payment from the fund of any amount toward satisfaction of a claim against a state-licensed residential mortgage loan originator under this subchapter.

(b) The commissioner may seek to collect from a state-licensed residential mortgage loan originator the amount paid from the fund on behalf of the originator and any costs associated with investigating and processing the claim against the fund or with collection of reimbursement for payments from the fund, plus interest at the current legal rate until the amount has been repaid in full. Any amount, including interest, recovered by the commissioner shall be deposited to the credit of the fund.

(c) The commissioner may probate an order revoking a license under this section.

(d) A state-licensed residential mortgage loan originator on whose behalf payment was made from the fund is not eligible to receive a new license until the originator has repaid in full, plus interest at the current legal rate, the amount paid from the fund on the originator's behalf and any costs associated with investigating and processing the claim against the fund or with collection of reimbursement from the fund.

(e) This section does not limit the authority of the commissioner to take disciplinary action against a state-licensed residential mortgage loan originator for a violation of the chapter under which the license was issued or the rules adopted by the finance commission under that chapter. The repayment in full to the fund of all obligations of a state-licensed residential mortgage loan originator does not nullify or modify the effect of any other disciplinary proceeding.

Sec. 341.608. SUBROGATION. When the commissioner has paid an applicant an amount from the fund under Section 341.605, the commissioner is subrogated to all of the rights of the applicant to the extent of the amount paid. The applicant shall assign the applicant's right, title, and interest in any subsequent judgment against the state-licensed residential mortgage loan originator up to the amount paid by the commissioner. Any amount, including interest, recovered by the commissioner on the assignment shall be deposited to the credit of the fund.

Sec. 341.609. FAILURE TO COMPLY WITH SUBCHAPTER OR RULE ADOPTED BY FINANCE COMMISSION. The failure of an applicant under Section 341.605 to comply with a provision of this subchapter or a rule adopted by the finance commission relating to the fund constitutes a waiver of any rights under this subchapter.

Sec. 341.610. RULEMAKING. The finance commission may adopt rules on the commissioner's recommendation to promote a fair and orderly administration of the fund consistent with the purposes of this subchapter.

SECTION 10. Subchapter B, Chapter 342, Finance Code, is amended by adding Section 342.0515 to read as follows:

Sec. 342.0515. RESIDENTIAL MORTGAGE LOAN ORIGINATOR ACTIVITIES. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of a loan subject to this chapter must:

- (1) be individually licensed to engage in that activity under this chapter;
- (2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and
- (3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

- (1) the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;
- (2) the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and
- (3) the applicant pays:
 - (A) an investigation fee in a reasonable amount determined by the commissioner; and
 - (B) an annual license fee in an amount determined as provided by Section 14.107.

(d) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 11. Section 342.156, Finance Code, is amended to read as follows:

Sec. 342.156. LICENSE SUSPENSION OR REVOCATION. After notice and a hearing the commissioner may suspend or revoke a license if the commissioner finds that:

(1) the license holder failed to pay the annual license fee, an examination fee, an investigation fee, or another charge imposed by the commissioner under this chapter;

(2) the license holder, knowingly or without the exercise of due care, violated this chapter or a rule adopted or order issued under this chapter; ~~[or]~~

(3) a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner's denial of the application; or

(4) the license holder has failed to ensure that an individual acting as a residential mortgage loan originator, as defined by Section 180.002, in the making, transacting, or negotiating of a loan subject to this chapter is licensed under this chapter in accordance with Section 342.0515.

SECTION 12. The heading to Subchapter J, Chapter 347, Finance Code, is amended to read as follows:

SUBCHAPTER J. RIGHTS AND DUTIES OF CREDITOR AND
RESIDENTIAL MORTGAGE LOAN ORIGINATOR

SECTION 13. Section 347.451, Finance Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A registered creditor that engages in the activity of originating a residential mortgage loan must meet the surety bond or recovery fund fee requirement, as applicable, of the creditor's residential mortgage loan originator under Section 180.058.

SECTION 14. Subchapter J, Chapter 347, Finance Code, is amended by adding Section 347.4515 to read as follows:

Sec. 347.4515. RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE REQUIRED. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of an extension of credit subject to this chapter must:

(1) be individually licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1) the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;

(2) the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount determined by the commissioner; and

(B) an annual license fee in an amount determined as provided by Section 14.107.

(d) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 15. Section 348.501, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) A license holder under this chapter who engages in the sale of a motor vehicle to be used as a principal dwelling must meet the surety bond or recovery fund fee requirements, as applicable, of the holder's residential mortgage loan originator under Section 180.058.

SECTION 16. Subchapter F, Chapter 348, Finance Code, is amended by adding Section 348.5015 to read as follows:

Sec. 348.5015. RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE REQUIRED. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the sale of a motor vehicle to be used as a principal dwelling must:

(1) be licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules establishing procedures for applying for issuing, renewing, and enforcing a license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1) the minimum eligibility requirements for issuance of a license are the same as the requirements of Section 180.055;

(2) the minimum eligibility requirements for renewal of a license are the same as the requirements of Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount determined by the commissioner; and

(B) an annual license fee in an amount determined as provided by Section 14.107.

(d) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 17. Subchapter B, Chapter 351, Finance Code, as added by Chapter 1220 (**HB 2138**), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Section 351.0515 to read as follows:

Sec. 351.0515. RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE REQUIRED. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of a property tax loan for a principal dwelling must:

(1) be individually licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1) the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;

(2) the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount determined by the commissioner; and

(B) an annual license fee in an amount determined as provided by Section 14.107.

(d) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 18. Section 351.102, Finance Code, as added by Chapter 1220 (**HB 2138**), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Subsection (e) to read as follows:

(e) A license holder engaged in the business of making, transacting, or negotiating a property tax loan for a principal dwelling must meet the surety bond or recovery fund fee requirement, as applicable, of the holder's residential mortgage loan originator under Section 180.058.

SECTION 19. Section 351.156, Finance Code, as added by Chapter 1220 (**HB 2138**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 351.156. LICENSE SUSPENSION OR REVOCATION. After notice and a hearing the commissioner may suspend or revoke a license if the commissioner finds that:

(1) the license holder failed to pay the annual license fee, an examination fee, an investigation fee, or another charge imposed by the commissioner under this chapter;

(2) the license holder, knowingly or without the exercise of due care, violated this chapter or Section 32.06 or 32.065, Tax Code, or a rule adopted or an order issued under this chapter or Section 32.06 or 32.065, Tax Code; ~~[or]~~

(3) a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner's denial of the application; or

(4) the license holder has failed to ensure that an individual acting as a residential mortgage loan originator, as defined by Section 180.002, in the making, transacting, or negotiating of a property tax loan for a principal dwelling is licensed under this chapter in accordance with Section 351.0515.

SECTION 20. Section 411.095, Government Code, is amended to read as follows:

Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. ~~[(a)]~~ The consumer credit commissioner is entitled to obtain from the department criminal history record information that relates to a person who is an applicant for or holder of a license under Chapter 342, 347, 348, 351, or 371, Finance Code.

SECTION 21. Section 411.1385, Government Code, is amended to read as follows:

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND MORTGAGE LENDING COMMISSIONER. (a) The savings and mortgage lending commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for or holder of a ~~[mortgage broker or loan officer]~~ license issued under Chapter 156 or 157, Finance Code.

(b) Criminal history record information obtained by the savings and mortgage lending commissioner under Subsection (a) with respect to the issuance of a license under Chapter 156, Finance Code, may be released or disclosed only as provided by Section 156.206, Finance Code.

SECTION 22. For purposes of implementing an orderly and efficient process for licensing and registering residential mortgage loan originators that meets the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289), Chapter 180, Finance Code, as added by this Act, Section 15.4024, Finance Code, as added by this Act, and Chapters 156, 157, 342, 347, 348, and 351, Finance Code, as amended by this Act, the Finance Commission of Texas, as soon as practicable after the effective date of this Act, may adopt rules and establish interim procedures for licensing individuals engaging in or conducting the business of a residential mortgage loan originator in this state and for the approval or denial of applications for licenses authorizing individuals to engage in business as a residential mortgage loan originator. For individuals authorized by state law to engage in residential mortgage loan origination activities immediately before the effective date of this Act, the Finance Commission of Texas may establish expedited review and licensing procedures.

SECTION 23. (a) In this section, "Nationwide Mortgage Licensing System and Registry," "regulatory official," "residential mortgage loan originator," and "unique identifier" have the meanings assigned by Section 180.002, Finance Code, as added by this Act.

(b) On application by a person for a license, registration, and unique identifier as a residential mortgage loan originator with the Nationwide Mortgage Licensing System and Registry, the regulatory official may determine that the applicant meets the prelicensing education courses and written test requirements of Sections 180.056 and 180.057, Finance Code, as added by this Act, if the applicant, on the effective date of this Act, is acting as a state-licensed residential mortgage loan originator in this state under Chapter 156, Finance Code. The applicant must be in good standing with the regulatory official to obtain an exemption under this subsection.

(c) The regulatory official may determine an exemption under Subsection (b) of this section by rule of the Finance Commission of Texas.

(d) This section does not grant a residential mortgage loan originator a waiver from the continuing education requirements prescribed by the regulatory official and the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 24. (a) Except as provided by Subsection (b) of this section, an individual is not required to comply with Chapter 180, Finance Code, as added by this Act, and Chapters 156, 157, 342, 347, 348, and 351, Finance Code, as amended by this Act, until the later of:

(1) July 31, 2010; or

(2) a subsequent date that is approved by the secretary of the United States Department of Housing and Urban Development under the authority granted under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(b) An individual authorized to engage in residential mortgage loan origination activities in this state as of July 31, 2009, is not required to comply with Chapter 180, Finance Code, as added by this Act, and Chapters 156, 157, 342, 347, 348, and 351, Finance Code, as amended by this Act, until the later of:

(1) July 31, 2011; or

(2) a subsequent date approved by the secretary of the United States Department of Housing and Urban Development under the authority granted under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 25. 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, 2009.

HB 93 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hodge called up with senate amendments for consideration at this time,

HB 93, A bill to be entitled An Act relating to the restoration of good conduct time forfeited during a term of imprisonment.

Representative Hodge moved to concur in the senate amendments to **HB 93**.

The motion to concur in the senate amendments to **HB 93** prevailed by (Record 1462): 86 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Corte; Crabb; Crownover; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Hartnett; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jackson; Keffer; Kent; King, S.; King, T.; Kolkhorst; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Strama; Thibaut; Thompson(C); Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hancock; Harless; Harper-Brown; Hilderbran; Howard, C.; Hughes; Hunter; Isett; Jones; King, P.; Kleinschmidt; Laubenberg; Legler; Merritt; Miller, D.; Miller, S.; Morrison; Otto; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Weber; Zerwas.

Present, not voting — Mr. Speaker; Woolley.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Pitts.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1462. I intended to vote yes.

Berman

I was shown voting yes on Record No. 1462. I intended to vote no.

Bolton

I was shown voting no on Record No. 1462. I intended to vote yes.

Callegari

I was shown voting no on Record No. 1462. I intended to vote yes.

Hughes

I was shown voting no on Record No. 1462. I intended to vote yes.

Jones

I was shown voting yes on Record No. 1462. I intended to vote no.

Orr

I was shown voting no on Record No. 1462. I intended to vote yes.

Smithee

Senate Committee Substitute

CSHB 93, A bill to be entitled An Act relating to the reinstatement of good conduct time suspended during a term of imprisonment.

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

SECTION 1. Section 498.004, Government Code, as amended by Chapters 249 (**SB 44**) and 321 (**HB 2162**), Acts of the 74th Legislature, Regular Session, 1995, is amended by reenacting and amending Subsection (a) and adding Subsection (c) to read as follows:

(a) If, during the actual term of imprisonment of an inmate in the department [~~institutional division~~] or in a transfer facility, the inmate commits an offense or violates a rule of the department [~~division~~], the department may forfeit all or any part of the inmate's accrued good conduct time or, in accordance with the policy adopted under Subsection (c), place all or any part of the inmate's accrued good conduct time in suspension. The department may not restore good conduct time forfeited under this subsection but may reinstate good conduct time suspended under this subsection.

(c) The department shall establish a policy regarding the suspension of good conduct time under Subsection (a). The policy must provide that:

(1) the department will consider the severity of an inmate's offense or violation in determining whether to suspend all or part of the inmate's good conduct time instead of forfeiting the inmate's good conduct time;

(2) during any period of suspension, good conduct time placed in suspension may not be used:

(A) for purposes of granting privileges to an inmate; or

(B) to compute an inmate's eligibility for parole under Section 508.145 or to determine an inmate's date of release to mandatory supervision under Section 508.147;

(3) at the conclusion of any period of suspension, the department may forfeit or reinstate the good conduct time placed in suspension based on the inmate's conduct during the period of the suspension; and

(4) in determining whether to forfeit or reinstate good conduct time placed in suspension, the department must consider whether any impact to public safety is likely to result from the inmate's release on parole or to mandatory supervision if the good conduct time is reinstated.

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, 2009.

HB 461 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Eissler called up with senate amendments for consideration at this time,

HB 461, A bill to be entitled An Act relating to the detection and treatment of dyslexia, including the use of certain professional titles by dyslexia practitioners and therapists; providing a criminal penalty.

Representative Eissler moved to concur in the senate amendments to **HB 461**.

The motion to concur in the senate amendments to **HB 461** prevailed by (Record 1463): 140 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson(C); Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — King, T.; Phillips.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Bolton; King, S.; Pitts.

Senate Committee Substitute

CSHB 461, A bill to be entitled An Act relating to the regulation of dyslexia practitioners and therapists; providing penalties.

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

SECTION 1. Subtitle G, Title 3, Occupations Code, is amended by adding Chapter 403 to read as follows:

**CHAPTER 403. LICENSED DYSLEXIA PRACTITIONERS AND LICENSED
DYSLEXIA THERAPISTS**
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 403.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of state health services.

(2) "Department" means the Department of State Health Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "License holder" means a person who holds a license issued under this chapter.

(5) "Multisensory structured language education" means a program described by the International Multisensory Structured Language Education Council for the treatment of individuals with dyslexia and related disorders that provides instruction in the skills of reading, writing, and spelling:

(A) through program content that includes:

(i) phonology and phonological awareness;

(ii) sound and symbol association;

(iii) syllables;

(iv) morphology;

(v) syntax; and

(vi) semantics; and

(B) following principles of instruction that include:

(i) simultaneous multisensory instruction, including visual-auditory-kinesthetic-tactile instruction;

(ii) systematic and cumulative instruction;

(iii) explicit instruction;

(iv) diagnostic teaching to automaticity; and

(v) synthetic and analytic instruction.

(6) "Qualified instructor" means a person described by Section 403.110.

Sec. 403.002. ADMINISTRATION BY DEPARTMENT OF STATE HEALTH SERVICES. The department shall administer this chapter.

Sec. 403.003. APPLICABILITY. This chapter does not:

(1) require a school district to employ a person licensed under this chapter;

(2) require an individual who is licensed under Chapter 501 to obtain a license under this chapter; or

(3) authorize a person who is not licensed under Chapter 401 to practice audiology or speech-language pathology.

[Sections 403.004-403.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 403.051. ADVISORY COMMITTEE. The department shall appoint an advisory committee to advise the department in administering this chapter.

Sec. 403.052. RULES. The executive commissioner shall adopt rules necessary to administer and enforce this chapter, including rules that establish standards of ethical practice.

[Sections 403.053-403.100 reserved for expansion]

SUBCHAPTER C. LICENSE REQUIREMENTS

Sec. 403.101. LICENSE REQUIRED. A person may not use the title "licensed dyslexia practitioner" or "licensed dyslexia therapist" in this state unless the person holds the appropriate license under this chapter.

Sec. 403.102. ISSUANCE OF LICENSE. The department shall issue a licensed dyslexia practitioner or licensed dyslexia therapist license to an applicant who meets the requirements of this chapter.

Sec. 403.103. LICENSE APPLICATION. (a) A license applicant must apply to the department on a form and in the manner the department prescribes.

(b) The application must be accompanied by a nonrefundable application fee.

Sec. 403.104. ELIGIBILITY FOR LICENSED DYSLEXIA PRACTITIONER LICENSE. (a) To be eligible for a licensed dyslexia practitioner license, an applicant must have:

(1) earned a bachelor's degree from an accredited public or private institution of higher education;

(2) successfully completed at least 45 hours of course work in multisensory structured language education from a training program that meets the requirements of Section 403.106;

(3) completed at least 60 hours of supervised clinical experience in multisensory structured language education;

(4) completed at least five demonstration lessons of the practice of multisensory structured language education, each observed by an instructor from a training program that meets the requirements of Section 403.106 and followed by a conference with and a written report by the instructor; and

(5) successfully completed a national multisensory structured language education competency examination approved by the department and administered by a national certifying professional organization.

(b) Clinical experience required under Subsection (a)(3) must be obtained under:

(1) the supervision of a qualified instructor or an instructor from an accredited training program that meets the requirements of Section 403.106; and

(2) guidelines approved by the department.

Sec. 403.105. ELIGIBILITY FOR LICENSED DYSLEXIA THERAPIST LICENSE. (a) To be eligible for a licensed dyslexia therapist license, an applicant must have:

(1) earned at least a master's degree from an accredited public or private institution of higher education;

(2) successfully completed at least 200 hours of course work in multisensory structured language education from a training program that meets the requirements of Section 403.106;

(3) completed at least 700 hours of supervised clinical experience in multisensory structured language education;

(4) completed at least 10 demonstration lessons of the practice of multisensory structured language education, each observed by an instructor from a training program that meets the requirements of Section 403.106 and followed by a conference with and a written report by the instructor; and

(5) successfully completed a national multisensory structured language education competency examination approved by the department and administered by a national certifying professional organization.

(b) Clinical experience required under Subsection (a)(3) must be obtained under:

- (1) the supervision of a qualified instructor or an instructor from an accredited training program that meets the requirements of Section 403.106; and
- (2) guidelines approved by the department.

Sec. 403.106. REQUIREMENTS FOR TRAINING PROGRAMS. (a) For purposes of determining whether an applicant satisfies the training requirements for a license under this chapter, a multisensory structured language education training program completed by the applicant must:

- (1) be accredited by a nationally recognized accrediting organization;
- (2) have in writing defined goals and objectives, areas of authority, and policies and procedures;
- (3) have the appropriate financial and management resources to operate the training program, including a knowledgeable administrator and standard accounting and reporting procedures;
- (4) have a physical site, equipment, materials, supplies, and environment suitable for the training program;
- (5) have a sufficient number of instructional personnel who have completed the requirements for certification in multisensory structured language education;
- (6) have been reviewed by multisensory structured language education professionals who are not affiliated with the training program;
- (7) have developed and followed procedures to maintain and improve the quality of training provided by the program;
- (8) have provided direct instruction in the principles and in each element of multisensory structured language education for a minimum of:
 - (A) 200 contact hours of course work for training program participants who seek a licensed dyslexia therapist license; and
 - (B) 45 contact hours of course work for training program participants who seek a licensed dyslexia practitioner license;
- (9) have required training program participants to complete a program of supervised clinical experience in which the participants provided multisensory structured language education to students or adults, either individually or in small groups for a minimum of:
 - (A) 700 hours for training program participants who seek a licensed dyslexia therapist license; and
 - (B) 60 hours for training program participants who seek a licensed dyslexia practitioner license;
- (10) have required training program participants to demonstrate the application of multisensory structured language education principles of instruction by completing demonstration lessons observed by an instructor and followed by a conference with and a written report by the instructor; and
- (11) have provided instruction based on the Texas Education Agency publication "The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (2007)," or a revised version of that publication approved by the department.

(b) A training program must require a training program participant who seeks a licensed dyslexia practitioner license to have completed at least five demonstration lessons described by Subsection (a)(10) and a participant who seeks a licensed dyslexia therapist license to have completed at least 10 demonstration lessons.

(c) The department, in consultation with the advisory committee, shall determine whether a training program meets the requirements of this section.

Sec. 403.107. EXAMINATION; RULES. (a) To obtain a license, an applicant must:

(1) pass a written examination approved by the department under Subsection (b); and

(2) pay fees set by the executive commissioner.

(b) The department shall, in consultation with the advisory committee:

(1) identify and designate a competency examination that is related to multisensory structured language education and that will be administered at least twice each year by a professional organization that issues national certifications; and

(2) maintain a record of all examinations for at least two years after the date of examination.

Sec. 403.108. WAIVER OF EXAMINATION REQUIREMENT. The department, in consultation with the advisory committee, may waive the examination requirement and issue a license to an applicant who holds an appropriate certificate or other accreditation from a nationally accredited multisensory structured language education organization recognized by the department.

Sec. 403.109. INACTIVE STATUS; RULES. (a) The executive commissioner by rule may provide for a license holder to be placed on inactive status.

(b) Rules adopted under this section must include a time limit for a license holder to remain on inactive status.

Sec. 403.110. QUALIFIED INSTRUCTOR. To be considered a qualified instructor under this chapter, a person must:

(1) be a licensed dyslexia therapist;

(2) have at least 1,400 hours of clinical teaching experience in addition to the hours required to obtain a licensed dyslexia therapist license; and

(3) have completed a two-year course of study dedicated to the administration and supervision of multisensory structured language education programs taught by a nationally accredited training program that meets the requirements of Section 403.106.

[Sections 403.111-403.150 reserved for expansion]

SUBCHAPTER D. PRACTICE BY LICENSE HOLDER

Sec. 403.151. PRACTICE SETTING. (a) A licensed dyslexia practitioner may practice only in an educational setting, including a school, learning center, or clinic.

(b) A licensed dyslexia therapist may practice in a school, learning center, clinic, or private practice setting.

Sec. 403.152. CONTINUING EDUCATION. (a) A license holder's license may not be renewed unless the license holder meets the continuing education requirements established by the executive commissioner.

(b) The executive commissioner, in consultation with the advisory committee, shall establish the continuing education requirements in a manner that allows a license holder to comply without an extended absence from the license holder's county of residence.

(c) The department shall:

(1) provide to a license applicant, with the application form on which the person is to apply for a license, information describing the continuing education requirements; and

(2) notify each license holder of any change in the continuing education requirements at least one year before the date the change takes effect.

[Sections 403.153-403.200 reserved for expansion]

SUBCHAPTER E. LICENSE DENIAL; COMPLAINT AND DISCIPLINARY PROCEDURES

Sec. 403.201. COMPLAINTS. Any person may file a complaint with the department alleging a violation of this chapter or a rule adopted under this chapter.

Sec. 403.202. PROHIBITED ACTIONS. A license holder may not:

(1) obtain a license by means of fraud, misrepresentation, or concealment of a material fact;

(2) sell, barter, or offer to sell or barter a license; or

(3) engage in unprofessional conduct that endangers or is likely to endanger the health, welfare, or safety of the public as defined by executive commissioner rule.

Sec. 403.203. GROUNDS FOR DISCIPLINARY ACTION. If a license holder violates this chapter or a rule or code of ethics adopted by the executive commissioner, the department shall:

(1) revoke or suspend the license;

(2) place on probation the person if the person's license has been suspended;

(3) reprimand the license holder; or

(4) refuse to renew the license.

Sec. 403.204. LICENSE DENIAL, REVOCATION, OR SUSPENSION FOR CRIMINAL CONVICTION. (a) The department may deny a license or may suspend or revoke a license if the applicant or license holder has been convicted of a misdemeanor involving moral turpitude or a felony. The department may take action authorized by this section when:

(1) the time for appeal of the person's conviction has elapsed;

(2) the judgment or conviction has been affirmed on appeal; or

(3) an order granting probation is made suspending the imposition of the person's sentence, without regard to whether a subsequent order:

(A) allows withdrawal of a plea of guilty;

(B) sets aside a verdict of guilty; or

(C) dismisses an information or indictment.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is a conviction for purposes of this section.

Sec. 403.205. HEARING. (a) If the department proposes to revoke, suspend, or refuse to renew a person's license, the person is entitled to a hearing before a hearings officer appointed by the State Office of Administrative Hearings.

(b) The executive commissioner shall prescribe procedures for appealing to the commissioner a decision to revoke, suspend, or refuse to renew a license.

Sec. 403.206. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter to suspend, revoke, or refuse to renew a license is governed by Chapter 2001, Government Code.

Sec. 403.207. SANCTIONS. (a) The executive commissioner, in consultation with the advisory committee, by rule shall adopt a broad schedule of sanctions for a violation of this chapter.

(b) The State Office of Administrative Hearings shall use the schedule of sanctions for a sanction imposed as the result of a hearing conducted by that office.

Sec. 403.208. PROBATION. The department may require a license holder whose license suspension is probated to:

(1) report regularly to the department on matters that are the basis of the probation;

(2) limit practice to areas prescribed by the department; or

(3) continue the license holder's professional education until the license holder attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

Sec. 403.209. MONITORING OF LICENSE HOLDER. (a) The executive commissioner by rule shall develop a system for monitoring a license holder's compliance with the requirements of this chapter.

(b) Rules adopted under this section must include procedures to:

(1) monitor for compliance a license holder who is ordered by the department to perform certain acts; and

(2) identify and monitor license holders who represent a risk to the public.

Sec. 403.210. INFORMAL PROCEDURES. (a) The executive commissioner by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under Subsection (a) must:

(1) provide the complainant and the license holder an opportunity to be heard; and

(2) require the presence of a representative of the attorney general or the department's legal counsel to advise the department or the department's employees.

Sec. 403.211. REINSTATEMENT. (a) A person may apply for reinstatement of a revoked license on or after the first anniversary of the date of revocation.

(b) The department may:

(1) accept or reject the application; and

(2) require an examination as a condition for reinstatement of the license.

Sec. 403.212. REPRIMAND; CONTINUING EDUCATION. (a) In addition to other disciplinary action authorized by this subchapter, the department may:

(1) issue a written reprimand to a license holder who violates this chapter; or

(2) require that a license holder who violates this chapter attend continuing education programs.

(b) The department, in consultation with the advisory committee, may specify the number of hours of continuing education that must be completed by a license holder to fulfill the requirement of Subsection (a)(2).

[Sections 403.213-403.250 reserved for expansion]

SUBCHAPTER F. PENALTIES AND OTHER ENFORCEMENT PROCEDURES

Sec. 403.251. CIVIL PENALTY. (a) A person who violates this chapter, a rule adopted by the executive commissioner, or an order adopted by the commissioner under this chapter is liable for a civil penalty not to exceed \$500 for each occurrence.

(b) At the request of the department, the attorney general shall bring an action to recover a civil penalty authorized under this section.

Sec. 403.252. CEASE AND DESIST ORDER. (a) If it appears to the commissioner that a person who is not licensed under this chapter is violating this chapter or a rule adopted under this chapter, the commissioner after notice and an opportunity for a hearing may issue a cease and desist order prohibiting the person from engaging in the activity.

(b) A violation of an order under this section constitutes grounds for imposing a civil penalty under this chapter.

SECTION 2. The heading to Subtitle G, Title 3, Occupations Code, is amended to read as follows:

SUBTITLE G. PROFESSIONS RELATED TO HEARING, ~~AND~~ SPEECH, AND DYSLEXIA

SECTION 3. (a) An interim committee is created to study and recommend legislation to increase awareness of early detection and treatment of dyslexia and related disorders. The committee's study shall examine:

(1) early detection and intervention;

(2) access to treatment in rural areas of the state;

(3) the role of public education and higher education in detection and treatment;

(4) treatment for older students and adults; and

(5) any barriers related to accommodations for individuals with dyslexia and related disorders.

(b) The committee consists of the following nine members:

(1) two members who are senators, one of whom represents a rural area, appointed by the lieutenant governor;

(2) two members who are state representatives, one of whom represents a rural area, appointed by the speaker of the house of representatives; and

(3) five members appointed by the governor as follows:

(A) one member who represents an institution of higher education that offers courses in dyslexia and related disorders;

(B) one member who represents a nationally accredited training center;

(C) one member who is a certified academic language therapist;

(D) one member who is a public school dyslexia designee; and

(E) one member who is a parent of a student with dyslexia.

(c) The committee shall elect a presiding officer from among its members.

(d) The committee shall convene at the call of the presiding officer.

(e) Committee members may not receive compensation or reimbursement of expenses for serving on the committee.

(f) Not later than December 1, 2010, the committee shall report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor.

(g) Not later than the 60th day after the effective date of this Act, the lieutenant governor, the speaker of the house of representatives, and the governor shall appoint the members of the interim committee created under this section.

(h) This section expires September 1, 2011.

SECTION 4. Not later than November 1, 2009, the commissioner of the Department of State Health Services shall appoint the initial members of the advisory committee under Section 403.051, Occupations Code, as added by this Act.

SECTION 5. Not later than June 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt final rules under Section 403.052, Occupations Code, as added by this Act.

SECTION 6. The Department of State Health Services shall issue a licensed dyslexia therapist license to an applicant under this section who:

(1) applies for a license under this section not later than December 31, 2012;

(2) not later than November 30, 2012, meets the requirements of Sections 403.105(a)(2)-(5), Occupations Code, as added by this Act;

(3) submits any other information required by the department by rule; and

(4) pays the application fee.

SECTION 7. (a) Except as required by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Section 403.101 and Subchapters E and F, Chapter 403, Occupations Code, as added by this Act, take effect September 1, 2010.

**HB 719 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Flynn called up with senate amendments for consideration at this time,

HB 719, A bill to be entitled An Act relating to certain content requirements for signs used to identify the location of a polling place during a primary election.

HB 719 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE ANCHIA: Thank you, Representative Flynn. I was looking briefly at the amendment and trying to understand whether this was the same bill that we heard in committee, and at one point in committee, we had limited the bill that we kicked out to five participants in the pilot program. Is that what's contained in the current bill?

REPRESENTATIVE FLYNN: Yes. I checked with the chairman, and this was the bill that you all heard in the committee. There's three over-100,000 population and two under-100,000, and it is a volunteer through the commissioners court. So, it's the same bill that you heard in that committee. I think it was voted out unanimously from your committee.

ANCHIA: Is it your understanding that the limit of the five counties is contained in Subsection I? Is that your reading?

FLYNN: Yes, Rafael, I think that's correct. This was not my bill—they added it to it. Chairman Smith said that this was one that they liked, and he was okay with it, and so I'm kind of going with him.

ANCHIA: I guess the Secretary of State, in this bill, has to file a report back to the legislature, so it still maintains the status as a pilot, is that not right?

FLYNN: Yes, and it has to have a public hearing—submit documents, has to implement a computerized voting—there's about five items that they have to test on. It's the same bill that you saw in your committee.

REPRESENTATIVE HERRERO: Dan, is there anything in this bill that is intended—obviously with the senate amendment—is there anything that is intended in this bill to disenfranchise voters or make it more difficult for voters to be able to access polling locations?

FLYNN: It's my understanding of the bill, from the author, that what it does is it gives them an opportunity—the county clerk—to be able to expedite voting better. So, I don't think it disenfranchises anyone.

HERRERO: Right, but as the author of this bill, I guess I'm asking you, as the bill is coming before us, with senate amendments, is it your intent that this bill be interpreted in a way to disenfranchise voters or limit the access of voters to polling locations?

FLYNN: Not at all. That's not what the bill says.

REMARKS ORDERED PRINTED

Representative Leibowitz moved to print remarks between Representative Flynn and Representative Anchia.

The motion prevailed.

Representative Herrero moved to print remarks between Representative Flynn and Representative Herrero.

The motion prevailed.

Representative Flynn moved to concur in the senate amendments to **HB 719**.

The motion to concur in the senate amendments to **HB 719** prevailed by (Record 1464): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson(C); Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Davis, Y.; Pitts; Rodriguez.

Senate Committee Substitute

CSHB 719, A bill to be entitled An Act relating to polling places for certain elections.

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

SECTION 1. Subchapter A, Chapter 43, Election Code, is amended by adding Section 43.007 to read as follows:

Sec. 43.007. COUNTYWIDE POLLING PLACE PROGRAM. (a) The secretary of state shall implement a program to allow each commissioners court participating in the program to eliminate county election precinct polling places and establish countywide polling places for:

(1) each general election for state and county officers;
(2) each countywide election held on the uniform election date in May;
(3) each election on a proposed constitutional amendment; and
(4) each election of a political subdivision located in the county that is held jointly with an election described by Subdivision (1), (2), or (3).

(b) The commissioners court of a county that desires to participate in the program authorized by this section shall hold a public hearing on the county's participation in the program. The commissioners court shall submit a transcript or electronic recording of the public comments made at the hearing to the secretary of state. A county that has previously participated in a similar program and held a public hearing on the county's participation in that program is not required to hold a hearing under this subsection.

(c) In conducting the program, the secretary of state shall provide for an audit of the direct recording electronic voting units before and after the election, and during the election to the extent such an audit is practicable.

(d) The secretary of state shall select to participate in the program each county that:

(1) has held a public hearing under Subsection (b);
(2) has submitted documentation listing the steps taken to solicit input on participating in the program by organizations or persons who represent the interests of voters;

(3) has implemented a computerized voter registration list that allows an election officer at the polling place to verify that a voter has not previously voted in the election;

(4) uses direct recording electronic voting machines; and
(5) is determined by the secretary of state to have the appropriate technological capabilities.

(e) Each countywide polling place must allow a voter to vote in the same elections in which the voter would be entitled to vote in the county election precinct in which the voter resides.

(f) In selecting countywide polling places, a county must adopt a methodology for determining where each polling place will be located. The total number of countywide polling places may not be less than:

(1) except as provided by Subdivision (2), 50 percent of the number of precinct polling places that would otherwise be located in the county for that election; or

(2) for an election held in the first year in which the county participates in the program, 65 percent of the number of precinct polling places that would otherwise be located in the county for that election.

(g) A county participating in the program must establish a plan to provide notice informing voters of the changes made to the locations of polling places under the program. The plan must require that notice of the location of the nearest countywide polling place be posted on election day at each polling place used in the previous general election for state and county officers that is not used as a countywide polling place.

(h) In adopting a methodology under Subsection (f) or creating the plan under Subsection (g), the county shall solicit input from organizations or persons located within the county who represent minority voters.

(i) The secretary of state may only select to participate in the program three counties with a population of 100,000 or more and two counties with a population of less than 100,000.

(j) Not later than January 1 of each odd-numbered year, the secretary of state shall file a report with the legislature. The report must include any complaints or concerns regarding a specific election that have been filed with the office of the secretary of state before the preparation of the report and any available information about voter turnout and waiting times at the polling places. The report may include the secretary of state's recommendations on the future use of countywide polling places and suggestions for statutory amendment regarding the use of countywide polling places.

SECTION 2. Subchapter E, Chapter 172, Election Code, is amended by adding Section 172.127 to read as follows:

Sec. 172.127. CONTENT OF SIGN USED TO IDENTIFY POLLING PLACE LOCATION. (a) This section applies only to a polling place used to hold an election for more than one political party.

(b) A sign used to indicate the location of a polling place for a primary election or a primary runoff election must either:

(1) not contain the name of, or symbol representing, any political party that is holding an election at the polling place; or

(2) contain each name of, or each symbol representing, a political party that is holding an election at the polling place.

SECTION 3. This Act takes effect September 1, 2009.

**HB 4409 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Taylor called up with senate amendments for consideration at this time,

HB 4409, A bill to be entitled An Act relating to emergency preparation and management.

Representative Taylor moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 4409**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4409**: Taylor, chair; Smithee, Eiland, Hunter, and Guillen.

HB 4409 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HERRERO: Larry, we all know that **SB 14** was added as an amendment to **HB 4409**—we are all aware of that. **SB 14**—I know Representative Hunter, myself, Representative Ortiz, represent coastal communities, as you do, as well. We're very concerned about **SB 14** as it's coming before us, as an amendment to your bill. I know that you, as a coastal representative, want to ensure that coastal communities get their fair share in the negotiations. I want to make sure that still is your intent in going to conference.

REPRESENTATIVE TAYLOR: Yeah, and let me be clear, the **SB 14** that came out of the senate was not a bill that was going to be good for the whole State of Texas, as well as the coast. The compromise that we worked out on the house side—the substitute—is a good bill for all of us. That's what we're going to be working—to make sure we get that back in place.

HERRERO: Is that the position, then, that you want to express to the senate, as far as negotiations pertaining to conference committee?

TAYLOR: Absolutely.

HERRERO: I guess, along those lines, is it also your intent to ensure that coastal communities, as well as the State of Texas, are able to be better prepared for hurricanes, or other natural disasters, related to wind and hail?

TAYLOR: That's correct.

HERRERO: Alright. Earlier, you and I talked about how we had an amendment that we wanted to offer to the Texas Windstorm Insurance Bill in an effort to provide different funding mechanisms—one of which would have allowed those insured not to have to pay an increase in cost. Is that going to be one of your proposals?

TAYLOR: Yeah, we have several different options. What you're referring to is the stacking or the layering of the coverage, and there is some question about whether we can flip one of those layers—that's all part of our discussion. I think what we want to stick with is the main format that we had—if we can make some minor changes there. The senate versions that I've seen are, frankly, they're not good for the rest of the state and they're not good for the coastal area, as well as the compromise we'd already crafted on this side.

HERRERO: Right.

TAYLOR: So, we're going to try to stick to that.

HERRERO: I guess that's what I'm trying to express to you in these questions that I'm asking. As a member of the coastal community, I want to make sure that we don't, through legislation, especially as it pertains to **SB 14**, try to divide the state between one part of the state with another. At this point in time—especially during the economy—it's important that we work collectively together to try to reach a solution that is favorable and not detrimental to one part—specifically as it pertains to coastal communities.

TAYLOR: Just so I can let people be very aware, this is something that affects the whole State of Texas, and it really needs to be a good deal for the whole State of Texas. If we get this taken care of correctly, it's going to help our home owners insurance market, as well as our property insurance markets, all over the State of Texas. I'm committed to making sure we have the best possible deal. I think the **SB 14** version that we passed on the house side is that compromise—it works for everybody and we're going to try to fight to keep that.

HERRERO: Is part of what we're also trying to do in conference committee to try to prevent a special session on this issue, as well?

TAYLOR: Absolutely.

REMARKS ORDERED PRINTED

Representative Herrero moved to print remarks between Representative Taylor and Representative Herrero.

The motion prevailed.

HB 130 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Patrick called up with senate amendments for consideration at this time,

HB 130, A bill to be entitled An Act relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.

Representative Patrick moved to concur in the senate amendments to **HB 130**.

The motion to concur in the senate amendments to **HB 130** prevailed by (Record 1465): 116 Yeas, 27 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bohac; Bolton; Branch; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hunter; Jackson; Keffer; Kent; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson(C); Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Anderson; Berman; Brown, B.; Brown, F.; Button; Chisum; Christian; Elkins; Fletcher; Flynn; Hancock; Howard, C.; Hughes; Isett; Jones; King, P.; Laubenberg; Madden; Miller, S.; Morrison; Parker; Paxton; Phillips; Riddle; Smith, W.; Smithee; Weber.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Bonnen; Ritter.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1465. I intended to vote yes.

Jones

I was shown voting no on Record No. 1465. I intended to vote yes.

S. Miller

I was shown voting yes on Record No. 1465. I intended to vote no.

Taylor

Senate Committee Substitute

CSHB 130, A bill to be entitled An Act relating to an enhanced quality full-day prekindergarten program provided by public school districts in conjunction with community providers.

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

SECTION 1. Section 12.104(b), Education Code, is amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) reading instruments and accelerated reading instruction programs under Section 28.006;

(D) satisfactory performance on assessment instruments and to accelerated instruction under Section 28.0211;

(E) high school graduation under Section 28.025;

(F) special education programs under Subchapter A, Chapter 29;

(G) bilingual education under Subchapter B, Chapter 29;

(H) prekindergarten programs under Subchapter E or E-1, Chapter 29;

(I) extracurricular activities under Section 33.081;

(J) discipline management practices or behavior management techniques under Section 37.0021;

(K) health and safety under Chapter 38;

(L) public school accountability under Subchapters B, C, D, and G, Chapter 39;

(M) the requirement under Section 21.006 to report an educator's misconduct; and

(N) intensive programs of instruction under Section 28.0213.

SECTION 2. Section 28.002(l), Education Code, is amended to read as follows:

(l) A school district shall require a student enrolled in full-day prekindergarten, in kindergarten, or in a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's physical education curriculum or through structured activity during a school campus's daily recess. To the extent practicable, a school district shall require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten. A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week. Additionally, a school district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks. A school district must provide for an exemption for:

(1) any student who is unable to participate in the required physical activity because of illness or disability; and

(2) a middle school or junior high school student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity under rules adopted by the commissioner.

SECTION 3. Section 28.006, Education Code, is amended by adding Subsections (d-2) and (d-3) to read as follows:

(d-2) A school district that participates in the grant program under Subchapter E-1, Chapter 29, shall include student-level results of reading instruments administered at the kindergarten and first and second grade levels in the district's Public Education Information Management System (PEIMS) report.

(d-3) If a school district that participates in the grant program under Subchapter E-1, Chapter 29, administers a reading instrument that does not provide information in a form that can be reported to the agency on the Public Education Information Management System (PEIMS) report, the commissioner shall adopt an alternative reporting method that allows the district to submit student-level results of reading instruments administered by the district at the kindergarten and first and second grade levels.

SECTION 4. Chapter 29, Education Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. ENHANCED QUALITY FULL-DAY
PREKINDERGARTEN PROGRAM

Sec. 29.164. DEFINITION. In this subchapter, "enhanced program" or "program" means an enhanced quality full-day prekindergarten program provided free of tuition or fees in accordance with this subchapter.

Sec. 29.165. ENHANCED QUALITY FULL-DAY PREKINDERGARTEN PROGRAM GRANTS. (a) From funds appropriated for that purpose, the commissioner by rule shall establish a grant program under which grants are awarded to school districts to implement an enhanced quality full-day prekindergarten program for children eligible for classes under Section 29.153.

(b) A school district may apply to the commissioner to participate in the grant program. In awarding grants under this subchapter for each school year, the commissioner shall give priority in the order listed to the following school districts:

(1) school districts that receive grant funding from the commissioner for early childhood education in an amount less than 60 percent of the amount awarded for that purpose during the 2008-2009 school year and demonstrate above-average student performance for the preceding three school years on the assessment instruments administered under Section 39.023 to students in the third grade;

(2) school districts that receive grant funding from the commissioner for early childhood education in a lesser amount than the amount provided for that purpose during the 2008-2009 school year and demonstrate above-average student performance for the preceding three school years on the assessment instruments administered under Section 39.023 to students in the third grade; and

(3) school districts that provide services to eligible prekindergarten students and demonstrate above-average student performance for the preceding three school years on the assessment instruments administered under Section 39.023 to students in the third grade.

(c) A school district may not enroll more than 22 students in a program class and must maintain an average ratio in the program of not less than one certified teacher or teacher's aide for each 11 students. Each program class must have at least one certified teacher.

(d) A certified teacher in the program must have a minimum of nine semester credit hours of college education courses emphasizing early childhood education.

(e) A school district must select and implement a curriculum for the program that includes the prekindergarten guidelines established by the agency.

(f) A program is subject to any other requirements imposed by law that apply to a prekindergarten program not provided in accordance with this subchapter, except that to the extent a conflict exists between this subchapter and any other provision of law, this subchapter prevails.

Sec. 29.166. CONTRACTS WITH COMMUNITY PROVIDERS REQUIRED. (a) A school district that provides an enhanced program shall use at least 20 percent of grant funds provided under this subchapter to contract with one or more eligible community providers to provide the program.

(b) The commissioner may waive the requirement under Subsection (a) on an annual basis if a school district provides documentation acceptable to the commissioner that:

(1) the area served by the district does not have a sufficient number of eligible community providers;

(2) after a good faith effort, the school district did not receive any applications or other indications of interest in contracting with the district from eligible community providers; or

(3) after a good faith effort and for good cause, the district and eligible community providers interested in contracting with the district were unable to reach an agreement.

(c) Not later than the 30th day after the date the commissioner receives a request for a waiver under Subsection (b), the commissioner shall send a written notice to the school district and the affected community provider, if applicable, granting or denying the request. A school district or community provider affected by a decision of the commissioner under this subsection may appeal the decision as provided by Section 7.057.

Sec. 29.167. ELIGIBLE COMMUNITY PROVIDERS. (a) To be eligible to contract with a school district to provide an enhanced program, a community provider must be center-based and licensed by and in good standing with the Department of Family and Protective Services. For purposes of this subsection, a community provider is in good standing with the Department of Family and Protective Services if the department has not taken an action against the provider's license under Section 42.071, 42.072, or 42.078, Human Resources Code, during the 12-month period preceding the date of a contract with a school district.

(b) Except as provided by Subsection (c), an eligible community provider must also meet one of the following criteria:

(1) the community provider must be certified through the school readiness certification system established under Section 29.161;

(2) the community provider must be a Texas Early Education Model participant;

(3) the community provider must be a Texas Rising Star Provider with a three-star certification or higher; or

(4) the community provider must be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the agency that requires a developmentally appropriate curriculum that includes math, science, social studies, literacy, physical development, and social and emotional components.

(c) Notwithstanding failure to satisfy the requirements of Subsection (b) and subject to Subsection (d), a community provider otherwise eligible to contract with a school district under Subsection (a) may contract with a district if:

(1) the community provider meets quality criteria adopted by the district that are:

(A) based on the best available peer-reviewed research; and

(B) made available to the public in a timely manner; and

(2) the commissioner approves the arrangement.

(d) A community provider contracting with a school district as provided by Subsection (c) must meet the requirements for eligibility provided by Subsection (b) not later than the first anniversary of the date the contract was executed.

Sec. 29.168. WRITTEN CONTRACT REQUIRED. A school district and a community provider contracting under this subchapter shall enter a written contract governing the services to be provided by the community provider. The contract may provide for, but is not limited to, the following types of partnerships:

(1) the school district leases school facilities to or from the community provider;

(2) the school district employs a certified teacher for the prekindergarten class and the community provider supplies the school facilities and all other personnel and supplies; or

(3) the community provider supplies the school facilities, certified teachers, personnel, and supplies.

Sec. 29.169. FUNDING TO COMMUNITY PROVIDER. (a) Except as provided by Subsection (b), the amount of reimbursement provided by a school district to a community provider is negotiable between the district and the community provider based on the services provided.

(b) For each school district prekindergarten student in attendance in an enhanced program class provided by a community provider in which the community provider supplies the school facilities, certified teachers, personnel, and supplies, a school district shall reimburse the community provider in an amount not less than the sum of:

(1) the amount of the district's adjusted basic allotment, as determined under Section 42.102 or 42.103, as applicable, multiplied by 1.0; and

(2) the amount of any additional funding received by the district for the student under Subchapter C, Chapter 42.

(c) Funding provided under this section does not affect a community provider's eligibility to receive any other local, state, or federal funds to provide before-school, after-school, and summer child care.

Sec. 29.170. DISCRIMINATION BY COMMUNITY PROVIDER PROHIBITED. A community provider may not deny enhanced program services to a student on the basis of the student's race, religion, sex, ethnicity, national origin, or disability.

Sec. 29.171. ANNUAL ENHANCED PROGRAM REPORT. A school district operating an enhanced program shall provide an annual report to the agency not later than August 1 of each year. The report must include the percentage of the grant funds provided under this subchapter used by the district to contract with community providers.

Sec. 29.172. COLLECTION AND REPORTING OF INFORMATION.The agency shall:(1) collect and maintain information that is reported by a school district to the agency under Section 28.006 and information from the assessment instruments administered under Section 39.023 to students in the third grade;(2) produce longitudinal student performance reports using student-level information collected for consecutive grade levels; and(3) make the reports available and accessible to parents and the general public.Sec. 29.173. ENHANCED PROGRAM EVALUATION. (a) Using information provided to the agency under Sections 29.171 and 29.172 and using funds available for that purpose, the Legislative Budget Board shall conduct or contract for an evaluation of the effectiveness of the enhanced program regarding student performance outcomes.(b) Not later than December 1, 2012, the board shall deliver an interim report to the legislature containing the preliminary results of the evaluation.(c) Not later than December 1, 2016, the board shall deliver to the legislature a final report regarding the program.(d) This section expires December 1, 2016.Sec. 29.174. DUTIES OF COMMISSIONER. The commissioner shall:(1) require regional education service centers to assist:(A) school districts in:(i) informing parents of prekindergarten options;(ii) identifying eligible community providers and maintaining an updated list of eligible community providers; and(iii) creating standardized forms and processes for outreach to and contracts with community providers for use when considering community partnerships;(B) community providers in establishing contracts with school districts under this subchapter; and(C) community providers who are not eligible to contract with a school district under this subchapter by providing information regarding eligibility to contract with a school district; and(2) encourage regional education service centers and school districts to use locally available child care resources and referral services.Sec. 29.175. STATE FUNDING; GRANT AMOUNT. (a) From funds appropriated for the purposes of this subchapter the commissioner shall award grants as provided by this subchapter.(b) The commissioner, in accordance with this subsection, shall determine the amount of each grant awarded under this subchapter. A grant must provide an amount of funding for each student in the program equal to the greater of:(1) the amount to which the district would be entitled under the foundation school program for an additional student in average daily attendance on a half-day basis; or

(2) the amount of funding equal to the statewide average amount to which a district would be entitled under the foundation school program for an additional student in average daily attendance on a half-day basis.

(c) Funding provided for each program student through a grant under this subchapter is in addition to funding otherwise provided for the student under Chapter 42.

Sec. 29.176. RULES. The commissioner may adopt rules necessary to implement this subchapter.

Sec. 29.177. STATE FUNDING; DIRECTIVE FOR GRANT PAYMENTS TO SCHOOL DISTRICTS. Funds provided for the operation of the enhanced program through a grant awarded under this subchapter must be paid directly to a public school district or open-enrollment charter school. Funds awarded under this subchapter may not be awarded directly to a private or nonprofit child care provider or to a private school.

SECTION 5. This Act applies beginning with the 2009-2010 school year.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 130** (Senate Committee Report) as follows:

(1) At page 2, strike lines 2-51 through 2-69, and substitute the following:

(1) school districts that receive grant funding from the commissioner for early childhood education in a lesser amount than the amount provided for that purpose during the 2008-2009 school year and demonstrate above-average student performance for the preceding three school years on the assessment instruments administered under Section 39.023 to students in the third grade; and

(2) school districts that provide services to eligible prekindergarten students and demonstrate above-average student performance for the preceding three school years on the assessment instruments administered under Section 39.023 to students in the third grade.

(2) On page 3, insert the following between lines 3-16 and 3-17:

(g) The commissioner may accept, solicit, and use federal or private grant funds and gifts available for that purpose to fund additional or increased grants under this section and section 29.155.

(3) On page 5, insert the following new Subsection (d) between lines 5-44 and 5-45:

(d) Funding provided for each school district or open-enrollment charter school through a grant under this subchapter may not exceed \$4 million annually.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 130** (senate committee printing) in SECTION 4 of the bill, in added Section 29.165, Education Code (page 3, between lines 8 and 9), by adding a new Subsection (d-1) to read as follows:

(d-1) If a certified teacher who meets the requirements of Subsection (d) is unavailable, a community provider contracting with a school district under this subchapter may employ a teacher for the program who has a minimum of three years experience in early childhood education, who is certified as a Child Development Associate by the Council for Professional Recognition, and who is taking one or more college education courses that emphasize early childhood education. Not later than the third anniversary of the date the community provider contracts with the district, the community provider must employ a teacher who meets the requirements of Subsection (d).

Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend **CSHB 130**, in SECTION 4 of the bill (senate committee report page 9, lines 26-page 10, lines 1-4) by striking Section 29.171 and inserting the following new Section 29.171:

Sec. 29.171. ANNUAL ENHANCED PROGRAM REPORT. (a) A school district operating an enhanced program shall provide an annual report to the agency not later than August 1 of each year. The report must include:

(1) the percentage of the grant funds provided under this subchapter used by the district to contract with community providers; and

(2) data components, approved by the commissioner, that illustrate acquisition of knowledge and skills consistent with the prekindergarten guidelines established by the agency and student-level progress towards school readiness.

(b) The commissioner may not require a district or recipient of grant funds to participate in the school readiness certification system established under Section 29.161.

Senate Amendment No. 4 (Senate Floor Amendment No. 4)

Amend **CSHB 130** (Senate Committee Report) as follows. Insert new SECTION 5 and renumber subsequent sections accordingly:

SECTION 5. FUNDING FOR GRANTS UNDER 29.155. Funds appropriated to fund eligible prekindergarten programs under Section 29.155, Education Code, may be used in the 2009-2010 school year, with prior written approval from the Governor and the Legislative Budget Board, to support at the same level of funding as the 2008-2009 school year districts that received grant funds for such programs under Section 29.155 in the 2008-2009 school year, and to fund additional districts that have received notice of grant awards for such programs for the 2009-2010 school year. If additional state or federal funds become available to support such programs for the 2010-2011 school year, the commissioner of education shall have authority and flexibility to provide funds for all such programs. If additional funds are not sufficient to fund all such programs in the 2010-2011 school year at the amount per student provided in the 2009-2010 school year, funding for all participating districts shall be reduced proportionally. All funds appropriated that are not expended in the 2009-2010 school year are transferred to the 2010-2011 school year, and the commissioner may use such funds to support additional programs and services for eligible prekindergarten students.

Senate Amendment No. 5 (Senate Floor Amendment No. 5)

Amend **CSHB 130** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

**HB 3751 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gallego called up with senate amendments for consideration at this time,

HB 3751, A bill to be entitled An Act relating to the conditions of bond for a defendant charged with committing certain offenses against a child and to the denial of bail pending trial with respect to certain defendants who violate those conditions.

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3751**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3751**: Gallego, chair; Christian, Moody, Miklos, and Riddle.

**HB 2515 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative T. Smith called up with senate amendments for consideration at this time,

HB 2515, A bill to be entitled An Act relating to the minimum dollar amount for certain requirements to apply to certain public contracts.

Representative T. Smith moved to concur in the senate amendments to **HB 2515**.

The motion to concur in the senate amendments to **HB 2515** prevailed by (Record 1466): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett;

Jackson; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson(C); Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Davis, Y.; Hartnett; Jones; Patrick.

Senate Committee Substitute

CSHB 2515, A bill to be entitled An Act relating to certain requirements applicable to certain public contracts.

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

SECTION 1. Section 2253.021(a), Government Code, is amended to read as follows:

(a) A governmental entity that makes a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity:

- (1) a performance bond if the contract is in excess of \$100,000; and
- (2) a payment bond if:

(A) the contract is in excess of \$25,000, and the governmental entity is not a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code; or

(B) the contract is in excess of \$50,000, and the governmental entity is a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code.

SECTION 2. Section 53.231, Property Code, is amended to read as follows:

Sec. 53.231. LIEN. (a) A person who furnishes material or labor to a contractor under a prime contract with a governmental entity other than a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code, that does not exceed \$25,000 and that is for public improvements in this state and who gives notice required by this subchapter has a lien on the money, bonds, or warrants due the contractor for the improvements.

(b) A person who furnishes material or labor to a contractor under a prime contract with a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code, that does not exceed \$50,000 and that is for public improvements in this state and who gives notice required by this subchapter has a lien on the money, bonds, or warrants due the contractor for the improvements.

SECTION 3. Section 53.234, Property Code, is amended to read as follows:

Sec. 53.234. TIME FOR NOTICE. The lien claimant must give notice ~~[before any payment is made to the contractor and]~~ not later than the 15th day of the second month following the month in which the labor was performed or the material furnished.

SECTION 4. The changes in law made by this Act to Section 2253.021(a), Government Code, apply only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2009.

**HB 2139 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gallego called up with senate amendments for consideration at this time,

HB 2139, A bill to be entitled An Act relating to the establishment, operation, and funding of victim-offender mediation programs.

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2139**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2139**: McClendon, chair; Hodge, Dukes, Marquez, and Moody.

**HB 148 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Herrero called up with senate amendments for consideration at this time,

HB 148, A bill to be entitled An Act relating to the prosecution of the offense of barratry and solicitation of professional employment.

Representative Herrero 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 148**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 148**: T. Smith, chair; Hartnett, Leibowitz, Hunter, and Branch.

**HB 269 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Lucio called up with senate amendments for consideration at this time,

HB 269, A bill to be entitled An Act relating to course credit for certain students at a public institution of higher education.

Representative Lucio moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 269**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 269**: Lucio, chair; Berman, Corte, Flores, and Vaught.

**HB 394 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Rose called up with senate amendments for consideration at this time,

HB 394, A bill to be entitled An Act relating to use of the money from the Texas Enterprise Fund to benefit small businesses.

HB 394 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE ROSE: Mr. Speaker, members, I want to first of all thank several representatives who worked with me on the house floor, particularly Representatives Veasey, Berman, and England. The senate took off the amendments that were added on the house floor. I visited with the house sponsors of those amendments. I move to concur, but before I do that, I want to, for purposes of legislative intent, say that it is certainly my intent, and the intent of this house, that businesses that would be considered historically underutilized businesses ought to be considered for enterprise fund grants, and that businesses in this state that have as their primary purpose the provision of energy derived from renewable energy technology also ought to be considered for enterprise fund grants.

REMARKS ORDERED PRINTED

Representative Rose moved to print his remarks.

The motion prevailed.

Representative Rose moved to concur in the senate amendments to **HB 394**.

The motion to concur in the senate amendments to **HB 394** prevailed by (Record 1467): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson(C); Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Deshotel; Gattis; McReynolds; Peña; Sheffield.

Senate Committee Substitute

CSHB 394, A bill to be entitled An Act relating to use of the money from the Texas Enterprise Fund to benefit small businesses.

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

SECTION 1. The vital importance of small businesses to the economy of this state and the well-being of its residents requires that it be the policy of this state to encourage the creation and location of small businesses in this state and promote opportunities for those businesses to prosper.

SECTION 2. Section 481.078, Government Code, is amended by adding Subsections (k) and (l) to read as follows:

(k) To encourage the creation, development, and location of small businesses in this state, the governor shall consider making grants from the fund to recipients that are:

(1) small businesses in this state that commit to using the grants to create additional jobs; or

(2) small businesses from outside the state that commit to relocate to this state.

(l) For purposes of Subsection (k), "small business" means a legal entity, including a corporation, partnership, or sole proprietorship, that:

(1) is formed for the purpose of making a profit;

(2) is independently owned and operated; and

(3) has fewer than 100 employees.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 394** (Senate committee printing) as follows:

- (1) On page 1, line 15, strike "creation" and substitute "development".
 - (2) On page 1, line 20, between "the" and "development", strike "creation".
 - (3) On page 1, line 20, between "development" and "and", strike "2".
 - (4) On page 1, line 22, between "fund" and ":", strike "to recipients that are".
 - (5) On page 1, line 23, between "(1)" and "small", insert "to recipients that are".
 - (6) On page 1, line 24, following ":", strike "or".
 - (7) On page 1, line 25, between "(2)" and "small", insert "to recipients that are".
 - (8) On page 1, line 26, between "state" and ":", insert ": or
(3) for individual projects that create 100 or fewer additional jobs".
- (Speaker in the chair)

**PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR**

Representative McClendon moved to suspend all necessary rules to set a congratulatory and memorial calendar for 2 p.m. Sunday, May 31.

The motion prevailed.

**HB 677 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hartnett called up with senate amendments for consideration at this time,

HB 677, A bill to be entitled An Act relating to violations of laws administered and enforced by the Texas Ethics Commission and to sworn complaints alleging such violations.

Representative Hartnett moved to concur in the senate amendments to **HB 677**.

The motion to concur in the senate amendments to **HB 677** prevailed by (Record 1468): 129 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Fletcher; Frost; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett;

Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez Fischer; McCall; McReynolds; Menendez; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, S.; Vaught; Veasey; Villarreal; Walle; Weber; Woolley; Zerwas.

Nays — Phillips; Turner, C.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Elkins; Flores; Flynn; Gallego; Gattis; Hodge; Legler; Martinez; McClendon; Merritt; Moody; Ortiz; Sheffield; Vo.

STATEMENTS OF VOTE

When Record No. 1468 was taken, my vote failed to register. I would have voted yes.

Flynn

I was shown voting yes on Record No. 1468. I intended to vote no.

Herrero

I was shown voting yes on Record No. 1468. I intended to vote no.

Marquez

I was shown voting yes on Record No. 1468. I intended to vote no.

Miklos

When Record No. 1468 was taken, I was in the house but away from my desk. I would have voted no.

Moody

Senate Committee Substitute

CSHB 677, A bill to be entitled An Act relating to violations of laws administered and enforced by the Texas Ethics Commission and to sworn complaints alleging such violations.

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

SECTION 1. Subchapter C, Chapter 571, Government Code, is amended by adding Section 571.0631 to read as follows:

Sec. 571.0631. RULES CONCERNING TECHNICAL AND CLERICAL VIOLATIONS. The commission shall adopt rules prescribing procedures for investigating and resolving technical and clerical violations of laws within the commission's jurisdiction. For registrations and reports filed under Chapter 305, the commission shall consider clerical violations to include obvious

typographical errors. A registrant filing a registration or report under Chapter 305 may correct obvious typographical errors without penalty by filing either a corrected registration or report or an updated or amended registration or report.

SECTION 2. Section 571.122, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) To be eligible to file a sworn complaint with the commission, an individual must be a resident of this state or must own real property in this state. A copy of one of the following documents must be attached to the complaint:

(1) the complainant's driver's license or personal identification certificate issued under Chapter 521, Transportation Code, or commercial driver's license issued under Chapter 522, Transportation Code;

(2) a utility bill, bank statement, government check, paycheck, or other government document that:

(A) shows the name and address of the complainant; and

(B) is dated not more than 30 days before the date on which the complaint is filed; or

(3) a property tax bill, notice of appraised value, or other government document that:

(A) shows the name of the complainant;

(B) shows the address of real property in this state; and

(C) identifies the complainant as the owner of the real property.

SECTION 3. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.142 to read as follows:

Sec. 571.142. LIABILITY FOR RESPONDENT'S COSTS. (a) This section applies only to a sworn complaint if:

(1) the complaint was filed after the 30th day before the date of an election;

(2) the respondent is a candidate in the election; and

(3) the complaint alleges a violation other than a technical or clerical violation.

(b) If, in disposing of a sworn complaint to which this section applies, the commission determines that a violation within the commission's jurisdiction has not occurred, the complainant is liable for the respondent's reasonable and necessary attorney's fees and other costs incurred in defending against the complaint.

(c) This section does not apply to a sworn complaint regarding a reporting omission required by law.

SECTION 4. Section 571.122, Government Code, as amended by this Act, and Section 571.142, Government Code, as added by this Act, apply only to a sworn complaint filed with the Texas Ethics Commission on or after September 1, 2009.

SECTION 5. This Act takes effect September 1, 2009.

**HB 853 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Laubenberg called up with senate amendments for consideration at this time,

HB 853, A bill to be entitled An Act relating to inclusion of pets and other companion animals in protective orders; providing a penalty.

Representative Laubenberg 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 853**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 853**: Laubenberg, chair; Leibowitz, Harper-Brown, Castro, and Kleinschmidt.

**HB 1290 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Oliveira called up with senate amendments for consideration at this time,

HB 1290, A bill to be entitled An Act relating to health benefit plan coverage for certain tests for the early detection of cardiovascular disease.

Representative Oliveira moved to concur in the senate amendments to **HB 1290**.

The motion to concur in the senate amendments to **HB 1290** prevailed by (Record 1469): 99 Yeas, 43 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bohac; Branch; Burnam; Button; Callegari; Castro; Chavez; Cohen; Coleman; Cook; Corte; Crownover; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Jones; Keffer; Kent; King, P.; King, T.; Kolkhorst; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Pitts; Quintanilla; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Aycok; Berman; Bonnen; Brown, B.; Brown, F.; Chisum; Christian; Crabb; Craddick; Creighton; Darby; Davis, J.; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hancock; Hardcastle; Harless; Harper-Brown; Isett;

Jackson; King, S.; Kleinschmidt; Laubenberg; Legler; Madden; Merritt; Orr; Otto; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Truitt; Weber; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Bolton; Farrar; Raymond.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1469. I intended to vote no.

Button

I was shown voting yes on Record No. 1469. I intended to vote no.

C. Howard

I was shown voting yes on Record No. 1469. I intended to vote no.

D. Miller

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1290** (House engrossment) in SECTION 1 of the bill, by striking Section 1376.001(1)(B) (page 2, lines 5 through 11) and substituting the following:

(B) a health benefit plan that is offered by a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Amend **HB 1290** (house engrossment) in SECTION 1 of the bill, by striking Sec. 1376.001(D)(3) (page 2, lines 18 through 20).

Senate Amendment No. 3 (Senate Floor Amendment No. 1)

Amend **HB 1290** as follows by adding the following new sections and renumbering subsequent sections appropriately:

SECTION _____. Subchapter E, Chapter 1551, Insurance Code, is amended by adding Section 1551.225 to read as follows:

Sec. 1551.225. BARIATRIC SURGERY COVERAGE. (a) The board of trustees shall develop a cost-neutral or cost-positive plan for providing under the group benefits program bariatric surgery coverage for employees eligible to participate in the program under Section 1551.101.

(b) The board of trustees may adopt rules as necessary to implement this section.

SECTION _____. The board of trustees of the Employees Retirement System of Texas shall implement the plan required by Section 1551.225, Insurance Code, as added by this Act, as soon as practicable, but not later than September 1, 2010.

**HB 1343 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Coleman called up with senate amendments for consideration at this time,

HB 1343, A bill to be entitled An Act relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.

Representative Coleman moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1343**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1343**: Menendez, chair; Naishtat, Pickett, Phillips, and McClendon.

**HB 1770 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Miklos called up with senate amendments for consideration at this time,

HB 1770, A bill to be entitled An Act relating to the designation of an area as a reinvestment zone under the Tax Increment Financing Act.

Representative Miklos moved to concur in the senate amendments to **HB 1770**.

The motion to concur in the senate amendments to **HB 1770** prevailed by (Record 1470): 123 Yeas, 16 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kleinschmidt; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Naishtat; Olivo; Orr; Ortiz; Otto; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley.

Nays — Branch; Brown, F.; Crabb; Craddick; Crownover; Gattis; Hochberg; Kolkhorst; Laubenberg; Morrison; Parker; Sheffield; Shelton; Taylor; Weber; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Geren; Kent; King, S.; Oliveira; Patrick; Turner, C.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1470. I intended to vote no.

Anderson

I was shown voting yes on Record No. 1470. I intended to vote no.

B. Brown

I was shown voting yes on Record No. 1470. I intended to vote no.

Christian

I was shown voting yes on Record No. 1470. I intended to vote no.

Woolley

Senate Committee Substitute

CSHB 1770, A bill to be entitled An Act relating to the Tax Increment Financing Act.

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

SECTION 1. Section 311.003(a), Tax Code, is amended to read as follows:

(a) The governing body of a county by order may designate a contiguous geographic area in the county and the governing body of a municipality by ordinance ~~[or the governing body of a county by order]~~ may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both ~~[in the jurisdiction of the municipality or county]~~ to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future. The designation of an area that is wholly or partly located in the extraterritorial jurisdiction of a municipality is not affected by a subsequent annexation of real property in the reinvestment zone by the municipality.

SECTION 2. Section 311.012(a), Tax Code, is amended to read as follows:

(a) The amount of a taxing unit's tax increment for a year is the amount of property taxes levied and assessed by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone or the amount of property taxes levied and collected by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone. The governing body of a taxing unit shall determine which of the methods specified by this subsection is used to calculate the amount of the unit's tax increment.

SECTION 3. Sections 311.013(c) and (i), Tax Code, are amended to read as follows:

(c) Notwithstanding any termination of the reinvestment zone under Section 311.017(a), a [A] taxing unit shall make a payment required by Subsection (b) not later than the 90th day after the delinquency date for the unit's property taxes. A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 percent.

(i) Notwithstanding Subsection (c) and Section 311.012(a), a taxing unit is not required to pay into a tax increment fund the applicable portion of a tax increment attributable to delinquent taxes until those taxes are collected.

SECTION 4. Section 311.017, Tax Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A reinvestment zone terminates on the earlier of:

(1) the termination date designated in the ordinance or order, as applicable, creating the zone or an earlier or later termination date designated by an ordinance or order adopted subsequent to the ordinance or order creating the zone; or

(2) the date on which all project costs, tax increment bonds and interest on those bonds, and other obligations have been paid in full.

(a-1) Notwithstanding the designation of a later termination date under Subsection (a), a taxing unit that taxes real property located in the reinvestment zone, other than the municipality or county that created the zone, is not required to pay any of its tax increment into the tax increment fund for the zone after the termination date designated in the ordinance or order creating the zone unless the governing body of the taxing unit enters into an agreement to do so with the governing body of the municipality or county that created the zone.

SECTION 5. (a) The legislature validates and confirms all governmental acts and proceedings of a municipality or county that were taken before the effective date of this Act and relate to or are associated with the extension of the term of a reinvestment zone created by the municipality or county under Chapter 311, Tax Code, as of the dates on which they occurred. The acts and proceedings may not be held invalid because they were not in accordance with Chapter 311, Tax Code, or other law.

(b) Subsection (a) of this section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

SECTION 6. This Act applies only to a taxing unit's tax increment for a period occurring on or after the effective date of this Act. A taxing unit's tax increment for a period occurring before the effective date of this Act is governed by the law in effect for such period, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1770** (Senate committee report) by adding the following SECTIONS to the bill, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (a), Section 311.006, Tax Code, is amended to read as follows:

(a) A municipality may not create a reinvestment zone if:

(1) more than 10 percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds:

(A) 20 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality is the county seat of a county:

(i) that is adjacent to a county with a population of 3.3 million or more; and

(ii) in which a planned community is located that has 20,000 or more acres of land, that was originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to restrictive covenants containing ad valorem or annual variable budget-based assessments on real property; or

(B) 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if Paragraph (A) does not apply to the municipality.

SECTION _____. Section 311.006(a), Tax Code, as amended by this Act, applies only to a reinvestment zone created on or after the effective date of this Act. The creation of a reinvestment zone before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

**HB 1914 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative McReynolds called up with senate amendments for consideration at this time,

HB 1914, A bill to be entitled An Act relating to abolishing the Private Sector Prison Industries Oversight Authority and to the certification and operation of private sector prison industries programs.

Representative McReynolds 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 1914**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1914**: McReynolds, chair; Madden, England, Christian, and Hodge.

**HB 3095 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Harless called up with senate amendments for consideration at this time,

HB 3095, A bill to be entitled An Act relating to the use of a parking space or area designated specifically for persons with disabilities.

Representative Harless moved to concur in the senate amendments to **HB 3095**.

The motion to concur in the senate amendments to **HB 3095** prevailed by (Record 1471): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Dukes; Farrar; King, S.; Oliveira.

Senate Committee Substitute

CSHB 3095, A bill to be entitled An Act relating to the use of a parking space or area designated specifically for persons with disabilities.

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

SECTION 1. Section 681.002(b), Transportation Code, is amended to read as follows:

(b) A disabled parking placard must be two-sided and hooked and include on each side:

(1) the international symbol of access, which must be at least three inches in height, be centered on the placard, and be:

(A) white on a blue shield for a placard issued to a person with a permanent [mobility] disability [~~described by Section 681.001(5)(B) or (C)~~]; or

(B) white on a red shield for a placard issued to a person with a [any other permanent or] temporary disability;

(2) an identification number;

(3) an expiration date at least three inches in height; and

(4) the seal or other identification of the department.

SECTION 2. Section 681.003(b), Transportation Code, is amended to read as follows:

(b) An application for a disabled parking placard must be:

(1) on a form furnished by the department;

(2) submitted to the county assessor-collector of the county in which the person with the disability resides; and

(3) accompanied by a fee of \$5 if the application is for a temporary placard.

SECTION 3. Section 681.009(e), Transportation Code, is amended to read as follows:

(e) Parking ~~[A private property owner or private person who controls property used for parking and who designates one or more uncovered parking] spaces or areas designated for the exclusive use of vehicles transporting persons with disabilities may be used by [shall assign at least half of those spaces for the exclusive use of] vehicles displaying a white on blue shield disabled parking placard, [or] license plates issued under Section 504.201 or 504.202, or [except that if an odd number of spaces is designated, only the number of spaces that is the largest whole number less than half of the number of designated spaces must be assigned for the exclusive use of vehicles displaying a white on blue shield placard or license plates issued under Section 504.202. Van-accessible parking spaces shall be counted as assigned spaces under this subsection. These assigned spaces must be the spaces located closest to an accessible route to an entrance accessible to a person with a disability. The remaining designated parking spaces may be used by vehicles displaying a white on blue shield disabled parking placard,]~~ a white on red shield disabled parking placard~~[, license plates issued under Section 504.201, or license plates issued under Section 504.202. This subsection applies only to a property used for parking that serves a building or other facility:~~

~~(1) that state law requires to be accessible to person with disabilities; and~~

~~(2) for which construction or an alteration of the building or other facility is completed on or after September 1, 1999].~~

SECTION 4. Sections 681.011(b), (g), (h), (i), (j), and (k), Transportation Code, are amended to read as follows:

(b) A person commits an offense if the person[=

~~[(4)]~~ stands a vehicle on which license plates issued under Section 504.201 or 504.202 are not displayed and a disabled parking placard is not displayed in a parking space or area designated specifically for individuals with disabilities by:

(1) ~~[(A)]~~ a political subdivision; or

(2) ~~[(B)]~~ a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under ~~[this]~~ Subsection (f) ~~]; or~~

~~[(2) stands a vehicle displaying a white on red shield disabled parking placard or license plates issued under Section 504.201 in a space designated under Section 681.009(c) for the exclusive use of vehicles displaying a white on blue shield disabled parking placard or license plates issued under Section 504.202].~~

(g) Except as provided by Subsections (h)-(k), an offense under this section is a misdemeanor punishable by a fine of not less than \$500 ~~[\$250]~~ or more than \$750 ~~[\$500]~~.

(h) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$550 ~~[\$300]~~ or more than \$800; and

(2) 10 hours of community service ~~[\$600]~~.

(i) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$550 ~~[\$300]~~ or more than \$800 ~~[\$600]~~; and

(2) not less than 20 ~~[10]~~ or more than 30 ~~[20]~~ hours of community service.

(j) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$800 ~~[\$500]~~ or more than \$1,100 ~~[\$1,000]~~;

and

(2) ~~[not less than 20 or more than]~~ 50 hours of community service.

(k) If it is shown on the trial of an offense under this section that the person has been previously convicted four times of an offense under this section, the offense is punishable by a fine of \$1,250 ~~[\$1,000]~~ and 50 hours of community service.

SECTION 5. A disabled parking placard issued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. (a) The change in law made by this Act applies only to an offense committed on or after September 1, 2009.

(b) An offense committed before September 1, 2009, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this subsection, an offense was committed before September 1, 2009, if any element of the offense was committed before that date.

SECTION 7. This Act takes effect September 1, 2009.

**HB 518 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 518, A bill to be entitled An Act relating to programs to provide student loan repayment assistance for certain correctional officers and for certain speech-language pathologists and audiologists.

Representative Kolkhorst moved to concur in the senate amendments to **HB 518**.

The motion to concur in the senate amendments to **HB 518** prevailed by (Record 1472): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Menendez.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 518** (Senate committee printing) by adding the following SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 61, Education Code, is amended by adding Subchapter GG to read as follows:

SUBCHAPTER GG. TEXAS TEACH CORPS STUDENT LOAN
REPAYMENT ASSISTANCE PROGRAM FOR MATHEMATICS AND
SCIENCE CLASSROOM TEACHERS

Sec. 61.9831. LOAN REPAYMENT ASSISTANCE AUTHORIZED. The board shall provide, in accordance with this subchapter and board rules, assistance in the repayment of eligible student loans for eligible undergraduate students who agree to teach mathematics or science for a specified period in school districts in this state that are determined by the Texas Education Agency to have shortages of teachers in mathematics or science.

Sec. 61.9832. ELIGIBILITY; AGREEMENT REQUIREMENTS. (a) To be eligible to receive loan repayment assistance under this subchapter, a person must:

(1) apply for the loan repayment assistance in the manner prescribed by the board;

(2) have graduated from high school in this state;

(3) be currently enrolled in an educator preparation program accredited by the State Board for Educator Certification that is provided by an institution of higher education or by a private or independent institution of higher education in this state;

(4) have a cumulative grade point average of at least 2.75 on a four-point scale or the equivalent;

(5) enter into an agreement with the board providing that:

(A) the person will earn a baccalaureate degree through completion of an educator preparation program described by Subdivision (3);

(B) the person will graduate with a cumulative grade point average of at least 2.75 on a four-point scale or the equivalent;

(C) the person will obtain, within the period prescribed by board rule, appropriate certification under Subchapter B, Chapter 21, to teach mathematics or science in a public school in this state;

(D) beginning with the first school year that begins after the date the person obtains the appropriate certification described by Paragraph (C), the person will accept an offer of full-time employment to teach mathematics or science, as applicable based on the person's certification, in a school district in this state selected by the person from among districts determined by the Texas Education Agency to have shortages of teachers in that subject for that first school year for which the person is accepting employment;

(E) the person will complete four consecutive years of employment as a full-time classroom teacher in a district described by Paragraph (D) whose primary duty is to teach mathematics or science, as applicable, based on the person's certification; and

(F) the person acknowledges the conditional nature of the loan repayment assistance; and

(6) comply with any other requirement adopted by the board under this subchapter.

(b) Except as provided by Section 61.9833, for the first school year of employment and each following consecutive school year of employment, as described by Subsections (a)(5)(D) and (E), not to exceed a total of four years, the board may provide assistance for the repayment of a portion of an eligible person's eligible loans. Subject to the availability of funding under Section 61.9836 and except as otherwise provided by this subsection, the amount of an assistance payment provided under this subsection in any year to an eligible person is \$5,000. The board shall increase that amount as necessary to adjust for inflation or, as determined by the board, on the basis of other relevant considerations. The board shall reduce the amount of a single assistance payment or refrain from making an assistance payment to an eligible person as necessary to avoid making total payments under this subsection to the person in an amount greater than the total amount of principal and interest due on the person's eligible loans.

(c) For purposes of this subchapter, whether a school district is determined to have a shortage of mathematics or science teachers for a school year is based on a determination made by the Texas Education Agency during the preceding school year. Not later than April 1 of each school year, the Texas Education Agency shall determine which school districts in this state have a shortage of mathematics or science teachers during that school year and shall provide that information to the board and to each educator preparation program in this state accredited by the State Board for Educator Certification.

(d) For purposes of Subsection (a)(5)(E), if a person is employed as a teacher in a school district determined to have a shortage of teachers in mathematics or science for the first year of employment, each subsequent year of continuous employment as a teacher in that district is considered to be employment in a district determined to have such a shortage of teachers in that subject in that subsequent year, regardless of whether the Texas Education Agency determined that the district had a shortage of teachers in that subject for that year.

(e) To satisfy the teaching obligation prescribed by an agreement under this section, a person must teach mathematics or science courses for not less than an average of four hours each school day.

Sec. 61.9833. EXCEPTION TO CONSECUTIVE YEARS OF EMPLOYMENT REQUIREMENT. The board shall excuse an otherwise eligible person from the requirement imposed by Section 61.9832(a)(5)(E) that the employment be performed in consecutive years if the break in employment is a result of the person's:

(1) full-time enrollment in a course of study related to the field of teaching that is approved by the State Board for Educator Certification and provided by an institution of higher education or by a private or independent institution of higher education in this state;

(2) service on active duty as a member of the armed forces of the United States, including as a member of a reserve or National Guard unit called for active duty;

(3) temporary total disability for a period of not more than 36 months as established by the affidavit of a qualified physician;

(4) inability to secure employment as required by Section 61.9832 for a period not to exceed 12 months, because of care required by a disabled spouse or child;

(5) inability, despite reasonable efforts, to secure, for a single period not to exceed 12 months, employment as required by Section 61.9832; or

(6) satisfaction of the provisions of any other exception adopted by the board for purposes of this section.

Sec. 61.9834. ELIGIBLE LOANS. (a) The board may provide under this subchapter repayment assistance for the repayment of any student loan that:

(1) is for education at a public or private institution of higher education;
and

(2) is received by an eligible person through an eligible lender.

(b) If the loan is not a state or federal guaranteed student loan, the note or other writing governing the terms of the loan must require the loan proceeds to be used for expenses incurred by a person in attending a postsecondary educational institution.

(c) The board may not provide loan repayment assistance under this subchapter for a student loan that is in default at the time of the person's application for repayment assistance.

Sec. 61.9835. PAYMENT OF ASSISTANCE. (a) The board shall pay any loan repayment assistance under this subchapter in a lump sum:

(1) payable to both the holder of the loan and the eligible person; or

(2) delivered on the eligible person's behalf directly to the holder of the loan.

(b) Loan repayment assistance provided under this subchapter may be applied to any amount due on the loan.

(c) Each fiscal biennium, the board shall attempt to allocate all money available to the board for the purpose of providing loan repayment assistance under this subchapter.

Sec. 61.9836. MATHEMATICS AND SCIENCE TEACHER INVESTMENT FUND. (a) In this section, "fund" means the mathematics and science teacher investment fund.

(b) The fund is a dedicated account in the general revenue fund and consists of:

(1) appropriations of money to the fund by the legislature;

(2) gifts, grants, and other donations received for the fund; and

(3) interest and other earnings from the investment of the fund.

(c) The fund may be used only to provide repayment assistance for the repayment of loans eligible under Section 61.9834, including related administrative costs.

(d) The fund is exempt from the application of Sections 403.095 and 404.071, Government Code.

(e) The board may solicit and accept grants, gifts, or donations from any public or private entity for the purposes of this subchapter. All money received under this subchapter shall be deposited in the fund.

Sec. 61.9837. AMOUNT OF LOAN REPAYMENT ASSISTANCE.

(a) The total amount of loan repayment assistance paid by the board under this subchapter may not exceed the total amount of money available in the fund under Section 61.9836 and any other money that the board is legally authorized to use for purposes of this subchapter.

(b) Not more than 4,000 eligible persons may be provided loan repayment assistance in the amount authorized under this subchapter in any school year.

(b-1) This subsection expires January 1, 2016. Notwithstanding Subsection (b), not more than the following number of eligible persons may be provided loan repayment assistance in the amount authorized under this subchapter in the specified school year:

(1) in the 2012-2013 school year, not more than 1,000 eligible persons may be provided loan repayment assistance;

(2) in the 2013-2014 school year, not more than 2,000 eligible persons may be provided loan repayment assistance; and

(3) in the 2014-2015 school year, not more than 3,000 eligible persons may be provided loan repayment assistance.

(c) If in any year the amount of money available for loan repayment assistance under this subchapter is insufficient to provide loan repayment assistance to each eligible applicant or if there are more eligible applicants than the number authorized by this section, the board shall establish criteria to determine which eligible applicants will be provided repayment assistance as the board determines appropriate to further the purposes of this subchapter.

Sec. 61.9838. RULES. The board shall:

(1) adopt rules necessary for the administration of this subchapter, including a rule providing for the manner in which a person may apply for loan repayment assistance; and

(2) distribute to each educator preparation program approved by the State Board for Educator Certification offered by an institution of higher education or by a private or independent institution of higher education in this state a copy of the rules adopted under this section.

SECTION _____. The Texas Higher Education Coordinating Board shall begin providing loan repayment assistance under Subchapter GG, Chapter 61, Education Code, as added by this Act, for eligible persons teaching in the 2012-2013 school year.

SECTION _____. Subchapter GG, Chapter 61, Education Code, as added by this Act, does not make an appropriation. A provision in Subchapter GG, Chapter 61, Education Code, as added by this Act, that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 518** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

**HB 556 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Ritter called up with senate amendments for consideration at this time,

HB 556, A bill to be entitled An Act relating to payment of attorney's fees in certain actions to recover possession of real property.

Representative Ritter moved to concur in the senate amendments to **HB 556**.

The motion to concur in the senate amendments to **HB 556** prevailed by (Record 1473): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farrar; Fletcher; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Eiland; Farias; Flores; Gattis; Laubenberg; Lucio; McCall; McClendon; Smithee.

Senate Committee Substitute

CSHB 556, A bill to be entitled An Act relating to payment of attorney's fees in certain actions to recover possession of real property.

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

SECTION 1. Section 16.034(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) In a suit for the possession of real property between a person claiming under record title to the property and one claiming by adverse possession, if the prevailing party recovers possession of the property from a person unlawfully in actual possession, the court:

(1) shall ~~may~~ award costs and reasonable attorney's fees to the prevailing party if the court finds that the person unlawfully in actual possession made a claim of adverse possession that was groundless and made in bad faith; and

(2) may award costs and reasonable attorney's fees to the prevailing party in the absence of a finding described by Subdivision (1).

SECTION 2. The change in law made by this Act applies only to a suit for the possession of real property filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

**HB 666 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gutierrez called up with senate amendments for consideration at this time,

HB 666, A bill to be entitled An Act relating to certain court costs used to fund drug court programs.

Representative Gutierrez 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 666**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 666**: Gutierrez, chair; Moody, Geren, McReynolds, and S. King.

**HB 1013 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Corte called up with senate amendments for consideration at this time,

HB 1013, A bill to be entitled An Act relating to the authority of a county to regulate the installation and use of lighting in certain areas.

Representative Corte moved to concur in the senate amendments to **HB 1013**.

The motion to concur in the senate amendments to **HB 1013** prevailed by (Record 1474): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Kleinschmidt.

Senate Committee Substitute

CSHB 1013, A bill to be entitled An Act relating to the authority of certain counties to regulate the installation and use of lighting in certain areas.

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

SECTION 1. Section 240.032(b-1), Local Government Code, is amended to read as follows:

(b-1) This subsection applies only to a county with a population of more than one million that has at least five United States military bases and to any county adjacent to that county that is within five miles of a United States Army installation, base, or camp. On the request of a United States military installation, base, or camp commanding officer, the commissioners court of a county subject to this subsection~~[any part of which is located immediately adjacent to the installation, base, or camp,]~~ may adopt orders regulating the installation and use of outdoor lighting within five miles of the installation, base, or camp in any unincorporated territory of the county.

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, 2009.

HB 2808 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 2808, A bill to be entitled An Act relating to the power of a licensing authority to revoke, suspend, or deny a license on the basis of certain criminal proceedings.

Representative Thompson moved to concur in the senate amendments to **HB 2808**.

The motion to concur in the senate amendments to **HB 2808** prevailed by (Record 1475): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Cook; Crownover; Jackson; Morrison; Oliveira; Taylor.

STATEMENTS OF VOTE

When Record No. 1475 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1475 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

When Record No. 1475 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2808**, in SECTION 1 of the bill, in added Section 53.021(e), Occupations Code, (Senate committee printing, page 1) by striking lines 38-39 and substituting the following:

to provide:

(1) law enforcement or public health, education, or safety services; or
(2) financial services in an industry regulated by a person listed in
Section 411.081(i)(19), Government Code.

HB 3082 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

Representative Thibaut called up with senate amendments for consideration at this time,

HB 3082, A bill to be entitled An Act relating to the obstruction of streets by certain municipalities.

Representative Thibaut moved to concur in the senate amendments to **HB 3082**.

The motion to concur in the senate amendments to **HB 3082** prevailed by (Record 1476): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Senate Committee Substitute

CSHB 3082, A bill to be entitled An Act relating to the obstruction of streets by certain municipalities.

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

SECTION 1. Section 311.001, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a) or (b) or Section 311.007, before a municipality with a population of 1.9 million or more may install traffic calming measures within the municipality, the governing body of the municipality must:

(1) publish standards and criteria, which must include sufficient notice to allow the governing body to receive and consider public comments from residents within one-half mile of the proposed traffic calming measure;

(2) on request of affected residents, schedule and hold a public meeting before implementation of the measure; and

(3) if the measure involves the closure of a street to motor vehicular traffic, before the closure:

(A) hold a public hearing on the issue of the closure; and

(B) approve the closure by a majority vote.

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, 2009.

**HB 3632 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 3632, A bill to be entitled An Act relating to the authority of the state to acquire, sell, or exchange certain land.

Representative Hochberg 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 3632**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3632**: Geren, chair; Hamilton, Harless, Homer, and Ritter.

**HB 3646 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 3646, A bill to be entitled An Act relating to public school finance.

Representative Hochberg 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 3646**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3646**: Hochberg, chair; Eissler, Aycock, Patrick, and Allen.

**HB 358 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Flynn called up with senate amendments for consideration at this time,

HB 358, A bill to be entitled An Act relating to criminal offenses applicable to gambling and gambling devices.

Representative Flynn moved to concur in the senate amendments to **HB 358**.

The motion to concur in the senate amendments to **HB 358** prevailed by (Record 1477): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Miller, S.

Senate Committee Substitute

CSHB 358, A bill to be entitled An Act relating to the seizure of the circuit board of a gambling device or equipment, altered gambling equipment, or gambling paraphernalia.

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

SECTION 1. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.095 to read as follows:

Art. 18.095. SEIZURE OF CIRCUIT BOARD OF GAMBLING DEVICE, EQUIPMENT, OR PARAPHERNALIA. For purposes of this chapter, an officer directed under a search warrant to search for and seize a gambling device or equipment, altered gambling equipment, or gambling paraphernalia in the discretion of the officer may:

(1) seize only the programmable main circuit board of the device, equipment, or paraphernalia if that circuit board is designed as a subassembly or essential part of the device, equipment, or paraphernalia to provide the information necessary for the device, equipment, or paraphernalia to operate as a gambling device or equipment, altered gambling equipment, or gambling paraphernalia;

(2) carry the circuit board before the magistrate; and

(3) retain custody of the circuit board as the property seized pursuant to the warrant as required under this chapter.

SECTION 2. This Act takes effect September 1, 2009.

**HB 469 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative P. King called up with senate amendments for consideration at this time,

HB 469, A bill to be entitled An Act relating to the establishment of incentives by this state for the implementation of certain projects to capture and sequester in geological formations carbon dioxide that would otherwise be emitted into the atmosphere.

Representative P. King 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 469**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 469**: P. King, chair; Lewis, Anchia, Strama, and Hardcastle.

**HB 1506 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Herrero called up with senate amendments for consideration at this time,

HB 1506, A bill to be entitled An Act relating to the imposition of conditions on certain defendants charged with an offense involving family violence.

Representative Herrero 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 1506**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1506**: Herrero, chair; Gallego, Pierson, Gattis, and Otto.

**HB 1720 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Bohac called up with senate amendments for consideration at this time,

HB 1720, A bill to be entitled An Act relating to the use of public funds by a political subdivision for communications that contain false information relating to a ballot measure; providing a criminal penalty.

Representative Bohac moved to concur in the senate amendments to **HB 1720**.

The motion to concur in the senate amendments to **HB 1720** prevailed by (Record 1478): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Dukes; Smithee.

Senate Committee Substitute

CSHB 1720, A bill to be entitled An Act relating to the use of public funds by a political subdivision for communications that contain false information relating to a ballot measure; providing a criminal penalty.

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

SECTION 1. Section 255.003, Election Code, is amended by amending Subsections (b) and (c) and adding Subsection (b-1) to read as follows:

(b) Subsection (a) [This section] does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.

(b-1) An officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

(1) the officer or employee knows is false; and

(2) is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

(c) A person who violates Subsection (a) or (b-1) ~~[this section]~~ commits an offense. An offense under this section is a Class A misdemeanor.

SECTION 2. Section 255.003, Election Code, as amended by this Act, applies only to an expenditure of public funds that is made on or after September 1, 2009. An expenditure of public funds that is made before September 1, 2009, is governed by the law in effect on the date the expenditure is made, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1720** (Senate committee report) on third reading as follows:

(1) In SECTION 1 of the bill, strike the recital (page 1, lines 14-16) and substitute the following:

Section 255.003, Election Code, is amended to read as follows:

(2) In SECTION 1 of the bill, immediately before amended Section 255.003(b), Election Code (page 1, between lines 16 and 17), insert the following:

Sec. 255.003. UNLAWFUL USE OF PUBLIC FUNDS FOR POLITICAL ADVERTISING. (a) An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.

(3) In SECTION 1 of the bill, following amended Section 255.003(c), Election Code (page 1, between lines 31 and 32), insert the following:

(d) It is an affirmative defense to prosecution for an offense under this section or the imposition of a civil penalty for conduct under this section that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation of this section in a written opinion issued by:

(1) a court of record;

(2) the attorney general; or

(3) the commission.

(e) On written request of the governing body of a political subdivision that has ordered an election on a measure, the commission shall prepare an advance written advisory opinion as to whether a particular communication relating to the measure does or does not comply with this section.

(f) Subsections (d) and (e) do not apply to a port authority or navigation district.

(4) In SECTION 2 of the bill (page 1, line 32), strike "Section 255.003, Election Code, as amended" and substitute "(a) Section 255.003(b-1), Election Code, as added".

(5) Between SECTIONS 2 and 3 of the bill (page 1, between lines 37 and 38), insert the following:

(b) Section 255.003(d), Election Code, as added by this Act, applies to the prosecution of conduct committed before, on, or after September 1, 2009, as to which:

(1) judgment has not been entered or a sentence has not been imposed;

or

(2) if judgment has been entered and a sentence imposed, an appeal is pending or the time for appeal has not expired.

HB 4728 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative P. King called up with senate amendments for consideration at this time,

HB 4728, A bill to be entitled An Act relating to the Parker County Utility District No. 1.

HB 4728 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE LEIBOWITZ: Mr. King, I can't tell you that I have a great depth of knowledge, as Mr. Eissler would say, with respect to water issues, but when I reviewed the side-by-side on this, I saw that the provision limiting your bill to Parker County—boundaries of Parker County—was struck by the senate.

REPRESENTATIVE P. KING: That's correct.

LEIBOWITZ: Okay, and I'm having a difficult time understanding how that does not allow your bill to be open-ended and become a statewide water district.

P. KING: Certainly, and thank you for asking that. It is a current district. It's been in existence, I think, since 1997—if I remember, Parker County Utility District. It only serves—its current geographic boundaries—are only part of the county. In trying to expand their authority this time, one of the expansions in the bill was to let them have county-wide authority. The senate did not want to let them have county-wide authority, so they struck the part of the bill that granted them county wide-authority. So now, under the current statute, all they'll have is what they have today, under this new bill. They'll still only have jurisdiction over northeast Parker county.

LEIBOWITZ: So, if I understand you correctly, the intent of the bill, as the author, is just in the approximate area of the northeastern areas of Parker county, as opposed to the entire geographical region of the entire county?

P. KING: Yeah, I had written the bill to do the whole county, but the senate disagrees, and I'm okay with that. So, we'll just go back to the original geography, which is just northeastern Parker County.

LEIBOWITZ: In no way, shape, or form do you intend to create some sort of a statewide water district?

P. KING: Absolutely not.

REMARKS ORDERED PRINTED

Representative Leibowitz moved to print remarks between Representative P.King and Representative Leibowitz.

The motion prevailed.

Representative P. King moved to concur in the senate amendments to **HB 4728**.

The motion to concur in the senate amendments to **HB 4728** prevailed by (Record 1479): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Hartnett; McReynolds; Smith, W.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 4728** (senate committee report) by striking SECTION 3 of the bill amending the description of the district territory under Section 7208.005, Special District Local Laws Code, and renumbering subsequent SECTIONS accordingly.

**HB 3676 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Swinford called up with senate amendments for consideration at this time,

HB 3676, A bill to be entitled An Act relating to the Texas Economic Development Act.

Representative Swinford 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 3676**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3676**: Heflin, chair; Swinford, Oliveira, Hartnett, and Ritter.

**HB 1924 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Chisum called up with senate amendments for consideration at this time,

HB 1924, A bill to be entitled An Act relating to the performance of pharmacy services in certain rural areas.

Representative Chisum 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 1924**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1924**: Heflin, chair; Hopson, Swinford, Chisum, and Gonzalez Tourelles.

**HB 715 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative P. King called up with senate amendments for consideration at this time,

HB 715, A bill to be entitled An Act relating to motor vehicle inspection stations that perform emissions inspections using only the onboard diagnostic system of inspected vehicles.

Representative P. King 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 715**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 715**: P. King, chair; Y. Davis, Gonzales, Callegari, and Harper-Brown.

**HB 746 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative F. Brown called up with senate amendments for consideration at this time,

HB 746, A bill to be entitled An Act relating to expanding the availability of classrooms and other facilities for use by public colleges and universities.

Representative F. Brown moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 746**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 746**: F. Brown, chair; Branch, Aycock, Rodriguez, and Alonzo.

**HB 2347 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Thibaut called up with senate amendments for consideration at this time,

HB 2347, A bill to be entitled An Act relating to tuition and laboratory fee exemptions at public institutions of higher education for certain peace officers enrolled in criminal justice or law enforcement management-related course work.

Representative Thibaut 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 2347**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2347**: Thibaut, chair; Driver, Fletcher, Guillen, and Coleman.

**HB 2462 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Keffer called up with senate amendments for consideration at this time,

HB 2462, A bill to be entitled An Act relating to the authority of a county to clarify the existence of a public interest in certain roads.

Representative Keffer moved to concur in the senate amendments to **HB 2462**.

The motion to concur in the senate amendments to **HB 2462** prevailed by (Record 1480): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Villarreal.

Senate Committee Substitute

CSHB 2462, A bill to be entitled An Act relating to the authority of a county to clarify the existence of a public interest in certain roads.

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

SECTION 1. Section 258.007, Transportation Code, is amended to read as follows:

Sec. 258.007. APPLICATION [~~EXPIRATION~~] OF CHAPTER. This chapter applies only to a county that initiates or completes compliance with the provisions of this chapter before [~~expires~~] September 1, 2011 [~~2009~~].

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, 2009.

HB 2668 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Ritter called up with senate amendments for consideration at this time,

HB 2668, A bill to be entitled An Act relating to the creation of the Smith Road Water Control and Improvement District No. 1 of Jefferson County; providing authority to impose a tax and issue bonds; granting levee and flood hazard mitigation powers; granting the power of eminent domain.

Representative Ritter moved to concur in the senate amendments to **HB 2668**.

The motion to concur in the senate amendments to **HB 2668** prevailed by (Record 1481): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Senate Committee Substitute

CSHB 2668, A bill to be entitled An Act relating to the creation of the Smith Road Water Control and Improvement District No. 1 of Jefferson County; providing authority to impose a tax and issue bonds; granting levee and flood hazard mitigation powers; granting the power of eminent domain.

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

SECTION 1. Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9031 to read as follows:

CHAPTER 9031. SMITH ROAD WATER CONTROL AND IMPROVEMENT

DISTRICT NO. 1 OF JEFFERSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9031.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Smith Road Water Control and Improvement District No. 1 of Jefferson County.

Sec. 9031.002. NATURE OF DISTRICT. The district is a water control and improvement district in Jefferson County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 9031.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 9031.024 before September 1, 2013:

(1) the district is dissolved September 1, 2013, except that the district shall:

(A) pay any debts incurred;

(B) transfer to Jefferson County any assets that remain after the payment of debts; and

(C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2016.

Sec. 9031.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the district's organization, existence, or validity;

(2) the district's right to impose taxes;

(3) the validity of the district's bonds, notes, or indebtedness; or

(4) the board's legality or operation.

[Sections 9031.005-9031.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 9031.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2009, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition the commission receives.

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 9031.024; or

(2) the date this chapter expires under Section 9031.003.

Sec. 9031.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all temporary directors qualify under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Jefferson County Courthouse. At their initial meeting the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 9031.023. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 9031.024 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located, if any, has adopted a resolution consenting to the district's creation.

Sec. 9031.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The temporary directors shall hold an election to confirm the district's creation and to elect five directors as provided by Section 49.102, Water Code.

Sec. 9031.025. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 9031.024 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 9031.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 9031.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2016.

[Sections 9031.027-9031.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9031.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 9031.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 9031.053-9031.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9031.101. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 51, Water Code.

Sec. 9031.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads, or improvements in aid of those roads, inside the district.

(b) A road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is located outside the extraterritorial jurisdiction of a municipality, a road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located.

(c) The district may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by ordinance or resolution. If a district is located outside the extraterritorial jurisdiction of a municipality, the district may not undertake a road project unless each county in which the district is located consents by ordinance or resolution.

Sec. 9031.103. POTABLE WATER SUPPLIER. The district shall purchase potable water for the district from the West Jefferson County Municipal Water District or a successor to that supplier of potable water.

Sec. 9031.104. LEVEE AND FLOOD HAZARD MITIGATION POWERS. The district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside or outside the district, levees, dikes, flood hazard mitigation structures, and any other improvements or facilities necessary or convenient to accomplish the levee improvements and flood hazard mitigation purposes of the district under Chapter 57, Water Code, as authorized by Section 59, Article XVI, Texas Constitution.

Sec. 9031.105. DIVISION OF DISTRICT. (a) The district may be divided into two new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

(b) The division procedure is prescribed by Sections 53.030 through 53.041, Water Code. Sections 51.748 through 51.753, Water Code, do not apply to the district.

(c) Any new district created by the division of the district has all the powers and duties of the district.

(d) A new district, at the time it is created by the division of the district, may not contain land outside the area described by Section 2 of the Act creating this chapter.

Sec. 9031.106. LIMITATION ON DISTRICT DISSOLUTION. (a) Notwithstanding Section 43.0751, Local Government Code, or any other general law, the district may not be dissolved before December 31, 2019, unless the dissolution is approved by:

(1) the board; and

(2) the governing body of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located.

(b) This section expires December 31, 2019.

[Sections 9031.107-9031.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9031.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds issued under Section 9031.201.

[Sections 9031.152-9031.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 9031.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49, 51, and 57, Water Code, and to finance the construction, maintenance, or operation of projects under Sections 9031.101, 9031.102, and 9031.104.

(b) The district may not issue bonds to finance projects authorized by Section 9031.102 unless the issuance is approved by a vote of a two-thirds majority of district voters voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 9031.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. The Smith Road Water Control and Improvement District No. 1 of Jefferson County initially includes all the territory contained in the following area:

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND:

Tract I:

BEING a 21.104 acre tract of land, being out of and a part of that certain Louisiana Gas Development Corporation called 21.100 acre tract of land more fully described and recorded in Clerk File No. 2005028881 of the Official Public Records of Jefferson County, Texas. Said 21.104 acre tract being out of the T. & N. O. R. R. Co. Survey, Abstract No. 261, of said County and State, and is more particularly described as follows:

BEGINNING at a Concrete Monument found for the Easterly corner of said Louisiana Gas Development Corporation called 21.100 acre tract of land, same being the intersection of the Southwesterly right of way line of Smith Road a public right of way and the Northwesterly right of way line of Interstate Highway No. 10 a public right of way;

THENCE South 41 Deg. 37 Min. 00 Sec. West (Reference Bearing) along and with the Southeasterly line of said Louisiana Gas Development Corporation called 21.100 acre tract, same being the Northwesterly right of way line of said Interstate Highway No. 10, a distance of 1000.09 feet to a 5/8-inch iron rod marked "Leap Eng." set for the Southerly corner of said Louisiana Gas Development Corporation called 21.100 acre tract, same being an East corner of that certain Louisiana Gas Development called residue of 501.76 acre tract of land, more fully described in Clerk File No. 2005028881 of the Official Public Records of said county and state;

THENCE North 50 Deg. 10 Min. 20 Sec. West along and with the Southwesterly line of said Louisiana Gas Development Corporation called 21.100 acre tract, same being a Northeasterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 850.40 feet to a 1-inch iron rod found for the Westerly corner of said Louisiana Gas Development Corporation called 21.100 acre tract, same being an ell corner of said Louisiana Gas Development Corporation called residue of 501.76 acre tract;

THENCE North 41 Deg. 37 Min. 45 Sec. East along and with the Northwesterly line of said Louisiana Gas Development Corporation called 21.100 acre tract, same being a Southeast line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 1130.75 feet to a 1-inch iron rod found for the Northerly corner of said Louisiana Gas Development Corporation called 21.100 acre tract, same being the most Northwesterly East corner of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, same being in the Southwesterly right of way line of said Smith Road;

THENCE South 50 Deg. 12 Min. 03 Sec. East along and with the Northeasterly line of said Louisiana Gas Development Corporation called 21.100 acre tract, same being the Southwesterly right of way of Smith Road, a distance of 211.13 feet to a concrete monument found for an angle point of said Louisiana Gas Development Corporation called 21.100 acre tract;

THENCE South 38 Deg. 32 Min. 29 Sec. East along and with the Northeasterly line of said Louisiana Gas Development Corporation said 21.100 acre tract, same being the Southwesterly right of way line of said Smith Road, a distance of 648.25 feet to the PLACE OF BEGINNING, containing 21.104 acres of land, more or less.

Tract II:

BEING a 51.418 acre tract of land, being out of and a part of that certain Louisiana Gas Development Corporation called 231.743 acre tract of land more fully described and recorded in Clerk File No. 2005028881 of the Official Public Records of Jefferson County, Texas. Said 51.418 acre tract being out of the H. T. & N. O. R. R. Co. Survey, Abstract No. 143, of said County and State, and is more particularly described as follows:

BEGINNING at a 1-inch iron rod found for the Southerly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being in the Northwesterly right of way line of said Interstate Highway No. 10, same being the Southeasterly corner of that certain Sherholders LP called 408.233 acre tract of land more fully described in Clerk File No. 2003026036 of the Official Public Records of said County and State, same being the Southerly corner of said Louisiana Gas Development Corporation called residue of 501.76 acre tract;

THENCE North 20 Deg. 41 Min. 25 Sec. East along and with the Westerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Easterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 2335.19 feet to a 1-inch iron rod found for an angle point in the Westerly line of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE South 50 Deg. 10 Min. 15 Sec. East along and with a Northeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Southwesterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 174.42 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE North 41 Deg. 37 Min. 05 Sec. East continuing along and with the Westerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Easterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 1999.86 feet to a 5/8-inch iron rod marked "Leap Eng." set for the Northerly corner of the herein described 51.418 acre tract, same being the Southerly corner of a 180.238 acre tract of land called tract III surveyed on the same date as the herein described;

THENCE South 50 Deg. 10 Min. 20 Sec. East along and with the Northeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Southwesterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 660.00 feet to a 1-inch iron rod found for the Easterly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being in the Northwesterly right of way line of said Interstate Highway No. 10;

THENCE South 41 Deg. 37 Min. 00 Sec. West along and with the Southeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Northwesterly right of way line of said Interstate Highway No. 10, a distance of 4207.07 feet to the PLACE OF BEGINNING, containing 51.418 acres of land, more or less.

Tract III:

BEING a 180.238 acre tract of land, being out of and a part of that certain Louisiana Gas Development Corporation called 231.743 acre tract of land more fully described and recorded in Clerk File No. 2005028881 of the Official Public Records of Jefferson County, Texas. Said 180.238 acre tract being out of the H. T. & N. O. R. R. Co. Survey, Abstract No. 143, T. & N. O. R. R. Co. Survey, Abstract No. 260, T. & N. O. R. R. Co. Survey, Abstract No. 261, George W. Kidd Survey, Abstract No. 795, George W. Kidd Survey, Abstract No. 737, and S. D. Decordova Survey, Abstract No. 851 of said County and State, and is more particularly described as follows:

BEGINNING at a 1-inch iron rod found for a Easterly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being in the Southwesterly right of way line of said Smith Road, same being in the Northerly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract;

THENCE South 41 Deg. 38 Min. 21 Sec. West along and with a Southeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Northeasterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 2130.59 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE South 50 Deg. 19 Min. 12 Sec. East along and with a Northeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Southwesterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 1150.80 feet to a 5/8-inch iron rod marked "Leap Eng." set for a PC of a non tangent curve to the right;

THENCE along and with the curve to the right an arc distance of 272.42 feet with a radius of 363.39 feet with a chord bearing of South 20 Deg. 10 Min. 36 Sec. West a chord distance of 266.09 feet to a 1-inch iron rod found for an angle point of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE South 41 Deg. 37 Min. 05 Sec. West along and with a Southeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Northwesterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 1751.90 feet to a 5/8-inch iron rod marked "Leap Eng." set for the Southerly corner of the herein described 180.238 acre tract, same being the Northerly corner of a 51.418 acre tract of land called Tract II surveyed on the same day as the herein described tract of land;

THENCE North 50 Deg. 10 Min. 20 Sec. West along and with a Southwesterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Northeasterly line of said Louisiana Gas Development Corporation

called residue of 501.76 acre tract, a distance of 644.41 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE South 41 Deg. 35 Min. 30 Sec. West along and with a Southeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Northwesterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 239.63 feet to a 5/8-inch iron rod marked "Leap Eng." set for an angle point for said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE South 89 Deg. 57 Min. 09 Sec. West along and with a Southerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Northerly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 1077.96 feet to a 5/8-inch iron rod marked "Leap Eng." set for an ell corner of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE South 00 Deg. 15 Min. 31 Sec. East along and with a Easterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Westerly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 1074.17 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE South 89 Deg. 37 Min. 40 Sec. West along and with a Southerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Northerly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 571.97 feet to a 5/8-inch iron rod marked "Leap Eng." set for a Southwesterly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Northwesterly corner of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, same being in the Easterly line of said Sherholders LP called 408.233 acre tract;

THENCE North 00 Deg. 14 Min. 54 Sec. West along and with a Westerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Easterly line of said Sherholders LP called 408.233 acre tract, a distance of 1076.90 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Easterly corner of said Sherholders LP called 408.233 acre tract;

THENCE South 89 Deg. 58 Min. 03 Sec. West along and with a Southerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Northerly line of said Sherholders LP called 408.233 acre tract, a distance of 2083.92 feet to a point for corner marking a Southwesterly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Northwesterly corner of said Sherholders LP called 408.233 acre tract, same being in the Easterly line of that certain Sherholders LP called 126.010 acre tract of land more fully described in Clerks File No. 2003026036 of the Official Public Records of said County and State;

THENCE North 00 Deg. 14 Min. 37 Sec. West along and with a Westerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Easterly line of said Sherholders LP called 126.010 acre tract, a distance of 535.85 feet to a 5/8-inch iron rod marked "Leap Eng." set for a Northwesterly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Southwesterly corner of said Louisiana Gas Development Corporation called residue of 501.76 acre tract;

THENCE North 89 Deg. 41 Min. 36 Sec. East along and with a Northerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Southerly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 3114.90 feet to a 1-inch iron rod found for an angle point of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE North 41 Deg. 36 Min. 48 Sec. East along and with a Northwesterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Southeasterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 2215.26 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE North 50 Deg. 10 Min. 15 Sec. West along and with a Southwesterly line of said Louisiana Gas Development Corporation called 231.745 acre tract, same being a Northeasterly line of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, a distance of 829.98 feet to a 1-inch iron rod found a Westerly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being a Northerly corner of said Louisiana Gas Development Corporation called residue of 501.76 acre tract, same being in the Southeasterly line of that certain D & R Properties called 150.08 acre tract of land more fully described in Clerk File No. 2005027161 of the Official Public Records of said County and State;

THENCE North 41 Deg. 36 Min. 48 Sec. East along and with a Northwesterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Southeasterly line of said D & R Properties called 150.08 acre tract and Treasure Cove a subdivision to Jefferson County, Texas, recorded in Clerk File No. 2006024719 of the Map Records of said County and State, a distance of 2129.83 feet to a 5/8-inch iron rod marked "Leap Eng." set for a Northerly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Easterly corner of said D & R Properties called 150.80 acre tract, same being in the Southwesterly right of way line of said Smith Road;

THENCE South 50 Deg. 12 Min. 03 Sec. East along and with a Northeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, same being the Southwesterly right of way line of said Smith Road, a distance of 1057.06 feet to the PLACE OF BEGINNING, containing 180.238 acres of land, more or less.

Attachment "B"

Surveyor's Field Note Description: 251.685 Acres
Tract I:

BEING a 101.623 acre tract of land, being out of and a part of that certain Louisiana Gas Development Corporation called 248.917 acre tract of land more fully described and recorded in Clerk File No. 2005028881 of the Official Public Records of Jefferson County, Texas. Said 101.623 acre tract being out of the T. & N. O. R. R. Co. Survey, Abstract No. 261, George W. Kidd Survey, Abstract No. 761, George W. Kidd Survey, Abstract No. 795, George W. Kidd Survey, Abstract No. 737, and the S.D. Decordova Survey, Abstract No. 851, of said County and State, and is more particularly described as follows:

BEGINNING at a 5/8-inch iron rod marked "Leap Eng." set for an Easterly corner of said Louisiana Gas Development Corporation called 248.917 acre tract, same being the Southerly corner of that certain Louisiana Gas Development Corporation called 21.100 acre tract of land more fully described in Clerk File No. 2005028881 of the Official Public Records of said County and State, same being in the Northwesterly right of way line of Interstate Highway No. 10 a public right of way;

THENCE South 41 Deg. 37 Min. 00 Sec. West (Reference Bearing) along and with the Southeasterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being the Northwesterly right of way line of said Interstate Highway No. 10, a distance of 2999.99 feet to a 1-inch iron rod found for the Southerly corner of said Louisiana Gas Development Corporation called 248.917 acre tract, same being an Easterly corner of that certain Louisiana Gas Development Corporation called 231.743 acre tract of land more fully described in Clerk File No. 2005028881 of the Official Public Records of said County and State;

THENCE North 50 Deg. 10 Min. 20 Sec. West along and with the Southwesterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Northeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 660.00 feet to a 5/8-inch iron rod marked "Leap Eng." set for a Westerly corner of the herein described 101.623 acre tract, same being an Easterly corner of a 72.960 acre tract of land called tract II surveyed on the same date as the herein described;

THENCE North 41 Deg. 37 Min. 05 Sec. East along and with a Northwesterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a southeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 1751.90 feet to a 1-inch iron rod found for the PC of a non tangent curve to the left;

THENCE along and with the curve to the left an arc distance of 272.42 feet with a radius of 363.39 feet with a chord bearing of North 20 Deg. 10 Min. 36 Sec. East with a chord distance of 266.09 feet to a 5/8-inch iron rod marked "Leap Eng." set for an angle point of said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE North 50 Deg. 19 Min. 12 Sec. West along and with a Southwesterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Northeasterly line of said Louisiana Gas Development Corporation

called 231.743 acre tract, a distance of 1150.80 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE North 41 Deg. 36 Min. 48 Sec. East along and with a Northwesterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Southeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 2130.59 feet to a 1-inch iron rod found for the Northerly corner of a said Louisiana Gas Development Corporation called 248.917 acre tract, same being an Easterly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being in the Southwesterly right of way of Smith Road a public right of way;

THENCE South 50 Deg. 12 Min. 03 Sec. East along and with a Northeasterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being in the Southwesterly right of way line of said Smith Road, a distance of 1056.98 feet to a 1-inch iron rod found for an Easterly corner of said Louisiana Gas Development Corporation called 248.917 acre tract same being the Northerly corner of said Louisiana Gas Development Corporation called 21.100 acre tract;

THENCE South 41 Deg. 37 Min. 45 Sec. West along and with a Southeasterly line of said Louisiana Gas Development Corporation called 248.917 acre tract same being the Northwesterly line of said Louisiana Gas Development Corporation called 21.100 acre tract, a distance of 1130.75 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 248.917 acre tract, same being the Westerly corner of said Louisiana Gas Development Corporation called 21.100 acre tract;

THENCE South 50 Deg. 10 Min. 20 Sec. East along and with a Northeasterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being the Southwesterly line of said Louisiana Gas Development Corporation called 21.100 acre tract, a distance of 850.40 feet to the PLACE OF BEGINNING, containing 101.623 acre of land, more or less.

Tract II

BEING a 72.960 acre tract of land, being out of and a part of that certain Louisiana Gas Development Corporation called 248.917 acre tract of land more fully described and recorded in Clerk File No. 2005028881 of the Official Public Records of Jefferson County, Texas. Said 72.960 acre tract being out of the H. T. & N. O. R. R. Co. Survey, Abstract No. 143, of said County and State, and is more particularly described as follows:

BEGINNING at a 1-inch iron rod found for the Southerly corner of said Louisiana Gas Development Corporation called 248.917 acre tract, same being the Southerly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being in the Northwesterly right of way line of said Interstate Highway No. 10, same being an easterly corner of that certain Sherholders LP called 408.233 acre tract of land more fully described in Clerk File No. 2003026036 of the Official Public Records of said County and State;

THENCE North 00 Deg. 14 Min. 54 Sec. West along and with a Westerly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Easterly line of said Sherholders LP called 408.233 acre tract, a distance

of 2722.72 feet to a 5/8-inch iron rod marked "Leap Eng." set for a Westerly corner of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Southwesterly corner of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE North 89 Deg. 37 Min. 40 Sec. East along and with a Northerly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Southerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 571.97 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE North 00 Deg. 15 Min. 31 Sec. West along and with a Westerly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being an Easterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 1074.17 feet to a 5/8-inch iron rod marked "Leap Eng." set for an ell corner of said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE North 89 Deg. 57 Min. 09 Sec. East along and with a Northerly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Southerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 1077.16 feet to a 5/8-inch iron rod marked "Leap Eng." set for an angle point in said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE North 41 Deg. 35 Min. 30 Sec. East along and with a Northwesterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Southeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 239.63 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE South 50 Deg. 10 Min. 20 Sec. East along and with a Northeasterly line of said Louisiana Gas Development Corporation called 248.917 acre tract same being a Southwesterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 644.41 feet to a 5/8-inch iron rod marked "Leap Eng." set for an Easterly corner of the herein described 72.960 acre tract, same being a Westerly corner of a 101.623 acre tract of land called Tract I surveyed on the same date as the herein described;

THENCE South 41 Deg. 37 Min. 05 Sec. West along and with a Southeasterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Northwesterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 1999.86 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE North 50 Deg. 10 Min. 15 Sec. West along and with a Southwesterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Northeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 174.42 feet to a 1-inch iron rod found for and angle point in said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE South 20 Deg. 41 Min. 25 Sec. West along and with an Easterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Westerly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 2335.19 feet to the PLACE OF BEGINNING, containing 72.960 acres of land, more or less.

Tract III

BEING a 77.049 acre tract of land, being out of and a part of that certain Louisiana Gas Development Corporation called 248.917 acre tract of land more fully described and recorded in Clerk File No. 2005028881 of the Official Public Records of Jefferson County, Texas. Said 77.049 acre tract being out of the T. & N. O. R. R. Co. Survey, Abstract No. 260, George W. Kidd Survey, Abstract No. 795, George W. Kidd Survey, Abstract No. 737, and the S.D. Decordova Survey, Abstract No. 851, of said County and State, and is more particularly described as follows:

BEGINNING at a 1-inch iron rod found for Northerly corner of said Louisiana Gas Development Corporation called 248.917 acre tract, same being in the Southeasterly line of that certain D & R Properties called 150.80 acre tract of land more fully described in Clerk File No. 2005027161 of the Official Public Records of said County and State, same being a Westerly corner of said Louisiana Gas Development Corporation called 231.743 acre tract;

THENCE South 50 Deg. 10 Min. 15 Sec. East along and with a Northeasterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Southwesterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 829.98 feet to a 1-inch iron rod found for an ell corner of said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE South 41 Deg. 36 Min. 48 Sec. West along and with a Southeasterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Northeasterly line of said Louisiana Gas Development Corporation called 231.743 acre tract, a distance of 2215.29 feet to a 1-inch iron rod found for an ell corner in said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE South 89 Deg. 41 Min. 36 Sec. West along and with a Southerly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Northerly line of said Louisiana Gas Development Corporation called 3114.90 feet to a 5/8-inch iron rod marked "Leap Eng." set for a Southwesterly corner of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Northwesterly corner of said Louisiana Gas Development Corporation called 231.743 acre tract, same being in a Easterly line of that certain Sherholders LP called 126.010 acre tract of land more fully described in Clerk File No. 2003026036 of the Official Public Records of said County and State;

THENCE North 00 Deg. 14 Min. 37 Sec. West along and with a Westerly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Easterly line of said Sherholders LP called 126.010 acre tract, a distance of 551.55 feet to a 5/8-inch iron rod marked "Leap Eng." set for a Northwesterly corner of said Louisiana Gas Development Corporation called 248.917 acre tract,

same being a Southwesterly corner of that certain Will Crenshaw called 207.49 acre tract of land more fully described in Clerk File No. 2006021640 of the Official Public Records of said County and State;

THENCE South 89 Deg. 59 Min. 38 Sec. East along and with a Northerly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Southerly line of said Will Crenshaw called 207.49 acre tract and that certain Louisiana Gas Development Corporation called 11.449 acre tract of land more fully described in Clerk File No. 2000015005 of the Official Public Records of said County and State, a distance of 2480.80 feet to a 5/8-inch iron rod marked "Leap Eng." set for an angle point in said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE North 41 Deg. 36 Min. 48 Sec. East along and with a Northwesterly line of said Louisiana Gas Development Corporation called 248.917 acre tract, same being a Southeasterly line of said Louisiana Gas Development Corporation called 11.449 acre tract and said D & R Properties called 150.80 acre tract, a distance of 2213.74 feet to the PLACE OF BEGINNING, containing 77.049 acres of land, more or less.

Tract IV

BEING a 11.435 acre tract of land consisting of that certain Louisiana Gas Development Corporation called 11.449 acre tract of land more fully described in Clerk File No. 2000015005 of the Official Public Records of Jefferson County, Texas. Said 11.435 acre tract being out of the T. & N. O. R. Co. Survey, Abstract No. 260 and the George W. Kidd Survey, Abstract No. 737 of said County and State, and is more particularly described as follows:

BEGINNING at a 5/8-inch iron rod marked "Leap Eng." set for the Northwest corner of said Louisiana Gas Development Corporation called 11.449 acre tract, same being a Southerly corner of said Will Crenshaw called 207.49 acre tract, same being in the centerline of that certain 125 foot wide Drainage Easement more fully described in Film Coded No. 102-77-1073 of the Official Public Records of said County and State;

THENCE North 89 Deg. 36 Min. 28 Sec. East along and with the Northerly line of said Louisiana Gas Development Corporation called 11.449 acre tract, same being a Southerly line of said Will Crenshaw called 207.49 acre tract, a distance of 940.86 feet to a 1/2-inch iron rod found for the Northeast corner of said Louisiana Gas Development Corporation called 11.449 acre tract, same being a Southerly Corner of said Will Crenshaw called 207.49 acre tract;

THENCE South 00 Deg. 19 Min. 45 Sec. East along and with the Easterly line of said Louisiana Gas Development Corporation called 11.449 acre tract, same being a Westerly line of said Will Crenshaw called 207.49 acre tract, a distance of 487.58 feet to a 1/2-inch iron rod found for the Southeast Corner of said Louisiana Gas Development Corporation called 11.449 acre tract, same being an interior corner of said Will Crenshaw called 207.49 acre tract, same being in a Northerly line of said Louisiana Gas Development Corporation called 248.917 acre tract;

THENCE South 41 Deg. 36 Min. 48 Sec. West along and with a Southeasterly line of said Louisiana Gas Development Corporation called 11.449 acre tract, same being a Northerly line of said Louisiana Gas Development Corporation called 248.917 acre tract, a distance of 273.14 feet to a 1/2-inch iron rod found for the most Southerly Southeast corner of said Louisiana Gas Development Corporation called 11.449 acre tract, same being an angle point of said Louisiana Gas Development Corporation called 248.917 acre tract,

THENCE North 89 Deg. 59 Sec. 38 Min. West along and with the Southerly line of said Louisiana Gas Development Corporation called 11.449 acre tract, same being a northerly line of said Louisiana Gas Development Corporation called 207.917 acre tract, a distance of 426.05 feet to a 5/8-inch iron rod marked "Leap Eng." set for the Southwest Corner of said Louisiana Gas Development Corporation called 11.449 acre tract, same being in a Northerly line of said Louisiana Gas Development Corporation called 207.917 acre tract, same being in the Centerline of said 125 foot wide Drainage Easement;

THENCE in a Northerly direction along and with the Westerly line of said Louisiana Gas Development Corporation called 11.449 acre tract, same being a Easterly line of said Will Crenshaw called 207.49 acre tract same being the centerline of said 125 foot wide Drainage Ditch the following courses and distances;

North 35 Deg. 41 Min. 44 Sec. West a distance of 45.19 feet to a point for corner;

North 25 Deg. 16 Min. 34 Sec. West a distance of 172.86 feet to a point for corner;

North 00 Deg. 19 Min. 34 Sec. West a distance of 133.04 feet to a point for corner;

North 27 Deg. 08 Min. 27 Sec. West a distance of 215.90 feet to a point for corner;

North 41 Deg. 50 Min. 08 Sec. West a distance of 162.93 feet to a point for corner;

North 31 Deg. 44 Min. 51 Sec. West a distance of 53.37 feet to a point for corner, to the PLACE OF BEGINNING, containing 11.435 acre tract of land, more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. This Act takes effect September 1, 2009.

MESSAGE FROM THE SENATE

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

HB 2730 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative McClendon called up with senate amendments for consideration at this time,

HB 2730, A bill to be entitled An Act relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty.

Representative McClendon 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 2730**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2730**: Kolkhorst, chair; Merritt, Driver, Frost, and Burnam.

HB 2919 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative S. King called up with senate amendments for consideration at this time,

HB 2919, A bill to be entitled An Act relating to the regulation of land use to ensure compatible development with military facilities in certain counties.

Representative S. King 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 2919**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2919**: S. King, chair; Corte, McClendon, Vaught, and Isett.

HB 3445 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Anchia called up with senate amendments for consideration at this time,

HB 3445, A bill to be entitled An Act relating to requirements governing registration and authorized activities of certain lobbyists.

Representative Anchia moved to concur in the senate amendments to **HB 3445**.

The motion to concur in the senate amendments to **HB 3445** prevailed by (Record 1482): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Mallory Caraway; Villarreal.

Senate Committee Substitute

CSHB 3445, A bill to be entitled An Act relating to requirements governing registration and authorized activities of certain lobbyists.

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

SECTION 1. Subchapter A, Chapter 305, Government Code, is amended by adding a new subsection (c)(2) to Section 305.005 and renumbering subsequent subsections to read as follows:

§ 305.005. Registration

(a) Each person required to register under this chapter shall file a written registration with the commission and shall submit a registration fee.

(b) A registration filed under this chapter expires at midnight, December 31, of each year unless the registrant submits a registration renewal form to the commission on a form prescribed by the commission and submits the registration renewal fee. The registrant may file the registration renewal form and the fee anytime in December of the year in which the registration expires.

(c) The registration fee and registration renewal fee are:

(1) \$100 for a registrant employed by an organization exempt from federal income tax under Section 501(c)(3) or 501(c)(4), Internal Revenue Code of 1986; ~~or~~

(2) \$50 for any person required to register solely because the person is required to register under Sec. 305.0041 of this Chapter; or

(3) \$500 for any other registrant.

SECTION 2. Section 305.002(1), Government Code, is amended to read as follows:

(1) "Administrative action" means rulemaking, licensing, or any other matter that may be the subject of action by a state agency or executive branch office, including a matter relating to the purchase of products or services by the agency or office. The term includes the proposal, consideration, or approval of the matter or negotiations concerning the matter.

SECTION 3. Subchapter A, Chapter 305, Government Code, is amended by adding Section 305.0041 to read as follows:

Sec. 305.0041. EXCEPTIONS FOR CERTAIN ACTIVITIES FOR WHICH COMPENSATION OR REIMBURSEMENT IS RECEIVED. (a) A person is not required to register under this chapter in accordance with Section 305.003(a)(2) solely because the person receives or is entitled to receive compensation or reimbursement to:

(1) communicate as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions that do not exceed ten million dollars involving a product, service or service provider or negotiations regarding such decisions;

(2) communicate as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions that exceed ten million dollars involving a product, service or service provider or negotiations regarding such decisions if the compensation for the communication is not totally or partially contingent on the outcome of any administrative action;
or

(3) communicate in a capacity other than as an employee of a vendor of a product or service to a member of the executive branch concerning state agency purchasing decisions involving a product, service or service provider or negotiations regarding such decisions if the compensation for the communication is not totally or partially contingent on the outcome of any administrative action;

(4) communicate as a member of an advisory committee or task force if the person is appointed to serve in that capacity by a member of the legislative or executive branch; or

(5) communicate as a member of a board, task force, or advisory committee on which a member of the legislative or executive branch also serves.

(b) A registrant who performs an activity described by Subsection (a) is not required to:

(1) provide information concerning that activity in the registrant's registration statement under Section 305.005(f)(4) or (5)(B);

(2) provide information concerning the person who reimburses, retains, or employs the registrant to perform that activity under Section 305.005(f)(3) or (6) unless the registrant performs, on behalf of that person, other activities that require registration under this chapter; or

(3) provide information concerning a person employed or retained by the registrant for the purpose of assisting in that activity under Section 305.005(f)(5)(A) unless the person is also employed or retained by the registrant to assist with other activities that require registration under this chapter. For the purposes of this chapter, a registrant is not required to list as an assistant another person who is also registered for the same client as the registrant.

SECTION 4. Section 305.022, Government Code, is amended by amending Subsection (c) and adding Subsections (c-1), (c-2), (c-3) and (e) to read as follows:

(c) For purposes of this chapter ~~section~~,

(i) a sales commission payable to an employee of a vendor of a product or service is not considered compensation contingent on the outcome of administrative action if the amount of the state agency purchasing decision does not exceed ten million dollars.

(ii) A quarterly or annual compensation performance bonus payable to an employee of a vendor of a product or service is not considered compensation contingent on the outcome of administrative action;

(c-1) For purposes of this chapter, a sales commission or other such fee payable to an independent contractor of a vendor of a product or service is not considered compensation contingent on the outcome of an administrative action if the independent contractor

(i) is a registrant who reports the vendor as a client under this chapter;

(ii) reports the full amount of the commission or fee in the manner required by commission rule; and

(iii) if the amount of the state agency purchasing decision does not exceed ten million dollars.

(c-2) For purposes of this chapter, a commission or fee paid to a person by a state agency is not considered compensation contingent on the outcome of an administrative action if the person paid a commission or a fee by a state agency

(i) is a registrant who reports the state agency as a client under this chapter; and

(ii) reports the full amount of the commission or fee in the manner required by commission rule.

(c-3) If the amount of compensation or fee is not known at the time of the disclosure required under Subsection (c-1), the registrant must disclose:

(i) a reasonable estimate of the maximum amount of the compensation or fee; and

(ii) the method under which the compensation or fee will be computed; and

(iii) such other factors as may be required by the commission by rule.

(e) For purposes of this section, the term "employee" means a person employed full-time by an employer to perform services for compensation. The term does not include an independent contractor or consultant.

(f) The provisions of this chapter shall not be applicable to a transaction for the sale, lease, or services provided in connection with the sale or lease of any real properties or real properties interest owned or managed by the Permanent School Fund or General Land Office.

SECTION 5. Section 403.1067(b), Government Code, is amended to read as follows:

(b) Except as provided by this subsection, the ~~[The]~~ persons or entities described by Subsection (a) are not eligible to receive the money or participate either directly or indirectly in the contracts, funds, or grants awarded in Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066. A registrant under Chapter 305 is not ineligible under this subsection if the person is required to register under that chapter solely because the person communicates directly with a member of the executive branch to influence administrative action concerning a matter relating to the purchase of products or services by a state agency.

SECTION 6. Section 161.301, Health and Safety Code, is amended by amending Subsection (d) and adding Subsection (f) to read as follows:

(d) The commissioner may not award a contract under Subsection (b) to:

(1) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code, except as provided by Subsection (f);

(2) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (1) and not described by Subsection (f); or

(3) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, or other government policies through grassroots or media campaigns.

(f) A registrant under Chapter 305, Government Code, is not ineligible under Subsections (d) and (e) if the person is required to register under that chapter solely because the person communicates directly with a member of the executive branch to influence administrative action concerning a matter relating to the purchase of products or services by a state agency.

SECTION 7. A person who is required to register under Chapter 305, Government Code, solely as a result of the change in law made by this Act is not required to register under that chapter before January 1, 2010.

SECTION 8. This Act takes effect September 1, 2009.

HB 55 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Branch called up with senate amendments for consideration at this time,

HB 55, A bill to be entitled An Act relating to an offense of using a wireless communication device while operating a motor vehicle.

Representative Branch moved to concur in the senate amendments to **HB 55**.

The motion to concur in the senate amendments to **HB 55** prevailed by (Record 1483): 138 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Harless; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Craddick; King, T.; Legler; Phillips.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Hardcastle; Harper-Brown; Villarreal.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 55** (engrossed version) in SECTION 1 of the bill as follows:

(1) Strike added Subdivision (2), Subsection (e), Section 545.425, Transportation Code (page 3, lines 9-12), and substitute:

(2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

(2) Strike added Subsection (f), Section 545.425, Transportation Code (page 3, lines 13-16), and substitute:

(f) An offense under this section is a misdemeanor punishable by a fine not to exceed \$50.

(3) After added Subsection (f), Section 545.425, Transportation Code (page 3, between lines 16 and 17), insert:

(g) This section preempts all local ordinances, rules, or regulations adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle.

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend Committee Amendment No. 1 to **HB 55** (Senate committee printing) as follows:

(1) Strike Item (2) of the amendment adding Subsection (f), Section 545.425, Transportation Code (page 1, lines 16-19).

(2) In Item (3) of the amendment, in added Subsection (g), Section 545.425, Transportation Code (page 1, line 23), between "regulations" and "adopted", insert "that are inconsistent with specific provisions of this section".

Senate Amendment No. 3 (Senate Floor Amendment No. 2)

Amend **HB 55** (Senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 545.425(b-1), Transportation Code, strike the last sentence of that subsection (page 1, lines 54-61) and substitute the following:

The department shall adopt standards that:

(1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and

(2) require that a sign required to be posted under this subsection inform an operator that:

(A) the use of a wireless communication device is prohibited in the school crossing zone; and

(B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(2) Strike added Section 545.425(f), Transportation Code (page 2, lines 28-31).

**HB 857 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Laubenberg called up with senate amendments for consideration at this time,

HB 857, A bill to be entitled An Act relating to the penalty for certain outdoor burning violations.

Representative Laubenberg moved to concur in the senate amendments to **HB 857**.

The motion to concur in the senate amendments to **HB 857** prevailed by (Record 1484): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter;

Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Branch; Peña.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 857** by striking SECTION 1 of the bill (page 1, lines 10-33), and substituting:

SECTION 1. Section 7.187, Water Code, is amended to read as follows:

Sec. 7.187. PENALTIES. (a) Except as provided by Subsection (b), a [A] person convicted of an offense under this subchapter is punishable by:

(1) a fine, as imposed under the section creating the offense, of:

- (A) not more than \$1,000;
- (B) not less than \$1,000 or more than \$50,000;
- (C) not less than \$1,000 or more than \$100,000;
- (D) not less than \$1,000 or more than \$250,000;
- (E) not less than \$2,000 or more than \$500,000;
- (F) not less than \$5,000 or more than \$1,000,000;
- (G) not less than \$10,000 or more than \$1,500,000; or
- (H) not more than twice the amount of the required fee;

(2) confinement for a period, as imposed by the section creating the offense, not to exceed:

- (A) 30 days;
- (B) 90 days;
- (C) 180 days;
- (D) one year;
- (E) two years;
- (F) five years;
- (G) 10 years;
- (H) 15 years;
- (I) 20 years; or
- (J) 30 years; or

(3) both fine and confinement, as imposed by the section creating the offense.

(b) Notwithstanding Section 7.177(a)(5), conviction for an offense under Section 382.018, Health and Safety Code, is punishable as:

(1) A Class C misdemeanor if the waste is not a substance described by Subdivision (3);

(2) a Class B misdemeanor if the violation is a second or subsequent violation under Subdivision (1);

(3) a Class A misdemeanor if the violation involves the burning of tires, insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.

HB 1151 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 1151, A bill to be entitled An Act relating to temporary orders and orders for modification in suits affecting the parent-child relationship.

Representative Thompson moved to concur in the senate amendments to **HB 1151**.

The motion to concur in the senate amendments to **HB 1151** prevailed by (Record 1485): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Burnam; Deshotel; Eiland; Peña.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1151** (Senate committee printing) by adding the following SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 162.3041, Family Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) Notwithstanding Subsection (a), if the department first entered into an adoption assistance agreement with a child's adoptive parents after the child's 16th birthday, the department shall, in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission, offer adoption assistance after the child's 18th birthday to the child's adoptive parents under an existing adoption agreement until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of doing any of the activities described by Subdivisions (1)-(4) due to a documented medical condition.

(d) If the legislature does not appropriate sufficient money to provide adoption assistance to the adoptive parents of all children described by Subsection (a), the department shall provide adoption assistance only to the adoptive parents of children described by Subsection (a)(1). The department is not required to provide adoption assistance benefits under Subsection (a-1) unless the department is specifically appropriated funds for purposes of that subsection.

SECTION 2. Subchapter A, Chapter 264, Family Code, is amended by adding Section 264.015 to read as follows:

Sec. 264.015. TRAINING. The department shall include training in trauma-informed programs and services in any training the department provides to foster parents, adoptive parents, kinship caregivers, and department caseworkers. The department shall pay for the training provided under this section with gifts, donations, and grants and any federal money available through the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351).

SECTION 3. Section 264.101, Family Code, is amended by amending Subsections (a-1) and (d) and adding Subsection (a-2) to read as follows:

(a-1) The department shall continue to pay the cost of foster care for a child for whom the department provides care, including medical care, until the last day of the month in which ~~later of:~~

~~[(1) the date]~~ the child attains the age of 18. The department shall continue to pay the cost of foster care for a child after the month in which the child attains the age of 18 as long as the child is:

(1) regularly attending~~;~~~~or~~

~~[(2) the date the child graduates from] high school or ~~[ceases to be]~~ enrolled in a ~~[secondary school in a]~~ program leading toward a high school diploma or high school equivalency certificate;~~

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of performing the activities described by Subdivisions (1)-(4) due to a documented medical condition.

(a-2) The department shall continue to pay the cost of foster care under:

(1) Subsection (a-1)(1) until the last day of the month in which the child attains the age of 22; and

(2) Subsections (a-1)(2)-(5) until the last day of the month the child attains the age of 21.

(d) The executive commissioner of the Health and Human Services Commission may adopt rules that establish criteria and guidelines for the payment of foster care, including medical care, for a child and for providing care for a child after the child becomes 18 years of age if the child meets the requirements for continued foster care under Subsection (a-1) ~~[is regularly attending an institution of higher education or a vocational or technical program]~~.

SECTION 4. Subdivisions (1) and (3), Section 264.751, Family Code, are amended to read as follows:

(1) "Designated caregiver" means an individual who has a longstanding and significant relationship with a child for whom the department has been appointed managing conservator and who:

(A) is appointed to provide substitute care for the child, but is not licensed by the department or verified by a licensed child-placing agency or the department ~~[certified]~~ to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

(3) "Relative caregiver" means a relative who:

(A) provides substitute care for a child for whom the department has been appointed managing conservator, but who is not licensed by the department or verified by a licensed child-placing agency or the department ~~[certified]~~ to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

SECTION 5. Subchapter I, Chapter 264, Family Code, is amended by adding Section 264.760 to read as follows:

Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of this subchapter, a relative or other designated caregiver who becomes licensed by

the department or verified by a licensed child-placing agency or the department to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code, may receive foster care payments in lieu of the benefits provided by this subchapter, beginning with the first month in which the relative or other designated caregiver becomes licensed or is verified.

SECTION 6. Chapter 264, Family Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

Sec. 264.851. DEFINITIONS. In this subchapter:

(1) "Foster child" means a child who is or was in the temporary or permanent managing conservatorship of the department.

(2) "Kinship provider" means a relative of a foster child, or another adult with a longstanding and significant relationship with a foster child before the child was placed with the person by the department, with whom the child resides for at least six consecutive months after the person becomes licensed by the department or verified by a licensed child-placing agency or the department to provide foster care.

(3) "Permanency care assistance agreement" means a written agreement between the department and a kinship provider for the payment of permanency care assistance benefits as provided by this subchapter.

(4) "Permanency care assistance benefits" means monthly payments paid by the department to a kinship provider under a permanency care assistance agreement.

(5) "Relative" means a person related to a foster child by consanguinity or affinity.

Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS.

(a) The department shall enter into a permanency care assistance agreement with a kinship provider who is eligible to receive permanency care assistance benefits.

(b) The department may enter into a permanency care assistance agreement with a kinship provider who is the prospective managing conservator of a foster child only if the kinship provider meets the eligibility criteria under federal and state law and department rule.

(c) A court may not order the department to enter into a permanency care assistance agreement with a kinship provider unless the kinship provider meets the eligibility criteria under federal and state law and department rule, including requirements relating to the criminal history background check of a kinship provider.

(d) A permanency care assistance agreement may provide for reimbursement of the nonrecurring expenses a kinship provider incurs in obtaining permanent managing conservatorship of a foster child, including attorney's fees and court costs. The reimbursement of the nonrecurring expenses under this subsection may not exceed \$2,000.

Sec. 264.853. RULES. The executive commissioner shall adopt rules necessary to implement the permanency care assistance program. The rules must:

(1) establish eligibility requirements to receive permanency care assistance benefits under the program; and

(2) ensure that the program conforms to the requirements for federal assistance as required by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351).

Sec. 264.854. MAXIMUM PAYMENT AMOUNT. The executive commissioner shall set the maximum monthly amount of assistance payments under a permanency care assistance agreement in an amount that does not exceed the amount of the monthly foster care maintenance payment the department would pay to a foster care provider caring for the child for whom the kinship provider is caring.

Sec. 264.855. CONTINUED ELIGIBILITY FOR PERMANENCY CARE ASSISTANCE BENEFITS AFTER AGE 18. If the department first entered into a permanency care assistance agreement with a foster child's kinship provider after the child's 16th birthday, the department may continue to provide permanency care assistance payments until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of any of the activities described by Subdivisions (1)-(4) due to a documented medical condition.

Sec. 264.856. APPROPRIATION REQUIRED. The department is not required to provide permanency care assistance benefits under this subchapter unless the department is specifically appropriated money for purposes of this subchapter.

SECTION 7. (a) Not later than April 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement and administer the changes to Sections 162.3041 and 264.101, Family Code, as amended by this Act, and Subchapter K, Chapter 264, Family Code, as added by this Act.

(b) The rules adopted under Subsection (a) of this section shall provide that no payment for adoption assistance or permanency care assistance can be paid on behalf of a child over the age of 17 for any month prior to October 1, 2010.

(c) The rules adopted under Subsection (a) of this section shall provide that no payment of foster care benefits can be made under the amendments to Section 264.101, Family Code, with respect to a child over the age of 17 for any month prior to October 1, 2010, unless the child was eligible for foster care benefits after age 17 under the law and rules as they existed prior to the effective date of this Act.

SECTION 8. 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 9. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 1151** (Senate committee report) by adding the following new SECTIONS as follows and renumbering existing SECTIONS accordingly:

SECTION _____. Subsection (c), Section 154.062, Family Code, is amended to read as follows:

(c) Resources do not include:

- (1) return of principal or capital;
- (2) accounts receivable; [~~or~~]
- (3) benefits paid in accordance with the Temporary Assistance for Needy Families program; or
- (4) payments for foster care of a child [~~aid for families with dependent children~~].

SECTION _____. The change in law made by this Act to Subsection (c), Section 154.062, Family Code, applies only to a proceeding to establish or modify a child support obligation that is pending in a trial court on or filed on or after the effective date of this Act.

HB 1462 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Pickett called up with senate amendments for consideration at this time,

HB 1462, A bill to be entitled An Act relating to leave for certain state employees who volunteer or participate in training for Court Appointed Special Advocates.

Representative Pickett moved to concur in the senate amendments to **HB 1462**.

The motion to concur in the senate amendments to **HB 1462** prevailed by (Record 1486): 98 Yeas, 41 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Bohac; Bolton; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Corte; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Jackson; Keffer; Kent;

King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley.

Nays — Aycock; Berman; Bonnen; Branch; Brown, F.; Button; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Eissler; Elkins; Fletcher; Flynn; Gattis; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Madden; Miller, D.; Morrison; Parker; Patrick; Paxton; Riddle; Sheffield; Shelton; Taylor; Weber; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Deshotel; Geren; Hughes; Isett; Jones; Peña.

STATEMENTS OF VOTE

When Record No. 1486 was taken, I was in the house but away from my desk. I would have voted no.

Jones

I was shown voting yes on Record No. 1486. I intended to vote no.

Solomons

I was shown voting yes on Record No. 1486. I intended to vote no.

Truitt

Senate Committee Substitute

CSHB 1462, A bill to be entitled An Act relating to leave for certain state employees who volunteer or participate in training for Court Appointed Special Advocates.

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

SECTION 1. Subchapter Z, Chapter 661, Government Code, is amended by adding Section 661.921 to read as follows:

Sec. 661.921. COURT APPOINTED SPECIAL ADVOCATES VOLUNTEER. A state employee may be granted leave not to exceed five hours each month to participate in mandatory training or perform volunteer services for Court Appointed Special Advocates without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time.

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, 2009.

**HB 2013 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Keffer called up with senate amendments for consideration at this time,

HB 2013, A bill to be entitled An Act relating to tuition and laboratory fee exemptions at public institutions of higher education for certain volunteer firefighters enrolled in fire science courses.

Representative Keffer moved to concur in the senate amendments to **HB 2013**.

The motion to concur in the senate amendments to **HB 2013** prevailed by (Record 1487): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Deshotel; Jackson; Menendez; Oliveira; Peña; Shelton; Swinford.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2013** (Senate Committee Printing), in SECTION 1 of the bill, in added Section 54.208(a)(2), Education Code (page 1, line 23), by striking "is an active member" and substituting "is currently, and has been for at least one year, an active member".

**HB 2127 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Giddings called up with senate amendments for consideration at this time,

HB 2127, A bill to be entitled An Act relating to regulations regarding the sale of plastic bulk merchandise containers; providing a criminal penalty.

Representative Giddings moved to concur in the senate amendments to **HB 2127**.

The motion to concur in the senate amendments to **HB 2127** prevailed by (Record 1488): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycoc; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Deshotel; Harless; Hughes.

Senate Committee Substitute

CSHB 2127, A bill to be entitled An Act relating to regulations regarding the sale of plastic bulk merchandise containers; providing a criminal penalty.

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

SECTION 1. Section 35.63, Business & Commerce Code, as added by Chapter 307 (**HB 1871**), Acts of the 80th Legislature, Regular Session, 2007, is amended by amending Subsections (b), (c), (d), and (e) and adding Subsections (g) and (h) to read as follows:

(b) A person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers, before purchasing 10 ~~[five]~~ or more plastic bulk merchandise containers from an individual at one time, ~~[the same person]~~, shall:

- (1) obtain from an individual ~~[that person]~~:
 - (A) proof of ownership for the containers; and
 - (B) a record that contains:

- (i) the name, address, and telephone number of the person or the person's authorized representative;
 - (ii) the name and address of the buyer of the containers or any consignee of the containers;
 - (iii) a description of the containers, including the number of the containers to be sold; and
 - (iv) the date of the transaction; and
- (2) verify the identity of the individual selling the containers or representing the seller from a driver's license or other government-issued identification card that includes the individual's photograph, and record the verification.

(c) A person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers shall retain a record obtained or made under this section until the first anniversary of the later of the date the containers are purchased or delivered.

(d) A person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers who violates Subsection (b) or (c) is liable to this state for a civil penalty of \$10,000 for each violation.

(e) A person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers may not use an artifice to avoid the application of this section, including documenting purchases from the same person on the same day as multiple transactions. A person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers who violates this subsection is liable to this state for a civil penalty of \$30,000 for each violation.

(g) A person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers who violates this section commits an offense. Except as provided by Subsection (h), an offense under this subsection is a Class C misdemeanor punishable by:

(1) a fine not to exceed \$350, if the total purchase price of the plastic bulk merchandise containers to which the offense relates is less than \$1,000; or

(2) a fine not to exceed \$700, if the total purchase price of the plastic bulk merchandise containers to which the offense relates is \$1,000 or more.

(h) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of an offense under this section based on the same type of violation, the offense is punishable by a fine not to exceed twice the maximum amount of the fine prescribed for a first offense under this section.

SECTION 2. Chapter 204, Business & Commerce Code, as effective September 1, 2009, is amended by adding Section 204.005 to read as follows:

Sec. 204.005. CRIMINAL PENALTY. (a) A person who is in the business of recycling, shredding, or destroying plastic bulk merchandise containers who violates this chapter commits an offense.

(b) Except as provided by Subsection (c), an offense under this section is a Class C misdemeanor punishable by:

(1) a fine not to exceed \$350, if the total purchase price of the plastic bulk merchandise containers to which the offense relates is less than \$1,000; or

(2) a fine not to exceed \$700, if the total purchase price of the plastic bulk merchandise containers to which the offense relates is \$1,000 or more.

(c) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of an offense under this section based on the same type of violation, the offense is punishable by a fine not to exceed twice the maximum amount of the fine prescribed for a first offense under this section.

SECTION 3. (a) Section 1 of this Act takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in existing codes does not become law.

(b) Section 2 of this Act takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in existing codes becomes law.

SECTION 4. This Act takes effect September 1, 2009.

**HB 2153 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Edwards called up with senate amendments for consideration at this time,

HB 2153, A bill to be entitled An Act relating to certain registration requirements imposed on sex offenders.

Representative Edwards 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 2153**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2153**: Edwards, chair; Fletcher, Kent, Riddle, and Vaught.

**HB 2169 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Chavez called up with senate amendments for consideration at this time,

HB 2169, A bill to be entitled An Act relating to the establishment of additional job incentive programs by the Texas Workforce Commission using the skills development fund.

Representative Chavez 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 2169**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2169**: Chavez, chair; Strama, Morrison, Y. Davis, and Eissler.

**HB 2344 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Giddings called up with senate amendments for consideration at this time,

HB 2344, A bill to be entitled An Act relating to the urban land bank demonstration program in certain municipalities.

Representative Giddings moved to concur in the senate amendments to **HB 2344**.

The motion to concur in the senate amendments to **HB 2344** prevailed by (Record 1489): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Senate Committee Substitute

CSHB 2344, A bill to be entitled An Act relating to the urban land bank demonstration program in certain municipalities.

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

SECTION 1. Section 379C.008, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Notwithstanding any other law and except as provided by Subsection (f), property that is ordered sold pursuant to foreclosure of a tax lien may be sold in a private sale to a land bank by the officer charged with the sale of the property without first offering the property for sale as otherwise provided by Section 34.01, Tax Code, if:

(1) the market value of the property as specified in the judgment of foreclosure is less than the total amount due under the judgment, including all taxes, penalties, and interest, plus the value of nontax liens held by a taxing unit and awarded by the judgment, court costs, and the cost of the sale;

(2) the property is not improved with a habitable building or buildings or an uninhabitable building or buildings that are occupied as a residence by an owner or tenant who is legally entitled to occupy the building or buildings;

(3) there are delinquent taxes on the property for a total of at least five years; and

(4) the municipality has executed with the other taxing units that are parties to the tax suit an interlocal agreement that enables those units to agree to participate in the program while retaining the right to withhold consent to the sale of specific properties to the land bank.

(a-1) The property may be sold to a land bank, regardless of current zoning, and on development may be zoned for more than one use that must include residential housing in accordance with this chapter, provided that the requirements of Subsection (a) are satisfied.

SECTION 2. Section 379C.009, Local Government Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), each ~~Each~~ subsequent resale of property acquired by a land bank under this chapter must comply with the conditions of this section.

(a-1) Notwithstanding any other law, this section does not apply to property sold to an eligible adjacent property owner under Section 379C.0106.

(b) The land bank must sell a property to a qualified participating developer within the four-year ~~three-year~~ period following the date of acquisition for the purpose of construction of affordable housing for sale or rent to low income households. If after four ~~three~~ years a qualified participating developer has not purchased the property, the property shall be transferred from the land bank to the taxing units who were parties to the judgment for disposition as otherwise allowed under the law.

(d) The deed conveying a property sold by the land bank must include a right of reverter so that if the qualified participating developer does not apply for a construction permit and close on any construction financing within the three-year ~~two-year~~ period following the date of the conveyance of the property from the land bank to the qualified participating developer, the property will revert to the land bank for subsequent resale in accordance with this chapter ~~to another qualified participating developer~~ or conveyance to the taxing units who

were parties to the judgment for disposition as otherwise allowed under the law. If the property is replatted under Section 379C.0107, the right of reverter applies to the entire property as replatted.

SECTION 3. Section 379C.010(a), Local Government Code, is amended to read as follows:

(a) The land bank shall impose deed restrictions on property sold to qualified participating developers requiring the development and sale, ~~or~~ rental, or lease-purchase of the property to low income households.

SECTION 4. Chapter 379C, Local Government Code, is amended by adding Section 379C.0105 to read as follows:

Sec. 379C.0105. LOT EXCHANGE PERMITTED. (a) Notwithstanding Section 379C.010, the land bank may permit a qualified participating developer to exchange a property purchased from the land bank with any other property owned by the developer if:

(1) the developer agrees to construct on the other property affordable housing for low income households as provided by this chapter; and

(2) the other property will be located in:

(A) a planned development incorporating the property originally purchased from the land bank; or

(B) another location as approved by the land bank.

(b) The land bank shall adjust the deed restrictions under Section 379C.010 for each of the properties exchanged by the developer under this section.

SECTION 5. Chapter 379C, Local Government Code, is amended by adding Section 379C.0106 to read as follows:

Sec. 379C.0106. PROPERTY DETERMINED TO BE INAPPROPRIATE FOR RESIDENTIAL DEVELOPMENT: RIGHT OF FIRST REFUSAL. (a) In this section, "eligible adjacent property owner" means a person who:

(1) owns property located adjacent to property owned by the land bank;

(2) has owned the adjacent property and continuously occupied that property as a primary residence for the two-year period preceding the date of the sale; and

(3) satisfies eligibility requirements adopted by the land bank.

(b) Notwithstanding any other right of first refusal granted under this chapter, if the land bank determines that a property owned by the land bank is not appropriate for residential development, the land bank first shall offer the property for sale to an eligible adjacent property owner according to terms and conditions developed by the land bank that are consistent with this chapter.

(c) The land bank shall sell the property to an eligible adjacent property owner, at whichever value is lower:

(1) the fair market value for the property as determined by the appraisal district in which the property is located; or

(2) the sales price recorded in the annual plan.

(d) Except as provided by Subsection (e), an adjacent property owner that purchases property under this section may not lease, sell, or transfer that property to another person before the third anniversary of the date the adjacent property owner purchased that property from the land bank.

(e) Subsection (d) does not apply to the transfer of property purchased under this section if the transfer:

- (1) is made according to a policy adopted by the land bank; and
- (2) is made to a family member of the eligible adjacent property owner or occurs as a result of the death of the eligible adjacent property owner.

SECTION 6. Chapter 379C, Local Government Code, is amended by adding Section 379C.0107 to read as follows:

Sec. 379C.0107. REPLATTING BY QUALIFIED PARTICIPATING DEVELOPER. The land bank may sell two adjacent properties that are owned by the land bank to a qualified participating developer if:

- (1) at least one of the properties is appropriate for residential development; and
- (2) the developer agrees to replat the two adjacent properties as one property that is appropriate for residential development.

SECTION 7. The heading to Section 379C.011, Local Government Code, is amended to read as follows:

Sec. 379C.011. RIGHT OF FIRST REFUSAL TO QUALIFIED ORGANIZATIONS.

SECTION 8. Section 379C.011(b), Local Government Code, is amended to read as follows:

(b) Except as provided by Section 379C.0106, the [The] land bank shall first offer a property for sale to qualified organizations.

SECTION 9. Section 379C.013(c), Local Government Code, is amended to read as follows:

(c) For purposes of evaluating the effectiveness of the program, the land bank shall submit an annual performance report to the municipality not later than November 1 of each year in which the land bank acquires or sells property under this chapter. The performance report must include:

- (1) a complete and detailed written accounting of all money and properties received and disbursed by the land bank during the preceding fiscal year;
- (2) for each property acquired by the land bank during the preceding fiscal year:
 - (A) the street address of the property;
 - (B) the legal description of the property;
 - (C) the date the land bank took title to the property;
 - (D) the name and address of the property owner of record at the time of the foreclosure;
 - (E) the amount of taxes and other costs owed at the time of the foreclosure; and
 - (F) the assessed value of the property on the tax roll at the time of the foreclosure;
- (3) for each property sold by the land bank during the preceding fiscal year to a qualified participating developer or eligible adjacent property owner:
 - (A) the street address of the property;
 - (B) the legal description of the property;

- (C) the name and mailing address of the purchaser ~~[developer]~~;
- (D) the purchase price paid ~~[by the developer]~~; and
- (E) if sold to a qualified participating developer:
 - (i) the maximum incomes allowed for the households by the terms of the sale; and
 - (ii) ~~(F)~~ the source and amount of any public subsidy provided by the municipality to facilitate the sale or rental of the property to a household within the targeted income levels;

(4) for each property sold by a qualified participating developer during the preceding fiscal year, the buyer's household income and a description of all use and sale restrictions; and

(5) for each property developed for rental housing with an active deed restriction, a copy of the most recent annual report filed by the owner with the land bank.

SECTION 10. The changes in law made by this Act apply to property held by the land bank or purchased from a land bank by a qualified participating developer or an eligible adjacent property owner without regard to whether the purchase was made before, on, or after the effective date of this Act.

SECTION 11. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 2240 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Moody called up with senate amendments for consideration at this time,

HB 2240, A bill to be entitled An Act relating to creating the offense of continuous violence against the family.

Representative Moody 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 2240**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2240**: Lewis, chair; Moody, Guillen, D. Howard, and Vaught.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Kolkhorst requested permission for the Conference Committee on **HB 2730** to meet while the house is in session, at 7:30 p.m. today, in 3W.9, to consider the conference committee report.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference Committee on **HB 2730**, 7:30 p.m. today, 3W.9, for a formal meeting, to consider the conference committee report.

**HB 2521 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Pickett called up with senate amendments for consideration at this time,

HB 2521, A bill to be entitled An Act relating to a preference in state purchasing for certain media-related services offered by businesses based in Texas.

Representative Pickett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2521**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2521**: Pickett, chair; Solomons, Farabee, Menendez, and Harless.

**HB 2859 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative D. Miller called up with senate amendments for consideration at this time,

HB 2859, A bill to be entitled An Act relating to notice requirements for a county selling surplus or salvage property.

Representative D. Miller moved to concur in the senate amendments to **HB 2859**.

The motion to concur in the senate amendments to **HB 2859** prevailed by (Record 1490): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller,

D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Berman; Deshotel; Edwards; Peña.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2859** (senate committee report) in SECTION 1 of the bill, in added Section 263.153(c), Local Government Code (page 1, line 17), between "subchapter" and "shall", by inserting "having an estimated value of not more than \$500".

HB 3065 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Bohac called up with senate amendments for consideration at this time,

HB 3065, A bill to be entitled An Act relating to municipal registration of vacant buildings in certain municipalities.

Representative Bohac 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 3065**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3065**: Bohac, chair; Hopson, Crownover, Solomons, and Jackson.

HB 3228 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Madden called up with senate amendments for consideration at this time,

HB 3228, A bill to be entitled An Act relating to the offense of prohibited substances and items in correctional facilities.

Representative Madden moved to concur in the senate amendments to **HB 3228**.

The motion to concur in the senate amendments to **HB 3228** prevailed by (Record 1491): 138 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Crownover; Darby; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Hodge.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Berman; Burnam; Creighton; Davis, J.; Pierson; Sheffield.

Senate Committee Substitute

CSHB 3228, A bill to be entitled An Act relating to the offense of prohibited substances and items in correctional facilities.

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

SECTION 1. Section 38.11, Penal Code, as amended by Chapters 949 (**HB 1575**) and 1092 (**HB 2077**), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

Sec. 38.11. PROHIBITED SUBSTANCES AND ITEMS IN ~~[ADULT OR JUVENILE]~~ CORRECTIONAL ~~[OR DETENTION]~~ FACILITY ~~[OR ON PROPERTY OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE OR TEXAS YOUTH COMMISSION]~~. (a) A person commits an offense if the person provides, or possesses with the intent to provide:

(1) an alcoholic beverage, controlled substance, or dangerous drug to ~~[an inmate of a correctional facility or to]~~ a person in the custody of a ~~[secure]~~ correctional facility ~~[or secure detention facility for juveniles]~~, except on the prescription of a ~~[physician or]~~ practitioner~~[, as defined in Section 551.003, Occupations Code]~~;

(2) a deadly weapon to ~~[an inmate of a correctional facility or to]~~ a person in the custody of a ~~[secure]~~ correctional facility ~~[or secure detention facility for juveniles]~~;

(3) a cellular telephone or other wireless communications device or a component of one of those devices~~[, cigarette, tobacco product, or money]~~ to a person in the custody [an inmate] of a correctional facility [operated by or under]

~~contract with the Texas Department of Criminal Justice or to a person in the custody of a secure correctional facility or secure detention facility for juveniles, except for money that is provided for the benefit of the juvenile in accordance with facility rules];~~

(4) ~~[a cellular telephone or]~~ money to a person confined in a correctional facility ~~[local jail regulated by the Commission on Jail Standards];~~ or

(5) a cigarette or tobacco product to a person confined in a correctional facility, except that if the facility is a local jail regulated by the Commission on Jail Standards, the person commits an offense only if ~~[and in]~~ providing the cigarette or tobacco product ~~[the person]~~ violates a rule or regulation adopted by the sheriff or jail administrator that:

(A) prohibits the possession of a cigarette or tobacco product by a person ~~[an inmate]~~ confined in the jail; or

(B) places restrictions on:

(i) the possession of a cigarette or tobacco product by a person ~~[an inmate]~~ confined in the jail; or

(ii) the manner in which a cigarette or tobacco product may be provided to a person ~~[an inmate]~~ confined in the jail.

(b) A person commits an offense if the person takes an alcoholic beverage, controlled substance, or dangerous drug into a correctional facility ~~[or a secure correctional facility or secure detention facility for juveniles, except for delivery to a facility warehouse, pharmacy, or physician].~~

(c) A person commits an offense if the person takes a controlled substance or dangerous drug on property owned, used, or controlled by a correctional facility ~~[the Texas Department of Criminal Justice, the Texas Youth Commission, or a secure correctional facility or secure detention facility for juveniles, except for delivery to a warehouse, pharmacy, or physician on property owned, used, or controlled by the department, the commission, or the facility].~~

(d) A person commits an offense if the person:

(1) possesses a controlled substance or dangerous drug while in a correctional facility or~~+~~

~~[(A)]~~ on property owned, used, or controlled by ~~[the Texas Department of Criminal Justice, the Texas Youth Commission, or]~~ a ~~[secure]~~ correctional facility ~~[or secure detention facility for juveniles; or~~

~~[(B) in a correctional facility or a secure correctional facility or secure detention facility for juveniles];~~ or

(2) possesses a deadly weapon while in a correctional facility ~~[or in a secure correctional facility or secure detention facility for juveniles].~~

(e) It is an affirmative defense to prosecution under Subsection (b), (c), or (d)(1) ~~[of this section]~~ that the person possessed the alcoholic beverage, controlled substance, or dangerous drug pursuant to a prescription issued by a practitioner or while delivering the beverage, substance, or drug to a warehouse, pharmacy, or practitioner ~~[physician]~~ on property owned, used, or controlled by the ~~[department, the Texas Youth Commission, or by the operator of a secure]~~ correctional facility ~~[or secure detention facility for juveniles].~~ It is an affirmative defense to prosecution under Subsection (d)(2) ~~[of this section]~~ that the person

possessing the deadly weapon is a peace officer or is an officer or employee of the correctional facility who is authorized to possess the deadly weapon while on duty or traveling to or from the person's place of assignment.

(f) In this section:

(1) "Practitioner" has the meaning assigned by Section 481.002, Health and Safety Code.

(2) "Prescription" has the meaning assigned by Section 481.002, Health and Safety Code.

(3) "Cigarette" has the meaning assigned by Section 154.001, Tax Code.

(4) "Tobacco product" has the meaning assigned by Section 155.001, Tax Code.

(5) "Component" means any item necessary for the current, ongoing, or future operation of a cellular telephone or other wireless communications device, including a subscriber identity module card or functionally equivalent portable memory chip, a battery or battery charger, and any number of minutes that have been purchased or for which a contract has been entered into and during which a cellular telephone or other wireless communications device is capable of transmitting or receiving communications.

(6) "Correctional facility" means:

(A) any place described by Section 1.07(a)(14)(A), (B), or (C); or

(B) a secure correctional facility or secure detention facility, as defined [~~"Secure correctional facility" and "secure detention facility" have the meanings assigned]~~ by Section 51.02, Family Code.

(g) An offense under this section is a felony of the third degree.

(h) Notwithstanding Section 15.01(d), if a person commits the offense of criminal attempt to commit an offense under Subsection (a), ~~or~~ (b), or (c), the offense committed under Section 15.01 is a felony of the third degree.

(i) It is an affirmative defense to prosecution under Subsection (b) that the actor:

(1) is a duly authorized member of the clergy with rights and privileges granted by an ordaining authority that includes administration of a religious ritual or ceremony requiring the presence or consumption of an alcoholic beverage; and

(2) takes four ounces or less of an alcoholic beverage into the correctional facility [~~or the secure correctional facility or secure detention facility for juveniles~~] and personally consumes all of the alcoholic beverage or departs from the facility with any portion of the beverage not consumed.

(j) A person commits an offense if the person, while confined in [~~an inmate of~~] a correctional facility, [~~operated by or under contract with the Texas Department of Criminal Justice or while in the custody of a secure correctional facility or secure detention facility for juveniles~~] possesses a cellular telephone or other wireless communications device or a component of one of those devices.

(k) A person commits an offense if, with the intent to provide to or make a cellular telephone or other wireless communications device or a component of one of those devices available for use by a person in the custody of a correctional facility, the person:

(1) acquires a cellular telephone or other wireless communications device or a component of one of those devices to be delivered to the person in custody;

(2) provides a cellular telephone or other wireless communications device or a component of one of those devices to another person for delivery to the person in custody; or

(3) makes a payment to a communication common carrier, as defined by Article 18.20, Code of Criminal Procedure, or to any communication service that provides to its users the ability to send or receive wire or electronic communications.

SECTION 2. The heading to Article 18.20, Code of Criminal Procedure, is amended to read as follows:

Art. 18.20. DETECTION, INTERCEPTION, AND USE OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.

SECTION 3. Section 4, Article 18.20, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE AUTHORIZED. A judge of competent jurisdiction may issue an order authorizing interception of wire, oral, or electronic communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of:

(1) a felony under Section 19.02, 19.03, or 43.26, Penal Code;

(2) a felony under:

(A) Chapter 481, Health and Safety Code, other than felony possession of marihuana;

(B) Section 485.032 [~~485.033~~], Health and Safety Code; or

(C) Chapter 483, Health and Safety Code;

(3) an offense under Section 20.03 or 20.04, Penal Code;

(4) an offense under Chapter 20A, Penal Code;

(5) an offense under Chapter 34, Penal Code, if the criminal activity giving rise to the proceeds involves the commission of an offense under Title 5, Penal Code, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense under Title 5; ~~[or]~~

(6) an offense under Section 38.11, Penal Code; or

(7) an attempt, conspiracy, or solicitation to commit an offense listed in this section.

SECTION 4. Section 5, Article 18.20, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Except as otherwise provided by this section and Sections ~~[Section]~~ 8A and 8B, only the Department of Public Safety is authorized by this article to own, possess, install, operate, or monitor an electronic, mechanical, or other device. The Department of Public Safety may be assisted by an investigative or law enforcement officer or other person in the operation and monitoring of an interception of wire, oral, or electronic communications, provided that the officer or other person:

(1) is designated by the director for that purpose; and

(2) acts in the presence and under the direction of a commissioned officer of the Department of Public Safety.

(c) The Texas Department of Criminal Justice may own electronic, mechanical, or other devices for a use or purpose authorized by Section 500.008, Government Code, and the inspector general of the Texas Department of Criminal Justice, a commissioned officer of that office, or another person acting in the presence and under the direction of a commissioned officer of that office may possess, install, operate, or monitor those devices as provided by Section 500.008.

(d) The Texas Youth Commission may own electronic, mechanical, or other devices for a use or purpose authorized by Section 61.0455, Human Resources Code, and the inspector general of the Texas Youth Commission, a commissioned officer of that office, or another person acting in the presence and under the direction of a commissioned officer of that office may possess, install, operate, or monitor those devices as provided by Section 61.0455.

SECTION 5. Article 18.20, Code of Criminal Procedure, is amended by adding Section 8B to read as follows:

Sec. 8B. DETECTION OF CELLULAR TELEPHONE OR OTHER WIRELESS COMMUNICATIONS DEVICE IN CORRECTIONAL OR DETENTION FACILITY. (a) In this section, "correctional facility" has the meaning assigned by Section 39.04(e), Penal Code.

(b) Notwithstanding any other provision of this article or Article 18.21, the office of the inspector general of the Texas Department of Criminal Justice may:

(1) without a warrant, use electronic, mechanical, or other devices to detect the presence or use of a cellular telephone or other wireless communications device in a correctional facility;

(2) without a warrant, intercept, monitor, detect, or, as authorized by applicable federal laws and regulations, prevent the transmission of any communication transmitted through the use of a cellular telephone or other wireless communications device in a correctional facility; and

(3) use, to the extent authorized by law, any information obtained under Subdivision (2), including the contents of an intercepted communication, in any criminal or civil proceeding before a court or other governmental agency or entity.

(c) Not later than the 30th day after the date on which the office of the inspector general uses an electronic, mechanical, or other device under Subsection (b), the inspector general shall report the use of the device to:

(1) a prosecutor with jurisdiction in the county in which the device was used; or

(2) the special prosecution unit established under Subchapter E, Chapter 41, Government Code, if that unit has jurisdiction in the county in which the device was used.

(d) When using an electronic, mechanical, or other device under Subsection (b), the office of the inspector general shall minimize the impact of the device on any communication that is not reasonably related to the detection of the presence or use of a cellular telephone or other wireless communications device in a correctional facility.

(e) A person confined in a correctional facility does not have an expectation of privacy with respect to the possession or use of a cellular telephone or other wireless communications device located on the premises of the facility. The person who is confined, and any person with whom that person communicates through the use of a cellular telephone or other wireless communications device, does not have an expectation of privacy with respect to the contents of any communication transmitted by the cellular telephone or wireless communications device.

SECTION 6. Section 17, Article 18.20, Code of Criminal Procedure, is amended to read as follows:

Sec. 17. NONAPPLICABILITY. This article does not apply to conduct described as an affirmative defense under Section 16.02(c), Penal Code, except as otherwise specifically provided by that section.

SECTION 7. Chapter 500, Government Code, is amended by adding Section 500.008 to read as follows:

Sec. 500.008. DETECTION AND MONITORING OF CELLULAR TELEPHONES. (a) The department may own and the office of inspector general may possess, install, operate, or monitor an electronic, mechanical, or other device, as defined by Article 18.20, Code of Criminal Procedure.

(b) The inspector general shall designate in writing the commissioned officers of the office of inspector general who are authorized to possess, install, operate, and monitor electronic, mechanical, or other devices for the department.

(c) An investigative or law enforcement officer or other person, on request of the office of inspector general, may assist the office in the operation and monitoring of an interception of wire, oral, or electronic communications if the investigative or law enforcement officer or other person:

(1) is designated by the executive director for that purpose; and

(2) acts in the presence and under the direction of a commissioned officer of the inspector general.

SECTION 8. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.0455 to read as follows:

Sec. 61.0455. DETECTION AND MONITORING OF CELLULAR TELEPHONES. (a) The commission may own and the office of the inspector general may possess, install, operate, or monitor an electronic, mechanical, or other device, as defined by Article 18.20, Code of Criminal Procedure.

(b) The inspector general shall designate in writing the commissioned officers of the office of inspector general who are authorized to possess, install, operate, and monitor electronic, mechanical, or other devices for the commission.

(c) An investigative or law enforcement officer or other person, on request of the office of inspector general, may assist the office in the operation and monitoring of an interception of wire, oral, or electronic communications if the investigative or law enforcement officer or other person:

(1) is designated by the executive commissioner for that purpose; and

(2) acts in the presence and under the direction of a commissioned officer of the inspector general.

SECTION 9. Section 16.02, Penal Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) It is a defense to prosecution under Subsection (d)(1) that the electronic, mechanical, or other device is possessed by a person authorized to possess the device under Section 500.008, Government Code, or Section 61.0455, Human Resources Code.

SECTION 10. The changes in law made by this Act with respect to Sections 16.02 and 38.11, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 11. This Act takes effect September 1, 2009.

HJR 7 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative P. King called up with senate amendments for consideration at this time,

HJR 7, A joint resolution proposing a constitutional amendment to require partnering with the United States Department of Veterans Affairs and other federal agencies to establish a veterans hospital in the Rio Grande Valley region of the state.

Representative P. King moved to concur in the senate amendments to **HJR 7**.

The motion to concur in the senate amendments to **HJR 7** prevailed by (Record 1492): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg;

Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Burnam; Hancock; Truitt.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HJR 7** (Senate committee printing) by striking all below the resolving clause and substituting the following:

SECTION 1. Article XVI, Texas Constitution, is amended by adding Section 73 to read as follows:

Sec. 73. The state may contribute money, property, and other resources for the establishment, maintenance, and operation of veterans hospitals in this state.

SECTION 2. The constitutional amendment proposed by this resolution shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the state to contribute money, property, and other resources for the establishment, maintenance, and operation of veterans hospitals in this state."

HB 4300 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Herrero called up with senate amendments for consideration at this time,

HB 4300, A bill to be entitled An Act relating to safety rules for certain pipeline facilities and public awareness.

Representative Herrero moved to concur in the senate amendments to **HB 4300**.

The motion to concur in the senate amendments to **HB 4300** prevailed by (Record 1493): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales;

Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jones; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Anderson; Burnam; Jackson; Kent; McCall; Thompson.

STATEMENT OF VOTE

When Record No. 1493 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

Senate Committee Substitute

CSHB 4300, A bill to be entitled An Act relating to safety rules for certain pipeline facilities and public awareness.

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

SECTION 1. Sections 121.2015(c) and (d), Utilities Code, are amended to read as follows:

(c) If the operator or operator's representative cannot arrange a meeting in person after complying with Subsection (b), the operator or the operator's representative shall ~~[make an effort to]~~ conduct community liaison activities by ~~[means of a telephone conference call with the officials by]~~ one of the following methods:

(1) holding ~~[mailing a written request for]~~ a telephone conference ~~with~~ ~~[to]~~ the appropriate officials ~~[by certified mail, return receipt requested]; or~~

(2) delivering ~~[sending a request for a telephone conference to the appropriate officials by facsimile transmission; or~~

~~[(3) making one or more telephone calls or e-mail message transmissions to the appropriate officials to request a telephone conference.~~

~~[(d) If the operator or the operator's representative has made the efforts required by Subsections (b) and (c) but has not successfully arranged a meeting in person or a telephone conference,]~~ the community liaison information required to be conveyed ~~[may be delivered by mailing the information]~~ by certified mail, return receipt requested.

SECTION 2. Sections 117.012(i) and (j), Natural Resources Code, are amended to read as follows:

(i) If the operator or operator's representative cannot arrange a meeting in person after complying with Subsection (h), the operator or the operator's representative shall ~~[make an effort, by one of the following methods, to]~~ conduct community liaison activities by one of the following methods ~~[means of a telephone conference call with the officials]:~~

(1) holding ~~[mailing a written request for]~~ a telephone conference with ~~[to]~~ the appropriate officials ~~[by certified mail, return receipt requested]; or~~

(2) delivering ~~[sending a request for a telephone conference to the appropriate officials by facsimile transmission; or~~

~~[(3) making one or more telephone calls or e-mail message transmissions to the appropriate officials to request a telephone conference.~~

~~[(j) If the operator or the operator's representative has made the efforts required by Subsections (h) and (i) but has not successfully arranged a meeting in person or a telephone conference,] the community liaison information required to be conveyed ~~[may be delivered by mailing the information]~~ by certified mail, return receipt requested.~~

SECTION 3. This Act takes effect September 1, 2009.

HB 192 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Alonzo called up with senate amendments for consideration at this time,

HB 192, A bill to be entitled An Act relating to the absence of a student from school for activities in connection with obtaining United States citizenship or to visit with a parent or guardian who will be or has been deployed to a combat zone.

Representative Alonzo moved to concur in the senate amendments to **HB 192**.

The motion to concur in the senate amendments to **HB 192** prevailed by (Record 1494): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.;

Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Burnam; Edwards; Eiland; Eissler; Giddings; Laubenberg.

Senate Committee Substitute

CSHB 192, A bill to be entitled An Act relating to the absence of a student from school for activities in connection with obtaining United States citizenship.

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

SECTION 1. Section 25.087, Education Code, is amended by amending Subsection (b) and adding Subsection (b-3) to read as follows:

(b) A school district shall excuse a student from attending school for:

(1) the following purposes, including travel for those purposes:

(A) observing religious holy days; ~~[or]~~

(B) attending a required court appearance;

(C) appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship; or

(D) taking part in a United States naturalization oath ceremony; or

(2) a temporary absence resulting from health care professionals if that student commences classes or returns to school on the same day of the appointment.

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, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 192** (Senate committee report) in SECTION 1 of the bill by striking the recital (page 1, lines 13-15) and substituting the following:

Section 25.087(b), Education Code, is amended to read as follows:

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 192** (Senate committee report) in SECTION 1 of the bill, immediately following Subdivision (2) of amended Section 25.087(b), Education Code (page 1, between lines 29 and 30), by inserting the following:

(b-3) A temporary absence for purposes of Subsection (b)(2) includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health care practitioner, as described by Section 1355.015(b), Insurance Code, to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

**HB 464 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Paxton called up with senate amendments for consideration at this time,

HB 464, A bill to be entitled An Act relating to the preparation by the Legislative Budget Board of a dynamic fiscal impact statement for certain bills and joint resolutions affecting taxes and fees.

Representative Paxton moved to concur in the senate amendments to **HB 464**.

The motion to concur in the senate amendments to **HB 464** prevailed by (Record 1495): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Burnam; Eiland; McCall.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 464** (Senate committee printing) as follows:

1. On page 1, line 21, strike "\$100 million" and substitute "\$75 million".
2. On page 1, line 22, strike "during a period not to exceed five years" and substitute "annually".

**HB 635 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Guillen called up with senate amendments for consideration at this time,

HB 635, A bill to be entitled An Act relating to the authority of the Texas Education Agency to seek, accept, determine eligibility for, and distribute grants available for the benefit of public education.

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 635**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 635**: Guillen, chair; Parker, Hughes, Rodriguez, and Hochberg.

HB 1822 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Solomons called up with senate amendments for consideration at this time,

HB 1822, A bill to be entitled An Act relating to the use of certain terms by certificated telecommunications utilities, retail electric providers, and electric utilities in retail bills.

Representative Solomons moved to concur in the senate amendments to **HB 1822**.

The motion to concur in the senate amendments to **HB 1822** prevailed by (Record 1496): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Corte; Eiland; McClendon; Naishtat; Oliveira; Sheffield; Villarreal.

Senate Committee Substitute

CSHB 1822, A bill to be entitled An Act relating to the use of certain terms by certificated telecommunications utilities, retail electric providers, and electric utilities in retail bills.

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

SECTION 1. Section 17.003(c), Utilities Code, is amended to read as follows:

(c) The commission shall adopt and enforce rules to require a certificated telecommunications utility, a retail electric provider, or an electric utility to give clear, uniform, and understandable information to customers about rates, terms, services, customer rights, and other necessary information as determined by the commission. The rules must include a list of defined terms common to the telecommunications and electricity industries and require that applicable terms be labeled uniformly in each contract and on each retail bill sent to a residential or small commercial customer by a certificated telecommunications utility, retail electric provider, or electric utility to facilitate consumer understanding of relevant billing elements.

SECTION 2. Section 17.004(a), Utilities Code, is amended to read as follows:

(a) All buyers of telecommunications and retail electric services are entitled to:

(1) protection from fraudulent, unfair, misleading, deceptive, or anticompetitive practices, including protection from being billed for services that were not authorized or provided;

(2) choice of a telecommunications service provider, a retail electric provider, or an electric utility, where that choice is permitted by law, and to have that choice honored;

(3) information in English and Spanish and any other language as the commission deems necessary concerning rates, key terms and conditions, and the basis for any claim of environmental benefits of certain production facilities;

(4) protection from discrimination on the basis of race, color, sex, nationality, religion, marital status, income level, or source of income and from unreasonable discrimination on the basis of geographic location;

(5) impartial and prompt resolution of disputes with a certificated telecommunications utility, a retail electric provider, or an electric utility and disputes with a telecommunications service provider related to unauthorized charges and switching of service;

(6) privacy of customer consumption and credit information;

(7) accuracy of metering and billing;

(8) bills presented in a clear, readable format and easy-to-understand language that uses defined terms as required by commission rules adopted under Section 17.003;

(9) information in English and Spanish and any other language as the commission deems necessary concerning low-income assistance programs and deferred payment plans;

(10) all consumer protections and disclosures established by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.); and

(11) after retail competition begins as authorized by the legislature, programs provided by retail electric providers that offer eligible low-income customers energy efficiency programs, an affordable rate package, and bill payment assistance programs designed to reduce uncollectible accounts.

SECTION 3. Section 17.102, Utilities Code, is amended to read as follows:

Sec. 17.102. RULES RELATING TO CHOICE. The commission shall adopt and enforce rules that:

(1) ensure that customers are protected from deceptive practices employed in obtaining authorizations of service and in the verification of change orders, including negative option marketing, sweepstakes, and contests that cause customers to unknowingly change their telecommunications service provider, retail electric provider, or electric utility, where choice is permitted by law;

(2) provide for clear, easily understandable identification, in each bill sent to a customer, of all telecommunications service providers, retail electric providers, or electric utilities submitting charges on the bill;

(3) ensure that every service provider submitting charges on the bill is clearly and easily identified on the bill along with its services, products, and charges, using defined terms as required by commission rules adopted under Section 17.003;

(4) provide that unauthorized changes in service be remedied at no cost to the customer within a period established by the commission;

(5) require refunds or credits to the customer in the event of an unauthorized change; and

(6) provide for penalties for violations of commission rules adopted under this section, including fines and revocation of certificates or registrations, by this action denying the certificated telecommunications utility, the retail electric provider, or the electric utility the right to provide service in this state, except that the commission may not revoke a certificate of convenience and necessity of an electric utility except as provided by Section 37.059 or a certificate of convenience and necessity of a telecommunications utility except as provided by Section 54.008.

SECTION 4. Section 17.151(a), Utilities Code, is amended to read as follows:

(a) A service provider, retail electric provider, or billing agent may submit charges for a new product or service to be billed on a customer's telephone or retail electric bill on or after the effective date of this section only if:

(1) the service provider offering the product or service has thoroughly informed the customer of the product or service being offered, including all associated charges, and has explicitly informed the customer that the associated charges for the product or service will appear on the customer's telephone or electric bill;

(2) the customer has clearly and explicitly consented to obtain the product or service offered and to have the associated charges appear on the customer's telephone or electric bill and the consent has been verified as provided by Subsection (b); ~~and~~

(3) the service provider offering the product or service and any billing agent for the service provider:

(A) has provided the customer with a toll-free telephone number the customer may call and an address to which the customer may write to resolve any billing dispute and to answer questions; and

(B) has contracted with the billing utility to bill for products and services on the billing utility's bill as provided by Subsection (c); and

(4) the service provider, retail electric provider, or billing agent uses defined terms on the bill and in contracts for residential and small commercial customers as required by commission rules adopted under Section 17.003.

SECTION 5. The Public Utility Commission of Texas shall adopt rules consistent with this Act not later than December 1, 2009.

SECTION 6. This Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1822** (Senate committee printing) as follows:

(1) On page 1, line 24, strike "in each contract and".

(2) On page 1, lines 24-25, strike "residential or small commercial".

(3) On page 2, lines 66-67, strike "and in contracts for residential and small commercial customers".

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 1822** (Senate committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter C, Chapter 39, Utilities Code, is amended by adding section 39.112 to read as follows:

Sec. 39.112. NOTICE OF EXPIRATION AND PRICE CHANGE. (a) In this section, "fixed rate product" means a retail electric product with a term of at least three months for which the price for each billing period, including recurring charges, does not change throughout the term of the contract, except that the price may vary to reflect actual changes in transmission and distribution utility charges, changes to ERCOT or Texas Regional Entity administrative fees charged to loads, or changes to federal, state, or local laws that result in new or modified fees or costs that are not within the retail electric provider's control.

(b) A retail electric provider shall provide a residential customer who has a fixed rate product with at least one written notice of the date the fixed rate product will expire. The notice must:

(1) be sent to the customer's billing address by mail at least 30, but not more than 60, days preceding the date the contract will expire;

(2) be sent to the customer's email address, if available to the provider and if the customer has agreed to receive notices electronically, at least 30, but not more than 60, days preceding the date the contract will expire;

(3) include on the outside of the envelope in which the notice is sent, a statement that reads: "Contract Expiration Notice. See Enclosed.";

(4) if included with a customer's bill, be printed on a separate page; and

(5) include a description of any fees or charges associated with the early termination of the customer's fixed rate product.

(c) A retail electric provider shall include on each billing statement the end date of the fixed rate product.

(d) No provision in this section shall be construed to prohibit the commission from adopting rules that would provide a greater degree of customer protection.

**HB 3737 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Anchia called up with senate amendments for consideration at this time,

HB 3737, A bill to be entitled An Act relating to criminal history checks for employees of, and applicants for employment at, special care facilities.

Representative Anchia 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 3737**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3737**: Anchia, chair; Rose, Walle, Elkins, and Naishtat.

**HB 1831 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Corte called up with senate amendments for consideration at this time,

HB 1831, A bill to be entitled An Act relating to emergency management and disaster recovery.

Representative Corte 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 1831**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1831**: Corte, chair; Edwards, Oliveira, McClendon, and Taylor.

**HB 2154 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Edwards called up with senate amendments for consideration at this time,

HB 2154, A bill to be entitled An Act relating to the physician education loan repayment program.

Representative Edwards moved to concur in the senate amendments to **HB 2154**.

The motion to concur in the senate amendments to **HB 2154** prevailed by (Record 1497): 122 Yeas, 21 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Berman; Bohac; Bolton; Branch; Brown, B.; Burnam; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Corte; Craddick; Creighton; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Anderson; Aycock; Bonnen; Brown, F.; Button; Cook; Crabb; Darby; Flynn; Geren; Hamilton; Hancock; Hardcastle; Harless; Kolkhorst; Mallory Caraway; Miller, D.; Orr; Patrick; Phillips; Weber.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Hochberg.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1497. I intended to vote yes.

Aycock

I was shown voting yes on Record No. 1497. I intended to vote no.

Branch

I was shown voting no on Record No. 1497. I intended to vote yes.

Darby

I was shown voting yes on Record No. 1497. I intended to vote no.

Gattis

I was shown voting yes on Record No. 1497. I intended to vote no.

Hartnett

I was shown voting yes on Record No. 1497. I intended to vote no.

Hughes

I was shown voting no on Record No. 1497. I intended to vote yes.

Kolkhorst

Senate Committee Substitute

CSHB 2154, A bill to be entitled An Act relating to the physician education loan repayment program.

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

SECTION 1. Section 61.532(a), Education Code, is amended to read as follows:

(a) To be eligible to receive repayment assistance, a physician must:

(1) apply to the coordinating board [and have completed at least one year of medical practice;

~~[(1) in private practice in an economically depressed or rural medically underserved area of the state];~~

(2) at the time of application, be licensed to practice medicine under Subtitle B, Title 3, Occupations Code [for one of the following state agencies:

~~[(A) Texas Department of Health;~~

~~[(B) Texas Department of Mental Health and Mental Retardation;~~

~~[(C) Texas Department of Corrections; or~~

~~[(D) Texas Youth Commission]; [or]~~

(3) have completed one, two, three, or four consecutive years of practice in a health professional shortage area designated by the Department of State Health Services; and

(4) provide health care services to:

(A) recipients under the medical assistance program authorized by Chapter 32, Human Resources Code; or

(B) enrollees under the child health plan program authorized by Chapter 62, Health and Safety Code [for an approved family practice residency training program established under Subchapter I as a clinical faculty member and have completed training in an approved family practice residency training program on or after July 1, 1994].

SECTION 2. Section 61.533, Education Code, is amended to read as follows:

Sec. 61.533. LIMITATION. A physician may receive repayment assistance grants for ~~[each of]~~ not more than four ~~[five]~~ years.

SECTION 3. Section 61.535(a), Education Code, is amended to read as follows:

(a) The coordinating board shall deliver any repayment made under this subchapter in a lump sum payable:

(1) to both the [lender and the] physician and the lender or other holder of the affected loan; or

(2) directly to the lender or other holder of the loan on the physician's behalf[; in accordance with federal law].

SECTION 4. Section 61.536, Education Code, is amended to read as follows:

Sec. 61.536. ADVISORY COMMITTEES. The coordinating board may[~~;~~

~~(1)] appoint advisory committees from outside the board's membership to assist the board in performing its duties under this subchapter[; and~~

~~(2) request the assistance of the Family Practice Residency Advisory Committee in performing those duties].~~

SECTION 5. Section 61.537, Education Code, is amended to read as follows:

Sec. 61.537. RULES. (a) The coordinating board shall adopt rules necessary for the administration of this subchapter[~~, including a rule that sets a maximum amount of repayment assistance that may be received by a physician in one year and a rule that authorizes the Family Practice Residency Advisory Committee to establish priorities among eligible physicians for repayment assistance, by taking into account the degree of physician shortage, geographic locations, whether the physician is or will be providing service in a medically underserved area, and other criteria the committee considers appropriate].~~

(b) The coordinating board shall distribute to each medical unit [~~and appropriate state agency]~~ and professional association copies of the rules adopted under this section and pertinent information in this subchapter.

SECTION 6. Section 61.538, Education Code, is amended to read as follows:

Sec. 61.538. ~~[TOTAL]~~ AMOUNT OF REPAYMENT ASSISTANCE.

(a) A physician may receive repayment assistance under this subchapter in the amount determined by board rule, not to exceed the following amounts for each year for which the physician establishes eligibility for the assistance:

(1) for the first year, \$25,000;

(2) for the second year, \$35,000;

(3) for the third year, \$45,000; and

(4) for the fourth year, \$55,000.

(b) The total amount of repayment assistance distributed by the board may not exceed the total amount of money available in the physician education loan repayment program account [gifts and grants accepted by the board for repayment assistance, medical school tuition set aside under Section 61.539 of this code, and legislative appropriations for repayment assistance].

(c) The total amount of repayment assistance made under this subchapter to an individual physician may not exceed \$160,000.

SECTION 7. Sections 61.539(b) and (c), Education Code, are amended to read as follows:

(b) The amount set aside shall be transferred to the comptroller of public accounts to be deposited in the physician education loan repayment program account established under Section 61.5391 ~~[maintained in the state treasury for the sole purpose of repayment of student loans of a physician serving in a designated state agency or in an area of this state that is economically depressed or that is a medically underserved area or health professional shortage area, as designated by the United States Department of Health and Human Services, that has a current shortage of physicians]~~. Section 403.095, Government Code, does not apply to the amount set aside by this section.

(c) As soon as practicable after each state fiscal year, the comptroller shall prepare a report for that fiscal year of the number of students registered in a medical branch, school, or college, the total amount of tuition charges collected by each institution, the total amount transferred to the comptroller ~~[treasury]~~ under this section, and the total amount available in the physician education loan repayment program account ~~[under Subsection (b)]~~ for the repayment of student loans of physicians under this subchapter. The comptroller shall deliver a copy of the report to the board and to the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 following the end of the fiscal year covered by the report.

SECTION 8. Subchapter J, Chapter 61, Education Code, is amended by adding Section 61.5391 to read as follows:

Sec. 61.5391. PHYSICIAN EDUCATION LOAN REPAYMENT PROGRAM ACCOUNT. (a) The physician education loan repayment program account is an account in the general revenue fund. The account is composed of:

- (1) gifts and grants contributed to the account;
- (2) earnings on the principal of the account; and
- (3) other amounts deposited to the credit of the account, including:
 - (A) money deposited under Section 61.539(b);
 - (B) legislative appropriations; and
 - (C) money deposited under Section 155.2415, Tax Code.

(b) Money in the account may not be appropriated for any purpose except to provide loan repayment assistance to eligible physicians under this subchapter.

SECTION 9. Section 61.540, Education Code, is amended to read as follows:

Sec. 61.540. LOAN REPAYMENT ASSISTANCE ~~[SERVICE AGREEMENTS ENTERED INTO]~~ UNDER FORMER LAW; SAVING PROVISION. (a) This subsection ~~[section]~~ applies only to a person who entered into a written agreement to perform service as a physician in exchange for loan repayment assistance under this subchapter before September 1, 2003.

~~[(b)]~~ The agreement continues in effect and this subchapter, as it existed when the person entered into the agreement, is continued in effect for purposes of that agreement until the person satisfies all the conditions of the agreement or repays all amounts due under the agreement if the person does not satisfy the conditions of the agreement.

(b) A person receiving loan repayment assistance under this subchapter immediately before the effective date of the amendments made to this subchapter by the 81st Legislature, Regular Session, 2009, may continue to receive loan repayment assistance under this subchapter, as this subchapter applied to the person immediately before the effective date of those amendments, until the person is no longer eligible for loan repayment assistance under this subchapter, as this subchapter existed on that date, and the former law is continued in effect for that purpose.

(c) A person to whom this section applies is not eligible to receive repayment assistance under another provision of this subchapter.

SECTION 10. Section 155.0211, Tax Code, is amended by amending Subsection (b) and adding Subsections (b-1), (b-2), (b-3), (b-4), (c), (d), and (e) to read as follows:

(b) Except as provided by Subsection (c), the ~~[The]~~ tax rate for each can or package of a tobacco product ~~[products]~~ other than cigars is \$1.22 per ounce and a proportionate rate on all fractional parts of an ounce ~~[40 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal].~~

(b-1) Notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1, 2012, the tax rate for each can or package of a tobacco product other than cigars is \$1.19 per ounce and a proportionate rate on all fractional parts of an ounce. This subsection expires December 1, 2013.

(b-2) Notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1, 2011, the tax rate for each can or package of a tobacco product other than cigars is \$1.16 per ounce and a proportionate rate on all fractional parts of an ounce. This subsection expires December 1, 2012.

(b-3) Notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1, 2010, the tax rate for each can or package of a tobacco product other than cigars is \$1.13 per ounce and a proportionate rate on all fractional parts of an ounce. This subsection expires December 1, 2011.

(b-4) Notwithstanding Subsection (b) and except as provided by Subsection (c), for the state fiscal year beginning September 1, 2009, the tax rate for each can or package of a tobacco product other than cigars is \$1.10 per ounce and a proportionate rate on all fractional parts of an ounce. This subsection expires December 1, 2010.

(c) The tax imposed on a can or package of a tobacco product other than cigars that weighs less than 1.2 ounces is equal to the amount of the tax imposed on a can or package of a tobacco product that weighs 1.2 ounces.

(d) The computation of the tax under this section and the applicability of Subsection (c) shall be based on the net weight as listed by the manufacturer. The total tax to be imposed on a unit that contains multiple individual cans or packages is the sum of the taxes imposed by this section on each individual can or package intended for sale or distribution at retail.

(e) A change in the tax rate in effect for a state fiscal year that occurs in accordance with this section does not affect taxes imposed before that fiscal year, and the rate in effect when those taxes were imposed continues in effect for purposes of the liability for and collection of those taxes.

SECTION 11. Section 155.101, Tax Code, is amended to read as follows:

Sec. 155.101. RECORD OF PURCHASE OR RECEIPT. Each distributor, wholesaler, bonded agent, and export warehouse shall keep records at each place of business of all tobacco products purchased or received. Each retailer shall keep records at a single location, which the retailer shall designate as its principal place of business in the state, of all tobacco products purchased and received. These records must include the following, except that Subdivision (7) applies to distributors only and Subdivision (8) applies only to the purchase or receipt of tobacco products other than cigars:

(1) the name and address of the shipper or carrier and the mode of transportation;

(2) all shipping records or copies of records, including invoices, bills of lading, waybills, freight bills, and express receipts;

(3) the date and the name of the place of origin of the tobacco product shipment;

(4) the date and the name of the place of arrival of the tobacco product shipment;

(5) a statement of the number, kind, and price paid for the tobacco products;

(6) the name, address, permit number, and tax identification number of the seller;

(7) the manufacturer's list price for the tobacco products; ~~and~~

(8) the net weight as listed by the manufacturer for each unit; and

(9) any other information required by rules of the comptroller.

SECTION 12. Section 155.102, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) In addition to the information required under Subsection (b), the records for each sale, distribution, exchange, or use of tobacco products other than cigars must show the net weight as listed by the manufacturer for each unit.

SECTION 13. Section 155.103, Tax Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) In addition to the information required under Subsection (a), the records for each sale of tobacco products other than cigars must show the net weight as listed by the manufacturer for each unit.

(b) A manufacturer who sells tobacco products to a permit holder in this state shall file with the comptroller, on or before the last day of each month, a report showing the information required to be listed by Subsections ~~[(a) and (a-1)]~~ (a) and (a-1), if applicable, for the previous month.

SECTION 14. Section 155.105(b), Tax Code, is amended to read as follows:

(b) The wholesaler or distributor shall file the report on or before the 25th day of each month. The report must contain the following information for the preceding calendar month's sales in relation to each retailer:

(1) the name of the retailer and the address of the retailer's outlet location to which the wholesaler or distributor delivered cigars or tobacco products, including the city and zip code;

(2) the taxpayer number assigned by the comptroller to the retailer, if the wholesaler or distributor is in possession of the number;

(3) the tobacco permit number of the outlet location to which the wholesaler or distributor delivered cigars or tobacco products; and

(4) the monthly net sales made to the retailer by the wholesaler or distributor, including:

(A) the quantity and units of cigars and tobacco products sold to the retailer; and

(B) for each unit of tobacco products other than cigars, the net weight as listed by the manufacturer.

SECTION 15. Section 155.111, Tax Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) In addition to the information required under Subsection (b), the report must show the net weight as listed by the manufacturer for each unit of tobacco products other than cigars that is purchased, received, or acquired.

SECTION 16. Section 155.2415, Tax Code, is amended to read as follows:

Sec. 155.2415. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND AND CERTAIN OTHER FUNDS. Notwithstanding Section 155.241, the [am] proceeds from the collection of taxes imposed by Section 155.0211 shall be allocated as follows:

(1) the amount of the proceeds that is equal to the amount that, if the taxes imposed by Section 155.0211 were imposed at a rate of 40 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal, would be attributable to the portion of that [the] tax rate in excess of 35.213 percent [of the manufacturer's list price, exclusive of any trade discount, special discount, or deal], shall be deposited to the credit of the property tax relief fund under Section 403.109, Government Code;

(2) the amount of the proceeds that is equal to the amount that would be attributable to a tax rate of 35.213 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal, if the taxes were imposed by Section 155.0211 at that rate, shall be deposited to the credit of the general revenue fund; and

(3) 100 percent of the remaining proceeds shall be deposited to the credit of the physician education loan repayment program account established under Subchapter J, Chapter 61, Education Code.

SECTION 17. Sections 61.531(b) and (c) and 61.532(b), Education Code, are repealed.

SECTION 18. As soon as practicable after the effective date of this Act, the Texas Higher Education Coordinating Board shall adopt rules necessary to administer Subchapter J, Chapter 61, Education Code, as amended by this Act. For that purpose, the coordinating board may adopt the initial rules in the manner provided by law for emergency rules.

SECTION 19. The changes in law made by this Act in amending Chapter 155, Tax Code, do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 20. This Act takes effect September 1, 2009.

HB 3009 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 3009, A bill to be entitled An Act relating to the authority of municipal management districts to consolidate.

Representative Coleman moved to concur in the senate amendments to **HB 3009**.

The motion to concur in the senate amendments to **HB 3009** prevailed by (Record 1498): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Hilderbran; Moody; Orr.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

SECTION 1. Amend **HB 3009**, House Engrossed Version, by adding the following language to 375.354(c):

The consolidation district may exercise the powers of the districts being consolidated within the respective boundaries of the original districts. For land annexed into the consolidated districts; the consolidation district; the consolidated district may exercise any of the powers of the original districts.

**HB 3309 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gattis called up with senate amendments for consideration at this time,

HB 3309, A bill to be entitled An Act relating to consolidation of certain proceedings on an application for a certificate of convenience and necessity.

Representative Gattis 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 3309**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3309**: Gattis, chair; Kolkhorst, Hamilton, Ritter, and Lucio.

**HB 2914 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative McReynolds called up with senate amendments for consideration at this time,

HB 2914, A bill to be entitled An Act relating to the establishment of a fuel mitigation pilot grant program for fire departments.

Representative McReynolds moved to concur in the senate amendments to **HB 2914**.

The motion to concur in the senate amendments to **HB 2914** prevailed by (Record 1499): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez;

Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Crownover; Edwards; King, T.

STATEMENT OF VOTE

When Record No. 1499 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2914** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill as appropriate:

SECTION _____. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

HB 3335 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Callegari called up with senate amendments for consideration at this time,

HB 3335, A bill to be entitled An Act relating to the powers of certain water districts.

Representative Callegari moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3335**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3335**: Callegari, chair; Ritter, Zerwas, Hilderbran, and D. Miller.

**HB 3452 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gattis called up with senate amendments for consideration at this time,

HB 3452, A bill to be entitled An Act relating to creation of the Texas Armed Services Scholarship Program.

Representative Gattis 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 3452**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3452**: Gattis, chair; Geren, Aycock, Vaught, and Veasey.

HB 3479 - HOUSE CONCURS IN SENATE AMENDMENTS

Representative Oliveira called up with senate amendments for consideration at this time,

HB 3479, A bill to be entitled An Act relating to filing of instruments conveying real property in certain counties.

Representative Oliveira moved to concur in the senate amendments to **HB 3479**.

The motion to concur in the senate amendments to **HB 3479** prevailed by (Record 1500): 145 Yeas, 0 Nays, 1 Present, not voting. (The vote was reconsidered later today, the house refused to concur in the senate amendments, and a conference committee was appointed.)

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.;

Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

**HB 3485 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Coleman called up with senate amendments for consideration at this time,

HB 3485, A bill to be entitled An Act relating to the administration of certain county services and duties, including the administration of county assistance districts.

Representative Coleman moved to concur in the senate amendments to **HB 3485**.

The motion to concur in the senate amendments to **HB 3485** prevailed by (Record 1501): 142 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley.

Nays — Kleinschmidt; Shelton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Zerwas.

STATEMENT OF VOTE

When Record No. 1501 was taken, I was in the house but away from my desk. I would have voted yes.

Zerwas

Senate Committee Substitute

CSHB 3485, A bill to be entitled An Act relating to the administration of certain county services and duties, including the administration of county assistance districts.

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

SECTION 1. Article 15.08, Code of Criminal Procedure, is amended to read as follows:

Art. 15.08. WARRANT MAY BE FORWARDED ~~[TELEGRAPHED]~~. A warrant of arrest may be forwarded by a method that ensures the transmission of a duplicate of the original warrant, including secure facsimile transmission or other secure electronic means ~~[telegraph from any telegraph office to another in this State]~~. If issued by any magistrate named in Article 15.06, the peace officer receiving the same shall execute it without delay. If it be issued by any other magistrate than is named in Article 15.06, the peace officer receiving the same shall proceed with it to the nearest magistrate of the peace officer's ~~[his]~~ county, who shall endorse thereon, in substance, these words:

"Let this warrant be executed in the county of", which endorsement shall be dated and signed officially by the magistrate making the same.

SECTION 2. Article 15.09, Code of Criminal Procedure, is amended to read as follows:

Art. 15.09. COMPLAINT MAY BE FORWARDED ~~[BY TELEGRAPH]~~. A complaint in accordance with Article 15.05, may be forwarded ~~[telegraphed]~~, as provided by [in the preceding] Article 15.08, to any magistrate in the State; and the magistrate who receives the same shall forthwith issue a warrant for the arrest of the accused; and the accused, when arrested, shall be dealt with as provided in this Chapter in similar cases.

SECTION 3. Article 15.19(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the arrested person fails or refuses to give bail, as provided in Article 15.18, the arrested person shall be committed to the jail of the county where the person was arrested; and the magistrate committing the arrested person shall immediately provide notice to the sheriff of the county in which the offense is alleged to have been committed regarding:

(1) the arrest and commitment, which notice may be given by ~~[telegraph,]~~ mail[-] or other written means or by secure facsimile transmission or other secure electronic means; and

(2) whether the person was also arrested under a warrant issued under Section 508.251, Government Code.

SECTION 4. Article 20.011(a), Code of Criminal Procedure, is amended to read as follows:

(a) Only the following persons may be present in a grand jury room while the grand jury is conducting proceedings:

- (1) grand jurors;
- (2) bailiffs;
- (3) the attorney representing the state;
- (4) witnesses while being examined or when necessary to assist the attorney representing the state in examining other witnesses or presenting evidence to the grand jury;
- (5) interpreters, if necessary; ~~and~~
- (6) a stenographer or person operating an electronic recording device, as provided by Article 20.012; and
- (7) a person operating a video teleconferencing system for use under Article 20.151.

SECTION 5. Article 20.02(b), Code of Criminal Procedure, is amended to read as follows:

(b) A grand juror, bailiff, interpreter, stenographer or person operating an electronic recording device, ~~or~~ person preparing a typewritten transcription of a stenographic or electronic recording, or person operating a video teleconferencing system for use under Article 20.151 who discloses anything transpiring before the grand jury, regardless of whether the thing transpiring is recorded, in the course of the official duties of the grand jury, is ~~shall be~~ liable to a fine as for contempt of the court, not exceeding \$500 ~~[five hundred dollars]~~, imprisonment not exceeding 30 ~~[thirty]~~ days, or both the ~~[such]~~ fine and imprisonment.

SECTION 6. Chapter 20, Code of Criminal Procedure, is amended by adding Article 20.151 to read as follows:

Art. 20.151. CERTAIN TESTIMONY BY VIDEO TELECONFERENCING. (a) With the consent of the foreman of the grand jury and the attorney representing the state, a peace officer summoned to testify before the grand jury may testify through the use of a closed circuit video teleconferencing system that provides an encrypted, simultaneous, compressed full motion video and interactive communication of image and sound between the peace officer, the attorney representing the state, and the grand jury.

(b) In addition to being administered the oath described by Article 20.16(a), before being interrogated, a peace officer testifying through the use of a closed circuit video teleconferencing system under this article shall affirm that:

(1) no person other than a person in the grand jury room is capable of hearing the peace officer's testimony; and

(2) the peace officer's testimony is not being recorded or otherwise preserved by any person at the location from which the peace officer is testifying.

(c) Testimony received from a peace officer under this article shall be recorded and preserved.

SECTION 7. Article 27.18, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) A recording of the communication shall be made and preserved until all appellate proceedings have been disposed of. A court reporter or court recorder is not required to take a transcription of a plea taken under this article.

(c-1) The defendant may obtain a copy of a [the] recording made under Subsection (c) on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy. The loss or destruction of or failure to make a video recording of a plea entered under this article is not alone sufficient grounds for a defendant to withdraw the defendant's plea or to request the court to set aside a conviction or sentence based on the plea.

SECTION 8. Article 38.073, Code of Criminal Procedure, is amended to read as follows:

Art. 38.073. TESTIMONY OF INMATE WITNESSES. In a proceeding in the prosecution of a criminal offense in which an inmate in the custody of the Texas Department of Criminal Justice is required to testify as a witness, any deposition or testimony of the inmate witness may be conducted by a video teleconferencing system in the manner described by Article 27.18 ~~[electronic means, in the same manner as permitted in civil cases under Section 30.012, Civil Practice and Remedies Code].~~

SECTION 9. Section 31.037, Election Code, is amended to read as follows:

Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT. The employment of the county elections administrator may be suspended, with or without pay, or terminated at any time for good and sufficient cause on the four-fifths vote of the county election commission and approval of that action by a majority vote of the commissioners court.

SECTION 10. Section 61.001(f), Government Code, is amended to read as follows:

(f) A reimbursement for expenses under this section is not a property right of a person who reports for jury service for purposes of Chapters 72 and 74, Property Code. If a check, instrument, or other method of payment authorized under Section 113.048, Local Government Code, ~~[instrument]~~ representing a reimbursement under this section is not presented for payment or redeemed before the 90th day after it is issued:

(1) the instrument or other method of payment is considered forfeited and is void; and

(2) the money represented by the instrument or other method of payment may be placed or retained in the county's jury fund, the county's general fund, or any other fund in which county funds can be legally placed, at the discretion of the commissioners court.

SECTION 11. Section 61.003, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsection (a), a county that has adopted a system or method of payment authorized by Section 113.048, Local Government Code, may provide a person who reports for jury service in the county an opportunity to donate all, or a specific part designated by the juror, of the juror's daily reimbursement by completing a self-executing application on a form prescribed by the commissioners court.

SECTION 12. Section 694.002, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) If a county discovers cash in the possession of a deceased pauper, the county shall place the money in a trust account. A person having a claim to the money in the trust account must exercise the right to collect the money not later than the first anniversary of the date the money is placed in the trust account.

(d) A county may create a fund to be used by the county to pay the costs incurred in disposing of the bodies of deceased paupers. If money placed in a trust account under Subsection (c) is not claimed by the first anniversary of the date the money is placed in the trust account, the county may transfer the money to the fund created under this subsection.

SECTION 13. Section 716.101, Health and Safety Code, is amended to read as follows:

Sec. 716.101. UNIDENTIFIED HUMAN REMAINS. (a) Except as provided by Subsection (b), a [A] crematory establishment may not accept for cremation unidentified human remains.

(b) Notwithstanding any other provision of this chapter, a crematory establishment may accept for cremation unidentified human remains from a county on the order of:

(1) the county commissioners court; or

(2) a court located in the county.

SECTION 14. Subchapter C, Chapter 113, Local Government Code, is amended by adding Section 113.048 to read as follows:

Sec. 113.048. DISBURSEMENT OF MONEY FOR JURY SERVICE. (a) Notwithstanding any other provision of this subchapter or other law to the contrary, a county treasurer may disburse to a person who reports for jury service and discharges the person's duty the daily amount of reimbursement for jury service expenses set by the commissioners court under Section 61.001, Government Code, by:

(1) using an electronic funds transfer system in accordance with Chapter 156;

(2) using a cash dispensing machine;

(3) issuing a debit card or a stored value card; or

(4) using any other method that the county treasurer and the commissioners court determine is secure, accurate, and cost-effective and that is convenient for persons who report for jury service.

(b) A system or method of payment adopted by a county treasurer under Subsection (a) may be implemented only if it is approved by the commissioners court and administered in accordance with the procedures established by the county auditor or by the chief financial officer of a county that does not have a county auditor.

(c) A system or method of payment authorized by this section may be used in lieu of or in addition to the issuance of warrants or checks authorized under this subchapter.

SECTION 15. Sections 155.002(a) and (b), Local Government Code, are amended to read as follows:

(a) A request for a payroll deduction must:

(1) be in writing;

(2) be submitted to the county auditor unless the deduction is processed through an automated payroll system maintained by the county; and

(3) state the amount to be deducted and the entity to which the amount is to be transferred.

(b) A request remains in effect until:

(1) the county auditor receives a written notice of revocation signed by the employee; or

(2) the deduction is revoked by the employee through an automated payroll system maintained by the county.

SECTION 16. Subchapter Z, Chapter 157, Local Government Code, is amended by adding Section 157.9031 to read as follows:

Sec. 157.9031. AUTHORITY TO REQUIRE REIMBURSEMENT FOR CERTAIN COVERAGE. A commissioners court of a self-insuring county or an intergovernmental pool operating under Chapter 119 may, pursuant to policies concerning the provision of coverage adopted by the commissioners court or the pool's governing body, require reimbursement for the provision of punitive damage coverage from a person to whom the intergovernmental pool provides coverage.

SECTION 17. Section 262.003(a), Local Government Code, is amended to read as follows:

(a) Any law that requires a county to follow a competitive bidding procedure in making a purchase requiring the expenditure of \$50,000 [~~\$25,000~~] or less does not apply to the purchase of an item available for purchase from only one supplier.

SECTION 18. Section 262.023(a), Local Government Code, is amended to read as follows:

(a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$50,000 [~~\$25,000~~], the commissioners court of the county must:

(1) comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Subchapter H, Chapter 271.

SECTION 19. Section 270.007(f), Local Government Code, is amended to read as follows:

(f) Except as provided by Subsection (b), [~~upon request of any person,~~] a county may shall sell or license software under this section for a price negotiated between the county and the person, including another governmental entity [~~, not to exceed the developmental cost to the county. Developmental cost shall only include costs incurred under a contract to procure the software or direct employee costs incurred to develop the software. This subsection does not apply to any county software that protects county computer systems from unauthorized use or access].~~

SECTION 20. Section 271.024, Local Government Code, is amended to read as follows:

Sec. 271.024. COMPETITIVE BIDDING PROCEDURE APPLICABLE TO CONTRACT. The bidding of [If a governmental entity is required by statute to award] a contract awarded by a governmental entity for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property [on the basis of competitive bids, and if the contract requires the expenditure of more than \$25,000 from the funds of the entity, the bidding on the contract] must be accomplished in the manner provided by this subchapter if:

(1) a statute requires the governmental entity to award the contract on the basis of competitive bids; and

(2) the contract requires the expenditure of more than:

(A) \$25,000 from the funds of a governmental entity other than a county; or

(B) \$50,000 from the funds of a county.

SECTION 21. Section 363.156(b), Local Government Code, is amended to read as follows:

(b) To the extent competitive bidding procedures in Title 8 apply, the board may not enter purchasing contracts that involve spending more than \$50,000 [~~\$25,000~~] unless the board complies with:

(1) Subchapter C, Chapter 262, if the district was created by a county; or

(2) Chapter 252, if the district was created by a municipality.

SECTION 22. Section 387.003, Local Government Code, is amended by amending Subsections (a), (b), (b-1), (c), (e), (f), and (h) and adding Subsections (a-1), (i), and (j) to read as follows:

(a) The commissioners court of the county may call an election on the question of creating a county assistance district under this chapter. More than one county assistance district may be created in a county, but not more than one county assistance district may be created in a commissioner's precinct.

(a-1) A district may [to] perform the following functions in the district:

(1) the construction, maintenance, or improvement of roads or highways;

(2) the provision of law enforcement and detention services;

(3) the maintenance or improvement of libraries, museums, parks, or other recreational facilities;

(4) the provision of services that benefit the public health or welfare, including the provision of firefighting and fire prevention services; or

(5) the promotion of economic development and tourism.

(b) The order calling the election must:

(1) define the boundaries of the district to include any portion of the county in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would not exceed the maximum combined rate of sales and use taxes imposed by political subdivisions of this state that is prescribed by Sections 321.101 and 323.101, Tax Code [two percent]; and

(2) call for the election to be held within those boundaries.

(b-1) If the proposed district includes any territory of a municipality, the commissioners court shall send notice by certified mail to the governing body of the municipality of the commissioners court's intent to create the district. If the municipality has created a development corporation under Chapter 504 or 505, Local Government Code [Section 4A or 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes)], the commissioners court shall also send the notice to the board of directors of the corporation. The commissioners court must send the notice not later than the 60th day before the date the commissioners court orders the election. The governing body of the municipality may exclude the territory of the municipality from the proposed district by sending notice by certified mail to the commissioners court of the governing body's desire to exclude the municipal territory from the district. The governing body must send the notice not later than the 45th day after the date the governing body receives notice from the commissioners court under this subsection. The territory of a municipality that is excluded under this subsection may subsequently be included in:

(1) the district in an election held under Subsection (f) with the consent of the municipality; or

(2) another district after complying with the requirements of this subsection and after an election under Subsection (f).

(c) The ballot at the election must be printed to permit voting for or against the proposition: "Authorizing the creation of the ___ County Assistance District No. ___ (insert name of district) and the imposition of a sales and use tax at the rate of ___ [~~of one~~] percent (insert [~~one eighth, one fourth, three eighths, or one half, as~~] appropriate rate) for the purpose of financing the operations of the district."

(e) If a majority of the votes received at the election are against the creation of the district, the district is not created and the county at any time may call one or more elections [another election] on the question of creating one or more [a] county assistance districts [district may not be held in the county before the first anniversary of the most recent election concerning the creation of a district].

(f) The commissioners court may call an election to be held in an area of the county that is not located in a district created under this section to determine whether the area should be included in the district and whether the district's sales and use tax should be imposed in the area. An election may not be held in an area in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would exceed the maximum combined rate of sales and use taxes imposed by political subdivisions of this state that is prescribed by Sections 321.101 and 323.101, Tax Code [two percent].

(h) If more than one election to authorize a local sales and use tax is held on the same day in the area of a proposed district or an area proposed to be added to a district and if the resulting approval by the voters would cause the imposition of a local sales and use tax in any area to exceed the maximum combined rate of

sales and use taxes of political subdivisions of this state that is prescribed by Sections 321.101 and 323.101, Tax Code [~~two percent~~], only a tax authorized at an election under this section may be imposed.

(i) In addition to the authority to include an area in a district under Subsection (f), the governing body of a district by order may include an area in the district on receipt of a petition or petitions signed by the owner or owners of the majority of the land in the area to be included in the district. If there are no qualified voters in the area to be included in the district, no election is required.

(j) The commissioners court by order may exclude an area from the district if the district has no outstanding bonds payable wholly or partly from sales and use taxes and the exclusion does not impair any outstanding district debt or contractual obligation.

SECTION 23. Section 387.005, Local Government Code, is amended to read as follows:

Sec. 387.005. GOVERNING BODY. (a) The commissioners court of the county in which the district is created by order shall provide that:

(1) the commissioners court is the governing body of the district; or

(2) the commissioners court shall appoint a governing body of the district.

(b) A member of the governing body of the district [~~commissioners court~~] is not entitled to compensation for service [~~on the governing body of the district~~] but is entitled to reimbursement for actual and necessary expenses.

(c) A board of directors appointed by the commissioners court under this section shall consist of five directors who serve staggered terms of two years. To be eligible to serve as a director, a person must be at least 18 years of age and a resident of the county in which the district is located. The initial directors shall draw lots to achieve staggered terms, with three of the directors serving one-year terms and two of the directors serving two-year terms.

SECTION 24. Section 387.006(a), Local Government Code, is amended to read as follows:

(a) A district may:

(1) perform any act necessary to the full exercise of the district's functions;

(2) accept a grant or loan from:

(A) the United States;

(B) an agency or political subdivision of this state; or

(C) a public or private person;

(3) acquire, sell, lease, convey, or otherwise dispose of property or an interest in property under terms determined by the district;

(4) employ necessary personnel; [~~and~~]

(5) adopt rules to govern the operation of the district and its employees and property; and

(6) enter into agreements with municipalities necessary or convenient to achieve the district's purposes, including agreements regarding the duration, rate, and allocation between the district and the municipality of sales and use taxes.

SECTION 25. Section 387.007, Local Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A district may not adopt a sales and use tax under this chapter if the adoption of the tax would result in a combined tax rate of all local sales and use taxes that would exceed the maximum combined rate prescribed by Sections 321.101 and 323.101, Tax Code, [of more than two percent] in any location in the district.

(c) A district may define areas in the district to pay for improvements, facilities, or services that primarily benefit that area and do not generally and directly benefit the district as a whole. The district may impose different rates of sales and use tax in each defined area, provided that the sales and use tax rate does not exceed the rate approved at an election held under Section 387.003.

SECTION 26. Section 387.009, Local Government Code, is amended to read as follows:

Sec. 387.009. TAX RATE. The rate of a tax adopted under this chapter must be in increments of one-eighth [, one fourth, three eighths, or one half] of one percent.

SECTION 27. Sections 387.010(a), (b), and (c), Local Government Code, are amended to read as follows:

(a) A district that has adopted a sales and use tax under this chapter may, by order and subject to Section 387.007(b):

(1) reduce [, change] the rate of the tax or repeal the tax without an election, except that the district may not repeal the sales and use tax or reduce the rate of the sales and use tax below the amount pledged to secure payment of an outstanding district debt or contractual obligation;

(2) increase the rate of the sales and use tax, if the increased rate of the sales and use tax will not exceed the rate approved at an election held under Section 387.003; or

(3) increase the rate of the sales and use tax to a rate that exceeds the rate approved at an election held under Section 387.003 after [if] the increase [change or repeal] is approved by a majority of the votes received in the district at an election held for that purpose.

(b) The tax may be changed under Subsection (a) in one or more increments of one-eighth of one percent [to a maximum of one half of one percent].

(c) The ballot for an election to increase [change] the tax shall be printed to permit voting for or against the proposition: "The increase [change] of a sales and use tax for the ___ County Assistance District No. ___ (insert name of district) from the rate of ___ [of one] percent (insert [one fourth, three eighths, or one half, as] appropriate rate) to the rate of ___ [of one] percent (insert [one fourth, three eighths, or one half, as] appropriate rate)."

SECTION 28. Section 387.012, Local Government Code, is amended to read as follows:

Sec. 387.012. EFFECTIVE DATE OF TAX. The adoption of the tax, the increase or reduction [change] of the tax rate, or the repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the

first complete quarter occurring after the date the comptroller receives a copy of the order of the district's governing body ~~[notice of the results of the election]~~ adopting, increasing, reducing ~~[changing]~~, or repealing the tax.

SECTION 29. Section 1702.104(b), Occupations Code, is amended to read as follows:

(b) For purposes of Subsection (a)(1), "obtaining or furnishing information" includes information obtained or furnished through the review and analysis of, and the investigation into the content of, computer-based data not available to the public. "Obtaining or furnishing information" does not include information obtained or furnished by an information technology professional who is an employee of a county and who is:

(1) in the course and scope of employment, installing or repairing computer equipment belonging to the county or is examining the cause for required repair; and

(2) not performing any other act that requires a license under this chapter.

SECTION 30. Chapter 51, Property Code, is amended by adding Section 51.0022 to read as follows:

Sec. 51.0022. FORECLOSURE DATA COLLECTION. (a) In this section, "department" means the Texas Department of Housing and Community Affairs.

(b) A person filing a notice of sale of residential property under Section 51.002(b) must submit to the county clerk a completed form that provides the zip code for the property.

(c) On completion of a sale of real property, the trustee or sheriff shall submit to the county clerk a completed form that contains information on whether the property is residential and the zip code of the property.

(d) Not later than the 30th day after the date of receipt of a form under this section, the county clerk shall transmit the form to the department.

(e) The board of the department shall prescribe the forms required under this section. The forms may only request information on whether the property is residential and the zip code of the property.

(f) The department shall report the information received under this section quarterly to the legislature in a format established by the board of the department by rule.

SECTION 31. Articles 20.011(a) and 20.02(b), Code of Criminal Procedure, as amended by this Act, and Article 20.151, Code of Criminal Procedure, as added by this Act, apply only to testimony before a grand jury that is impaneled on or after the effective date of this Act.

SECTION 32. Article 27.18, Code of Criminal Procedure, as amended by this Act, applies to a plea of guilty or nolo contendere entered on or after the effective date of this Act, regardless of whether the offense with reference to which the plea is entered is committed before, on, or after that date.

SECTION 33. Article 38.073, Code of Criminal Procedure, as amended by this Act, applies only to the testimony of an inmate witness that is taken on or after the effective date of this Act.

SECTION 34. (a) Section 61.001(f), Government Code, as amended by this Act, applies only to a disbursement for the reimbursement for jury service expenses on or after the effective date of this Act.

(b) The changes in law made by Sections 262.003, 262.023, 271.024, and 363.156, Local Government Code, as amended by this Act, apply only to a purchase made or contract executed on or after the effective date of this Act. A purchase made or contract executed before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(c) The board of the Texas Department of Housing and Community Affairs shall adopt the forms and rules required by Section 51.0022, Property Code, as added by this Act, not later than January 1, 2010.

(d) The change in law made by Section 51.0022, Property Code, as added by this Act, applies only to a notice of sale filed on or after January 1, 2010. A notice of sale filed before January 1, 2010, is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 35. Section 387.010(d), Local Government Code, is repealed.

SECTION 36. This Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3485** (Senate committee printing) by adding the following SECTIONS and renumbering subsequent SECTIONS appropriately:

SECTION _____. Subsection (a), Section 250.003, Local Government Code, is amended to read as follows:

(a) An individual who is an employee of the owner of real property for which a citation for a violation of a county or municipal rule or ordinance is issued, or of a company that manages the property on behalf of the property owner, is not personally liable for criminal or civil penalties resulting from the violation if, not later than five calendar days after the date the citation is issued, the individual provides the property owner's name, current street address, and telephone number to the enforcement official who issues the citation or the official's superior.

SECTION _____. Section 250.004, Local Government Code, is amended to read as follows:

Sec. 250.004. AGENT FOR SERVICE; NOTICE OF CITATION. (a) The ~~[If the property owner's street address is not in this state, the]~~ employee of the owner or management company to whom a citation described by Section 250.003 is issued is considered the owner's agent for accepting service of the citation for the violation of the county or municipal rule or ordinance. Service of the citation on the agent has the same legal effect as service on the owner for the purpose of fines against the owner or the property, including a warrant or capias.

(b) The county or municipality issuing the citation shall mail notice of the citation to the property owner at the address most recently provided to the county or municipality by the property owner or by the employee of the owner or

management company under Section 250.003(a). This subsection does not require a county or municipality to mail notice using a service that provides delivery confirmation.

SECTION _____. The change in law made by Section 250.003 and 250.004, Local Government Code, is effective on or after January 1, 2010.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 3485** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 372, Local Government Code, is amended to read as follows:

SUBCHAPTER A. PUBLIC IMPROVEMENT DISTRICTS

Sec. 372.001. **SHORT TITLE.** This subchapter may be cited as the Public Improvement District Assessment Act.

Sec. 372.0015. **DEFINITIONS** [~~DEFINITION~~]. In this subchapter:

(1) "Authorized instrumentality" means a public facility corporation created by the governing body of a municipality or county under Chapter 303 or a local government corporation created by the governing body of a municipality or county under Subchapter D, Chapter 431, Transportation Code.

(2) "Extraterritorial[~~,"extraterritorial~~] jurisdiction" means extraterritorial jurisdiction of a municipality as determined under Chapter 42.

(3) "Public improvement district" or "district" means an area defined by the governing body of a municipality or county that:

(A) consists of one or more contiguous or noncontiguous tracts of land; and

(B) will be specially benefited as determined by the municipality or county by any or all of the public improvements or services.

(4) "Qualified costs" means the costs and expenses incurred in establishing, administering, managing, and operating a public improvement district, including:

(A) costs and expenses of or related to the construction of an improvement project;

(B) financing of an improvement project by a municipality, county, or authorized instrumentality, including the debt service requirements owed or to be owed under installment purchase or reimbursement contracts, temporary notes, time warrants, revenue bonds, special assessment bonds, or certificates of obligation, including reserve funds and capitalized interest;

(C) costs and expenses of or related to the negotiation, development, and execution of the obligations described by Paragraph (B);

(D) costs and expenses of or related to credit and interest rate management agreements entered into under Chapter 1371, Government Code;

(E) costs of attorneys and other professional advisors, including consultants; and

(F) costs related to the administrative oversight of public improvements, services, and operations of the public improvement district.

(5) "Revenue bonds" means bonds, notes, or other securities issued by a municipality, county, or authorized instrumentality that are payable from and secured by liens on all or part, or a combination of, the revenue derived from installment payments of special assessments plus any other revenues, donations, grants, or income described by Section 372.026(e).

(6) "Special assessment bonds" means bonds, notes, or other securities issued by a municipality, county, or authorized instrumentality that are payable solely from and secured by special assessments levied by the governing body of the municipality or county in a public improvement district.

(7) "Special district" means a political subdivision of this state with a limited geographic area created by local law or under general law for a special purpose.

Sec. 372.002. EXERCISE OF POWERS. (a) A public improvement district is not a separate body politic or corporate from the municipality or county that created the district.

(b) Subject to Section 372.010(c), powers ~~[Powers]~~ granted under this subchapter in an area comprising a public improvement district may be exercised by a municipality or county on and after the date ~~[in which]~~ the governing body of the municipality or county ~~[initiates or]~~ receives a petition requesting the establishment of a public improvement district that complies~~[- A petition must comply]~~ with the requirements of Section 372.005.

(c) The powers granted under this subchapter may be exercised by the governing body of any other political subdivision if the law creating or governing the political subdivision grants the political subdivision authority described by this subchapter. The governing body of the political subdivision has the same powers and is subject to the same limitations as are applicable to the governing body of a municipality or a county under this subchapter unless and except as modified by the law creating or governing the political subdivision.

Sec. 372.003. AUTHORIZED IMPROVEMENTS AND SERVICES. (a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may create one or more public improvement districts under this subchapter and undertake one or more ~~[an]~~ improvement projects ~~[project]~~ that confer ~~[confers]~~ a special benefit on the property located in the public improvement district ~~[a definable part of the municipality or county or the municipality's extraterritorial jurisdiction]~~. A project may be undertaken within or outside the district in the municipality or county or in the municipality's extraterritorial jurisdiction if the project benefits the district.

(b) A public improvement project may include:

- (1) landscaping;
- (2) erection of fountains, distinctive lighting, and signs;
- (3) acquiring, constructing, improving, repairing, widening, narrowing, closing, or rerouting of sidewalks or of streets, roads, highways, bridges, culverts, water retention walls, ~~[any other roadways,]~~ or related ~~[their]~~ rights-of-way

owned by or to be conveyed to the municipality, the county, the federal government, or another political subdivision or entity exercising powers granted under this subchapter;

(4) construction or improvement of pedestrian malls;

(5) acquisition and installation of pieces of art;

(6) acquisition, construction, or improvement of libraries;

[~~(7)~~ acquisition, construction, or improvement of] off-street parking facilities;

(7) [~~(8)~~ acquisition, construction, or improvement[~~, or rerouting~~] of mass transportation facilities, including light rail mass transit, streetcar, or similar systems, and related vehicle parking facilities;

(8) [~~(9)~~ acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;

(9) [~~(10)~~ the establishment or improvement of parks, playgrounds, lakes, and open spaces, including paths, trails, boat docks, and wharves;

(10) acquisition, construction, or improvement of other public projects that are determined by the municipality or county to promote the interests of the municipality or county and to be of a special benefit to the public improvement district, including:

(A) community centers, recreation centers, and recreation facilities;

(B) libraries;

(C) facilities for police, sheriffs, or firefighters;

(D) municipal or county administration centers; and

(E) other governmental buildings for the provision of governmental services;

(11) acquisition, construction, or improvement of other public projects, facilities, or services required by a development agreement, interlocal agreement, zoning regulation, or permit issued by a municipality or county having jurisdiction in the public improvement district;

(12) acquisition, construction, maintenance, or improvement of buildings and other facilities commonly used for teaching, research, or the preservation of knowledge by an institution of higher education as defined by Section 372.0045 or for auxiliary purposes of the institution, including administration, student services and housing, athletics, performing arts, and alumni support;

(13) [~~(11)~~ projects similar to those listed in Subdivisions (1) (10);

[~~(12)~~ acquisition, by purchase or otherwise, of real property in connection with an authorized improvement; and

(14) [~~(13)~~ special supplemental services for improvement and promotion of the district, including services relating to:

(A) advertising;

(B) [;] promotion;

(C) [;] health and sanitation;

(D) [;] water and wastewater;

(E) enhanced fire protection, police, sheriff, and other[;] public safety and[;] security;

- (F) [5] business recruitment;
- (G) [5] development;
- (H) [5] recreation; [5] and
- (I) cultural enhancement [5] and

~~[(14) payment of expenses incurred in the establishment, administration, and operation of the district].~~

(b-1) The legislature finds that a purpose described by Subsection (b)(12), including an auxiliary purpose, is an authorized economic development purpose of a county or municipality under Section 52-a, Article III, Texas Constitution.

(c) A public improvement project may include or may be limited to the provision of all or any part of the services described by Subsection (b)(14) [del(b)(13)].

(d) A municipality that exercises powers under this subchapter may establish a public improvement district in the corporate limits or the extraterritorial jurisdiction of the municipality. A county or other political subdivision that exercises powers under this subchapter may establish a public improvement district in the county or the area of the political subdivision, including in the corporate limits or the extraterritorial jurisdiction of a municipality unless within 30 days after the date notice is provided to the municipality of an [a county's] action to approve [such] a public improvement district, the [a home rule] municipality objects to the district's [its] establishment within the municipality's corporate limits or extraterritorial jurisdiction.

Sec. 372.004. COMBINED IMPROVEMENTS. A public [Aa] improvement project may consist of an improvement on more than one street or of more than one type of improvement. An improvement [Aa] project described by this section may be included in one proceeding and financed as one improvement project.

Sec. 372.0045. AUTHORIZED HIGHER EDUCATION FACILITIES; LEASE TO INSTITUTION OF HIGHER EDUCATION. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) The governing body of a municipality or county that establishes a public improvement district to finance a public improvement project described by Section 372.003(b)(12) may enter into a memorandum of understanding with an institution of higher education that provides educational services in the municipality or county under which the municipality or county leases the public improvement project to the institution, at a nominal rate, for use by the institution in providing teaching, research, public service, or auxiliary enterprise activities to students of the institution.

(c) A memorandum of understanding entered into by a municipality or county under this section must include adequate controls to ensure that the lease of the public improvement project promotes the municipality's or county's interests and provides a public benefit to the area served by the district.

Sec. 372.005. PETITION. (a) A petition for the establishment of a public improvement district must state:

- (1) the general nature of the proposed improvements [improvement];

(2) the estimated qualified costs [~~cost~~] of the improvements [~~improvement~~];

(3) the boundaries of the proposed [~~assessment~~] district;

(4) the proposed method of assessment, which may specify included or excluded classes of assessable property;

(5) [~~the proposed apportionment of cost between the public improvement district and the municipality or county as a whole;~~

[~~(6)~~] whether the management of the district is to be by:

(A) the municipality;

(B) the [~~or~~] county;

(C) an authorized instrumentality;

(D) [~~;~~] the private sector; [~~;~~] or

(E) a partnership between the private sector and one of the entities described by Paragraphs (A)-(C) [~~municipality or county and the private sector~~];

(6) [~~(7)~~] that the persons signing the petition request or concur with the establishment of the district; and

(7) [~~(8)~~] that an advisory body may be established or an authorized instrumentality may be incorporated to develop and recommend an improvement plan to the governing body of the municipality or county.

(b) The petition is sufficient if signed by:

(1) owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and

(2) record owners of real property liable for assessment under the proposal who:

(A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or

(B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

(c) A [~~The~~] petition filed with the municipality may be filed with the municipal secretary or other officer performing the functions of the municipal secretary. A petition filed with the county may be filed with the county clerk or other officer designated by the commissioners court. A petition filed with any other political subdivision exercising powers under this subchapter may be filed with the political subdivision's governing body.

Sec. 372.006. FINDINGS. (a) If a petition that complies with this subchapter is filed, the governing body of the municipality or county may make findings by resolution as to:

(1) the advisability of the proposed improvements;

(2) the [~~improvement, its~~] estimated qualified costs of the proposed improvements; and

(3) [~~cost,~~] the method of assessment [~~, and the apportionment of cost between the proposed improvement district and the municipality or county as a whole~~].

(b) The governing body's findings under this section are conclusive.

Sec. 372.007. FEASIBILITY REPORT. (a) Before holding the hearing required by Section 372.009, the governing body of the municipality may use the services of municipal employees, the governing body of the county may use the services of county employees, or the governing body of the municipality or county may employ consultants to prepare a report to determine whether improvements [~~an improvement~~] should be made as proposed by petition or otherwise or whether improvements [~~the improvement~~] should be made in combination with other improvements authorized under this subchapter. The governing body may also require that a preliminary estimate of the qualified costs [~~cost~~] of improvements [~~the improvement~~] or a combination of improvements be made.

(b) For the purpose of determining the feasibility and desirability of a public [~~an~~] improvement district, the governing body may take other preliminary steps before the hearing required by Section 372.009 and[~~;~~] before establishing a public improvement district[~~, or before entering into a contract~~].

Sec. 372.008. ADVISORY BODY. (a) The [~~After receiving a petition that complies with Section 372.005, the~~] governing body of the municipality or county, on the governing body's own initiative or after receiving a petition that complies with Section 372.005, may appoint an advisory body with the responsibility of developing and recommending an improvement plan to the governing body.

(b) The composition of an [~~the~~] advisory body, if established, must include:

(1) owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current roll of the appraisal district in which the property is located; and

(2) record owners of real property liable for assessment under the proposal who:

(A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or

(B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal.

(c) The members of the advisory body serve at the will of the governing body of the municipality or county creating the public improvement district and may be removed at any time.

Sec. 372.009. HEARING. (a) A public improvement district may be established and improvements provided by the district may be financed under this subchapter only after the governing body of the municipality or county holds a public hearing on the advisability of the improvements [~~improvement~~].

(b) The hearing may be adjourned from time to time until the governing body makes findings by resolution as to:

(1) the advisability of each [~~the~~] improvement;

(2) the nature of each [~~the~~] improvement;

(3) the estimated qualified costs [~~cost~~] of each [~~the~~] improvement;

(4) the boundaries of the ~~[public improvement]~~ district; and
 (5) the method of assessment~~[-and~~
~~[(6) the apportionment of costs between the district and the municipality or county as a whole].~~

(c) Notice of the hearing must be given in a newspaper of general circulation in the municipality or county. If any part of the public improvement district is to be located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the notice must also be filed with the municipal secretary or other officer performing the duties of the municipal secretary and published ~~[given]~~ in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is to be located or in which the improvements are to be undertaken. The final publication of notice must be made before the 15th day before the date of the hearing. The notice must state:

(1) the time and place of the hearing;
 (2) the general nature of the proposed improvements ~~[improvement]~~;
 (3) the estimated qualified costs ~~[cost]~~ of the proposed improvements ~~[improvement]~~;
 (4) the boundaries of the proposed public improvement ~~[assessment]~~ district; and
 (5) the proposed method of assessment~~[-and~~
~~[(6) the proposed apportionment of cost between the improvement district and the municipality or county as a whole].~~

(d) Written notice containing the information required by Subsection (c) must be mailed before the 15th day before the date of the hearing. The notice must be addressed to "Property Owner" and mailed to the current address of the owner, as reflected on tax rolls, of property subject to assessment under the proposed public improvement district.

Sec. 372.010. IMPROVEMENT ORDER. (a) During the six-month period after the date of the final adjournment of the hearing under Section 372.009, the governing body of the municipality or county may authorize the creation of a public ~~[an]~~ improvement district subject to Section 372.012 if, by majority vote of all members of the governing body, the governing body adopts ~~[members adopt]~~ a resolution authorizing the district in accordance with its finding as to the advisability of the improvements ~~[improvement]~~.

(b) An authorization takes effect when it has been published one time in a newspaper of general circulation in the municipality or county. If any part of the ~~[improvement]~~ district is located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the authorization does not take effect until the notice is also given one time in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is located or in which the improvements are to be undertaken.

(c) Actual construction of improvements ~~[an improvement]~~ may not begin, and acquisition of existing improvements may not occur, until after the 20th day after the date the authorization takes effect and may not begin if during that

20-day period written protests signed by at least two-thirds of the owners of record of property within the ~~[improvement]~~ district or by the owners of record of property comprising at least two-thirds of the total area of the district are filed with the municipal ~~[or county]~~ secretary or other officer performing the duties of the municipal ~~[or county]~~ secretary or the county clerk or other officer designated by the commissioners court. A person whose name appears on a protest may withdraw the name from the protest at any time before the governing body of the municipality or county convenes to determine the sufficiency of the protest.

(d) Before the levy of assessments under Section 372.017, the property owners in the district who signed the original petition may petition the governing body to amend the resolution creating the district adopted under Subsection (a) to amend the estimated qualified costs of the improvements, including adding or deleting improvement projects. The governing body shall provide notice of the owners' petition and hold a public hearing as provided by Section 372.009 to make findings, by amended resolution, of the nature and estimated qualified costs of each improvement. A county or other entity that proposes to amend a resolution under this subsection in the corporate boundaries or extraterritorial jurisdiction of a municipality shall provide notice to the municipality on or before the 30th day before the date the entity amends the resolution.

Sec. 372.011. DISSOLUTION. (a) A public hearing may be ~~[called and]~~ held after giving notice in the same manner as a hearing under Section 372.009 for the purpose of dissolving a district if a petition requesting dissolution is filed and the petition contains the signatures of at least enough property owners in the district to make a petition sufficient under Section 372.005(b). If the district is dissolved, the district nonetheless shall remain in effect for the purpose of meeting obligations of indebtedness for improvements.

(b) A district may be dissolved at the discretion of the governing body without a petition only if no assessments have been levied on property in the district or if assessments previously levied have been paid in full and the district has no other outstanding obligations. A dissolution under this subsection may not occur until after the governing body holds a hearing and gives notice in the manner required by Section 372.009.

Sec. 372.012. AREA OF DISTRICT. The area of a public improvement district to be assessed according to the findings of the governing body of the municipality or county establishing the boundaries may include contiguous and noncontiguous tracts of land and may be less than the area described in the proposed boundaries stated by the notice under Section 372.009. The area to be assessed may not include property not described by the notice as being within the proposed boundaries of the district unless a hearing is held to include the property and notice for the hearing is given in the same manner as notice under Section 372.009.

Sec. 372.013. SERVICE PLAN. (a) The advisory body shall prepare an ongoing service plan and present the plan to the governing body of the municipality or county for review and approval. The governing body may assign

responsibility for the plan to the employees of the governing body or an authorized instrumentality or to another entity instead ~~[in the absence]~~ of an advisory body.

(b) The plan must cover a period of at least five years and must also define the annual indebtedness and the projected qualified costs for improvements.

(c) The plan shall be reviewed and updated annually for the purpose of determining the annual budget for improvements. As part of the annual update, a revised assessment roll must be prepared to reflect any division of parcels and any reallocation of assessments based on the division.

Sec. 372.014. ASSESSMENT PLAN; PAYMENT BY EXEMPT JURISDICTIONS. (a) An assessment plan must be included in the annual service plan prepared under Section 372.013.

(b) The municipality or county is responsible for payment of assessments against exempt municipal or county property in the district if any assessments are levied. Payment of assessments by other exempt jurisdictions must be established by contract.

(c) The assessment plan may require the district to be divided into development phases and, subject to Sections 372.016 and 372.017, may levy assessments periodically in separate development phases or may stagger the collection of assessments, with different development phases in the district assigned different payment and collection dates. The development phases and staggered collection dates may be coordinated with the installation of the improvements or with the maturity dates of installation purchase or reimbursement contract obligations or with temporary notes, time warrants, or bonds [An assessment paid by the municipality or county under this subsection is considered to have been paid by special assessment for the purposes of Subsection (a)].

Sec. 372.015. DETERMINATION OF ASSESSMENT. (a) The governing body of the municipality or county shall apportion the qualified costs ~~[cost]~~ of an improvement to be assessed against property in a public ~~[an]~~ improvement district. The apportionment shall be made on the basis of special benefits accruing to the property because of the improvement.

(b) The qualified costs ~~[Cost]~~ of an improvement may be assessed:

- (1) equally per front foot or square foot;
- (2) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or
- (3) in any other manner that results in imposing equal shares of the qualified costs ~~[cost]~~ on property similarly benefited.

(c) The governing body may establish by ordinance or order:

(1) reasonable classifications and formulas for the apportionment of the qualified costs ~~[cost]~~ between the municipality or county and the area to be assessed; and

(2) the methods of assessing the special benefits for various classes of improvements.

(d) The amount of assessment for each property owner may be:

- (1) adjusted following the annual review of the service plan; and

(2) reallocated, but not increased, if an assessed parcel has been divided.

(e) Notice of any reallocation of assessments shall be given to the property owner of the divided parcel.

(f) The findings, determinations, and assessments made by the governing body under this section are conclusive.

Sec. 372.016. ASSESSMENT ROLL. (a) ~~The [After the total cost of an improvement is determined, the governing body of the]~~ municipality or county shall prepare a proposed assessment roll based on the estimated qualified costs of the improvements. The roll must state the assessment against each parcel of land in the district and~~[, as determined by]~~ the method of assessment ~~[chosen by the municipality or county under this subchapter].~~

(b) ~~The [governing body shall file the]~~ proposed assessment roll must be filed with the municipal secretary or other officer performing the functions of the municipal secretary or in a district formed by a county, the county tax assessor-collector. The proposed assessment roll is subject to public inspection. When the assessment roll is filed, the appropriate designated officer described by this subsection shall ~~[The governing body shall require the municipal secretary or other officer or county tax assessor-collector to]~~ publish notice of the governing body's intention to consider the proposed assessments at a public hearing. The notice must be published in a newspaper of general circulation in the municipality or county before the 10th day before the date of the hearing. If any part of the public improvement district is located in the municipality's extraterritorial jurisdiction or if any part of the improvements is to be undertaken in the municipality's extraterritorial jurisdiction, the notice must also be published, before the 10th day before the date of the hearing, in a newspaper of general circulation in the part of the extraterritorial jurisdiction in which the district is located or in which the improvements are to be undertaken. The notice must state:

- (1) the date, time, and place of the hearing;
- (2) the general nature of the improvements ~~[improvement]~~;
- (3) the qualified costs ~~[cost]~~ of the improvements ~~[improvement]~~;
- (4) the boundaries of the ~~[assessment]~~ district; and
- (5) that written or oral objections will be considered at the hearing.

(c) When the assessment roll is filed under Subsection (b), the appropriate designated ~~[municipal secretary or other]~~ officer shall mail to the owners of property liable for assessment a notice of the hearing. The notice must contain the information required by Subsection (b) and the appropriate designated ~~[secretary or other]~~ officer shall mail the notice to the last known address of the property owner. The failure of a property owner to receive notice does not invalidate the proceeding.

Sec. 372.017. LEVY OF ASSESSMENTS ~~[ASSESSMENT]~~. (a) At or on the adjournment of the hearing referred to by Section 372.016 on proposed assessments, the governing body of the municipality or county must hear and pass on any objection to a proposed assessment. The governing body may:

- (1) amend a proposed assessment on any parcel; and

(2) initially or by amendment, provide for reductions of the amount of the annual assessment installments if and to the extent other revenues of the municipality or county of any of the types described by Section 372.026(e) are pledged or become available to pay all or part of installment purchase or reimbursement contract obligations or temporary notes, time warrants, revenue bonds, special assessment bonds, or certificates of obligation that are payable in whole or in part from the assessment installments.

(b) After all objections have been heard and the governing body has passed on the objections, the governing body by ordinance or order shall levy the assessment in the amount required to pay qualified costs as a special assessment on the property. The governing body by ordinance or order shall specify the method of payment of the assessment. The governing body may provide that assessments be paid in periodic installments. The installments may be in equal or different annual amounts, but must be in amounts each year necessary to meet annual qualified costs. The installments [for improvements and] must continue for a period and be in amounts necessary to retire any [the] indebtedness or obligation to pay or reimburse for the qualified costs, including the proper administration of the district [on the improvements]. The obligation to pay installments may be conditioned on the occurrence of a future event or condition if the first periodic installment payment of the assessment occurs on a date not later than the fifth anniversary of the date the assessment was levied.

(c) The governing body may:

(1) levy multiple assessments on property in the district to finance all or part of public improvements and must comply with Section 372.016 for each assessment;

(2) execute and deliver installment purchase or reimbursement contracts or temporary notes or time warrants or issue revenue bonds, special assessment bonds, or certificates of obligation to pay the qualified costs or to refund previously executed installment purchase or reimbursement contracts or temporary notes or time warrants; and

(3) secure the obligations described by Subdivision (2) by pledging one or more of the assessments levied under this subchapter.

Sec. 372.018. INTEREST ON ASSESSMENT; LIEN. (a) An assessment bears interest at the rate and for the period specified by the governing body of the municipality or county, but may not exceed a rate that is [one half of] one percent higher than the actual interest rate paid on any installment purchase or reimbursement contract obligation or temporary note or time warrant [the public debt] used to finance or to evidence an obligation to pay for the improvement. If revenue bonds, special assessment bonds, or certificates of obligation are issued to pay or refund any of the obligations described by this subsection, the annual interest rate is adjusted to a rate not to exceed one percent higher than the actual rate paid on the bonds or certificates, if the rate is lower than the rate on the obligations. Interest on the assessment between the effective date of the ordinance or order levying the assessment and the date the first installment is payable shall be added to the first installment. The interest on any delinquent installment shall be added to each subsequent installment until all delinquent installments are paid.

The added interest payable on an installment purchase or reimbursement contract or a temporary note, time warrant, or bond under this subsection may be used by a municipality or county to pay qualified costs of improvements or the costs of administration of the district, including the enforcement of assessments or the payment or prepayment of obligations.

(b) An assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the property assessed, superior to all other liens and claims except liens or claims for ~~[state,]~~ county, ~~special [school]~~ district, or municipality ad valorem taxes, and is a personal liability of and charge against the owners of the property regardless of whether the owners are named. The lien is effective from the date of the ordinance or order levying the assessment until the assessment is paid in full and may be enforced by the governing body in the same manner that an ad valorem tax lien against real property may be enforced by the governing body. On the sale of assessed property, any installment or portion of an assessment that is or will be payable for the property during the year of the sale shall be prorated between the buyer and the seller in the same manner as ad valorem taxes are prorated between a buyer and seller. Delinquent installments of the assessment shall incur interest, penalties, and [attorney's] fees in the same manner as delinquent ad valorem taxes.

(c) A district assessment on property under this subchapter runs with the land. Any portion of an assessment payment obligation that is not yet due is not eliminated by the foreclosure of an ad valorem tax lien. Any purchaser of property at a foreclosure sale under an ad valorem tax lien takes the property subject to any assessment payment obligation that is not yet due and to the terms of payment under the applicable assessment ordinance or order.

(d) The owner of assessed property may pay at any time on any parcel or lot the entire assessment, with interest that:

(1) has accrued on the assessment; and

(2) will accrue on the assessment until the next scheduled prepayment or redemption date on the installment purchase or reimbursement contract or temporary note, time warrant, revenue bond, special assessment bond, or certificate of obligation that secured the assessment~~[, on any lot or parcel].~~

Sec. 372.019. SUPPLEMENTAL ASSESSMENTS. After notice and a hearing, the governing body of the municipality or county may make supplemental assessments to correct omissions or mistakes in the assessment relating to the qualified costs ~~[total cost]~~ of the improvement. Notice must be given and the hearing held under this section in the same manner as required by Sections 372.016 and 372.017.

Sec. 372.020. REASSESSMENT. The governing body of the municipality or county may make a reassessment or new assessment of a parcel of land if:

(1) a court ~~[of competent jurisdiction]~~ sets aside an assessment against the parcel;

(2) the governing body determines that the original assessment is excessive; or

(3) on the written advice of counsel, the governing body determines that the original assessment is invalid.

Sec. 372.021. SPECIAL IMPROVEMENT DISTRICT FUND. (a) A municipality or county that intends to create a public improvement district may by ordinance or order establish a special improvement district fund in the municipal or county treasury or in a bank designated by the municipality or county to serve as a depository bank for the district's funds.

(b) The municipality or county annually may levy a tax to support the fund established under this section.

(c) The fund may be used to:

(1) pay the qualified costs of improvements [planning, administration, and an improvement authorized by this subchapter];

(2) prepare preliminary plans, studies, and engineering reports to determine the feasibility of improvements [an improvement]; and

(3) if ordered by the governing body of the municipality or county, pay the initial qualified costs of improvements [cost of the improvement] until installment purchase contracts or reimbursement contracts are entered into or temporary notes or [] time warrants are issued or revenue bonds, special assessment bonds, or certificates of obligation are [, or improvement bonds have been] issued and sold.

(d) The fund is not required to be budgeted for expenditure during any year, but the amount of the fund must be stated in the municipality's or county's annual budget. The amount of the fund must be based on an annual service plan that describes the public improvements for the fiscal year.

~~[(e) A grant in aid or contribution made to the municipality or county for the planning and preparation of plans for an improvement authorized under this subchapter may be credited to the special improvement district fund.]~~

Sec. 372.022. SEPARATE FUNDS. (a) A separate public improvement district fund shall be created in the municipal or county treasury or in a designated depository bank as provided by Section 372.021 for each district.

(b) The following revenues shall be deposited to the fund:

(1) special assessments;

(2) money, if any, contributed by the municipality or county to pay qualified costs;

(3) proceeds [Proceeds] from the sale of revenue bonds, if payable in part from special assessments;

(4) proceeds from the sale of special assessment bonds or certificates of obligation; [, temporary notes, and time warrants,] and

(5) any other sums appropriated to the fund by the governing body of the municipality or county for the district [shall be credited to the fund].

(c) The fund may be used solely to pay:

(1) qualified costs of improvement;

(2) amounts due on an installment purchase contract or reimbursement amounts owed under a reimbursement contract, temporary note, or time warrant;
or

(3) any revenue bonds, special assessment bonds, or certificates of obligation that are payable in whole or in part from special assessments levied under this subchapter ~~[incurred in making an improvement].~~

(d) When an improvement is completed and all of the obligations are paid in full, the balance on deposit in the special improvement district fund that was derived from special assessments, if any, ~~[of the part of the assessment that is for improvements]~~ shall be transferred to a ~~[the]~~ fund established for the retirement of bonds that are payable in whole or in part from assessments.

Sec. 372.023. PAYMENT OF QUALIFIED COSTS. (a) The qualified costs ~~[cost]~~ of an improvement made under this subchapter may ~~[must]~~ be paid by a method or by a combination of methods described by ~~[in accordance with]~~ this section and Section 372.024.

(b) The ~~[A cost payable by the]~~ municipality or county ~~[as a whole]~~ may, on its own or under an installment purchase, reimbursement, or other contract with a third party:

(1) erect, acquire, construct, improve, repair, establish, install, or equip improvements; and

(2) pay all or part of the qualified costs of the improvements ~~[be paid]~~
from:

(A) general funds or other revenues available for that ~~[the]~~ purpose;

(B) special assessments; or

(C) the issuance and sale of general obligation bonds, certificates of obligation, revenue bonds, or special assessment bonds ~~[other available general funds].~~

(c) The municipality or county may enter into and execute an installment purchase or reimbursement contract with or may deliver a nonnegotiable but transferable temporary note or time warrant to a third party under which:

(1) the third party agrees to:

(A) erect, acquire, construct, improve, repair, establish, install, or equip public improvements; and

(B) dedicate or sell the improvements to the municipality, county, or authorized instrumentality; and

(2) the municipality, county, or authorized instrumentality agrees to pay or reimburse the third party for the qualified costs by paying accumulated amounts due under the installment purchase or reimbursement contract, temporary note, or time warrant from any and all of the sources described by Subsection (b)(2) ~~[A cost payable from a special assessment that has been paid in full shall be paid from that assessment].~~

(d) Subject to Section 372.018, an installment purchase or reimbursement contract, temporary note, or time warrant may bear interest at a rate and for a period determined by the governing body of the municipality or county ~~[A cost payable from a special assessment that is to be paid in installments and a cost payable by the municipality or county as a whole but not payable from available general funds or other available general improvement funds shall be paid by the issuance and sale of revenue or general obligation bonds].~~

(e) An installment purchase or reimbursement contract, temporary note, or time warrant that is payable from installments of assessments is subject to prepayment and redemption at any time from the proceeds of prepayment of assessments made by a property owner under Section 372.018(d) [While an improvement is in progress, the governing body of the municipality or county may issue temporary notes or time warrants to pay for the costs of the improvement and, on completion of the improvement, issue revenue or general obligation bonds.

~~[(f) The cost of more than one improvement may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.~~

~~[(g) The costs of any improvement include all costs incurred in connection with the issuance of bonds under Section 372.024 and may be included in the assessments against the property in the improvement district as provided by this subchapter].~~

Sec. 372.024. GENERAL OBLIGATION BONDS, [AND] REVENUE AND SPECIAL ASSESSMENT BONDS, CERTIFICATES OF OBLIGATION, AND BONDS ISSUED BY AUTHORIZED INSTRUMENTALITY. (a) The governing body of a municipality or county may issue:

(1) general [General] obligation bonds [issued to pay costs under Section 372.023(d) must be issued] under [the provisions of] Subtitles A and C, Title 9, Government Code;

(2) revenue bonds or special assessment bonds in one or more series;
and

(3) certificates of obligation under Subchapter C, Chapter 271.

(b) A bond or obligation described by Subsection (a) may be issued to:

(1) pay qualified costs under Section 372.023(b), including the costs of issuing bonds; and

(2) pay or refund obligations executed or issued under Section 372.023(c).

(c) Certificates of obligation may be payable from and secured by installment payments of special assessments levied under this subchapter.

(d) The governing body of the municipality or county or the authorized instrumentality may include any term or provision consistent with this subchapter in a revenue bond or a special assessment bond issued under this section.

(e) The governing body of a municipality or county may incorporate an authorized instrumentality to act on its behalf to issue revenue bonds or special assessment bonds under this section. The governing body may enter into agreements and contracts with the authorized instrumentality to transfer pledged revenues, funds, and special assessments to or for the account of the authorized instrumentality at the times and as required by the terms of the resolution authorizing the issuance of the revenue bonds or special assessment bonds. Any bonds issued by an authorized instrumentality must be approved by the governing body of the municipality or county before issuance and delivery to the purchaser.

(f) To the extent consistent with this subchapter, an authorized instrumentality shall issue revenue bonds or special assessment bonds under:

(1) Chapter 303, if the authorized instrumentality is a public facility corporation; or

(2) Subchapter D, Chapter 431, Transportation Code, if the authorized instrumentality is a local government corporation [Revenue bonds issued to pay costs under that subsection may be issued from time to time in one or more series and are to be payable from and secured by liens on all or part of the revenue derived from improvements authorized under this subchapter, including revenue derived from installment payments of special assessments].

Sec. 372.0241. SPECIAL ASSESSMENT PUBLIC IMPROVEMENT DISTRICT MANAGEMENT POLICY. (a) The governing body of a municipality or county may develop, adopt, and amend a special assessment public improvement district management policy.

(b) The policy may establish the general requirements and standards for and the preconditions to:

(1) the creation of a public improvement district under this subchapter;

(2) the execution and issuance of installment purchase or reimbursement contracts or temporary notes or time warrants; and

(3) the issuance of any bonds or certificates of obligation payable in whole or in part from special assessments.

(c) If a management policy is adopted, compliance with the terms of the policy, including any amendments to the policy, is required for:

(1) the execution of any installment purchase or reimbursement contracts or temporary notes or time warrants;

(2) the issuance of any revenue bonds or special assessment bonds by the municipality or county or by an authorized instrumentality; and

(3) the issuance of any certificates of obligation by a municipality or county.

Sec. 372.025. TERMS AND CONDITIONS OF BONDS. (a) Revenue bonds and special assessment bonds issued under Section 372.024 must be authorized by:

(1) ordinance, if issued by a municipality;

(2) order, if issued by a county; and

(3) resolution, if issued by an authorized instrumentality.

(b) Revenue bonds and special assessment bonds may be issued to mature serially or in any other manner but must mature not later than 40 years after their date. A provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds secured in whole or in part by any assessments or any other revenues authorized by this subchapter under terms and conditions specified in the ordinance, ~~or~~ order, or resolution authorizing the issuance of the bonds.

(c) Revenue bonds, special assessment bonds, and certificates of obligation may be subject to redemption before maturity at the option of the issuer and at the times and in the manner provided by the ordinance, order, or resolution authorizing the issuance. Revenue bonds and certificates of obligation that are secured in part by a pledge of special assessments and all special assessment

bonds are subject to mandatory redemption at least semiannually from funds provided by assessed parties, if any, as prepayment of installments of special assessments under Section 372.018(d).

(d) Revenue bonds and special assessment bonds shall be executed in the manner and by the persons required by the ordinance, order, or resolution authorizing the issuance.

(e) Revenue bonds and special assessment ~~(b) The~~ bonds ~~[shall be executed and the bonds]~~ and any interest coupons appertaining to the bonds ~~[them]~~ are negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code (Section 1.101 et seq., Business & Commerce Code).

(f) The ordinance, ~~or~~ order, or resolution authorizing the issuance of the revenue bonds or special assessment bonds must specify:

- (1) whether the bonds may be registered ~~[are issued registrable]~~ as to principal alone or as to both principal and interest;
- (2) whether the bonds are redeemable before maturity;
- (3) the form, denomination, and manner of issuance;
- (4) the terms, conditions, and other details applying to the bonds including the price, terms, and interest rates on the bonds; and
- (5) the manner of sale of the bonds.

(g) ~~(e)~~ The ordinance, ~~or~~ order, or resolution authorizing the issuance of the bonds may specify that the proceeds from the sale of the bonds:

- (1) be used to pay interest on the bonds during and after the period of acquisition or construction of an improvement financed through the sale of the bonds;
- (2) be used for creating a reserve fund for payment of the principal of and interest on the bonds and for creating other funds; ~~and]~~
- (3) be used for the payment of any other qualified costs as determined by the governing body of the municipality or county or by the authorized instrumentality; and
- (4) may be placed in time deposit or invested, until needed.

Sec. 372.026. PLEDGES. (a) For the payment of ~~[bonds issued under this subchapter and the payment of]~~ principal, interest, and any other amounts payable on or with respect to any bonds issued by a municipality or county under this subchapter ~~[required or permitted in connection with the bonds]~~, the governing body of the municipality or county may pledge:

- (1) all or part of the income from improvements financed under this subchapter, including income received in installment payments from special assessments; and
- (2) if the payment is for the payment of revenue bonds, any other revenue described by Subsection (e) ~~[under Section 372.023]~~.

(b) For the payment of principal, interest, and any other amounts payable on or with respect to bonds issued by an authorized instrumentality under this subchapter, the authorized instrumentality may pledge all or part of the assessments or other revenues, if any, that are to be transferred and paid to the authorized instrumentality by the municipality or county under an agreement entered into between the parties under Section 372.024(e).

(c) Pledged income must be ~~[fixed and collected in amounts]~~ sufficient, with other pledged resources, if any, to pay principal, interest, and other expenses related to the bonds, and to the extent required by the ordinance, ~~[or]~~ order, or resolution authorizing the bonds, to pay for the operation, maintenance, and other expenses related to improvements authorized by this subchapter.

(d) Bonds issued by a municipality or county ~~[(e) The bonds]~~ may also be secured by mortgages or deeds of trust on any real property related to the facilities authorized under this subchapter that are owned or are to be acquired by the municipality or county and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances as evidence of the security interest of the holders of the bonds in the related property ~~[indebtedness]~~.

(e) ~~[(d)]~~ The governing body may pledge to the payment of certificates of obligation issued by the governing body or to the payment of revenue bonds issued by the governing body or by an authorized instrumentality all or part of a grant, donation, revenue, or income received or to be received from the government of the United States or any other public or private source, whether or not it is received pursuant to an agreement or otherwise, including impact fees and incremental ad valorem tax revenues collected by a municipality or by another taxing unit and municipal sales tax collected by a municipality from all or part of a tax increment reinvestment zone created under Chapter 311, Tax Code.

Sec. 372.027. REFUNDING BONDS. (a) Revenue bonds and special assessment bonds issued under this subchapter and certificates of obligation payable solely from special assessments may be refunded or refinanced by the issuance of refunding bonds, under terms or conditions provided ~~[set forth]~~ in the ordinance, order, or resolution authorizing the issuance ~~[ordinances or orders]~~ of the ~~[municipality or county issuing the]~~ bonds. The provisions of this subchapter applying generally to revenue bonds and special assessment bonds, including provisions related to the issuance of those bonds, apply to refunding bonds of like kind authorized by this section. The refunding bonds may be sold and delivered in amounts necessary to pay ~~[for]~~ the principal, interest, and any redemption premium of the bonds ~~[to be refunded]~~, on the date of the maturity of the bonds ~~[bond]~~ or any redemption date of the bonds ~~[bond]~~.

(b) Refunding bonds may be issued for exchange with the bonds they are refunding. The comptroller of public accounts shall register refunding bonds described by this subsection and deliver the bonds to holders of bonds being refunded in accordance with the ordinance, ~~[or]~~ order, or resolution authorizing the issuance of refunding bonds. The exchange may be made in one delivery or several installment deliveries.

(c) General obligation bonds and certificates of obligation issued under this subchapter may be refunded in the manner provided by law.

Sec. 372.028. APPROVAL AND REGISTRATION. (a) Revenue bonds and special assessment bonds issued under this subchapter and a record of the proceedings authorizing their issuance must be submitted to the attorney general for examination. If revenue bonds state that they are secured by a pledge of

revenue or rentals from a contract or lease, a copy of the contract or lease and a description of the proceedings authorizing the contract or lease must also be submitted to the attorney general.

(b) If the attorney general determines that the bonds were authorized and the contracts or leases related to the bonds were made in accordance with the law, the attorney general shall approve the bonds and the contract or lease. ~~After [On the approval of]~~ the attorney general approves the bonds and the contract or lease, the comptroller of public accounts shall register the bonds.

(c) Bonds and contracts or leases approved and registered under this section are:

(1) valid and binding obligations for all purposes in accordance with their terms; and

(2) ~~are~~ are incontestable in any court or other forum.

(d) General obligation bonds and certificates of obligation issued under this subchapter shall be approved and registered as provided by law.

Sec. 372.029. AUTHORIZED INVESTMENTS; SECURITY. (a) Bonds issued under this subchapter are legal and authorized investments for:

(1) banks, trust companies, and savings and loan associations;

(2) all insurance companies;

(3) fiduciaries, trustees, and guardians; and

(4) interest funds, sinking funds, and other public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic.

(b) Bonds issued under this subchapter may be security for deposits of public funds of the state or of an agency, subdivision, or instrumentality of the state, including a county, municipality, school district, or other district, public agency, or body politic, to the extent of the market value of the bonds, if accompanied by any appurtenant ~~unmatured~~ interest coupons that have not matured.

Sec. 372.030. SUBCHAPTER NOT EXCLUSIVE. This subchapter is an alternative to other methods by which a municipality may finance public improvements under applicable law ~~[by assessing property owners]~~.

SECTION _____. Section 61.0572, Education Code, is amended by adding Subsection (f) to read as follows:

(f) Approval of the board is not required for buildings or other facilities financed by a public improvement district under Subchapter A, Chapter 372, Local Government Code.

SECTION _____. Section 61.058, Education Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to construction, repair, or rehabilitation of buildings or other facilities financed by a public improvement district under Subchapter A, Chapter 372, Local Government Code.

SECTION _____. All governmental acts and proceedings of a governmental body of a municipality or county under Subchapter A, Chapter 372, Local Government Code, as that subchapter existed before the effective date of this Act, to establish a public improvement district, designate improvements, levy

assessments, and finance costs of improvements in response to a petition filed with the governing body that conformed to the requirements of Section 372.005, Local Government Code, as that section existed before the effective date of this Act, are validated and confirmed in all respects.

Senate Amendment No. 3 (Senate Floor Amendment No. 4)

Amend **CSHB 3485** (Senate committee report) as follows:

(1) Insert the following appropriately numbered SECTIONS to the bill:

SECTION _____. (a) Section 372.1011, Local Government Code, is amended to read as follows:

Sec. 372.1011. APPLICABILITY. This subchapter applies only to:

(1) a county with a population of 1.2 million [~~825,000~~] or more, other than a county that:

(A) borders on the Gulf of Mexico or a bay or inlet of the gulf; or

(B) has two municipalities located wholly or partly in its boundaries each having a population of 300,000 or more; or

(2) a county with a population of 70,000 or more that is adjacent to a county described by Subdivision (1) in which a municipality with a population of 35,000 or more is primarily situated and includes all or a part of the extraterritorial jurisdiction of a municipality with a population of 1.1 million or more.

(b) This section takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes does not become law. If the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law, this section has no effect.

SECTION _____. Subchapter C, Chapter 372, Local Government Code, is amended by adding Section 372.1245 to read as follows:

Sec. 372.1245. ANNEXATION OR EXCLUSION OF LAND. (a) A district may annex or exclude land from the district as provided by Subchapter J, Chapter 49, Water Code.

(b) Before a district may adopt an order adding or excluding land, the district must obtain the consent of:

(1) the county that created the district by a resolution of the county commissioners court; and

(2) a municipality in which the district is located, or in whose extraterritorial jurisdiction the district is located, by a resolution adopted by the municipality's governing body.

SECTION _____. Subsection (c), Section 372.127, Local Government Code, is amended to read as follows:

(c) A county must adopt an order providing whether a district has the authority to impose a hotel occupancy tax, sales and use tax, or ad valorem tax, and must provide the maximum rate at which the district may impose the tax. [~~A tax rate approved by the commissioners court and pledged to secure bonds, notes, grant agreements, or development agreements may not be reduced until the obligations of those instruments have been satisfied.~~]

SECTION __. (a) Section 382.002, Local Government Code, is amended to read as follows:

Sec. 382.002. APPLICABILITY. This chapter applies only to:

(1) a county with a population of 1.2 million [~~825,000~~] or more, other than a county that:

(A) borders on the Gulf of Mexico or a bay or inlet of the gulf; or

(B) has two municipalities located wholly or partly in its boundaries each having a population of 300,000 or more; or

(2) a county with a population of 70,000 or more that is adjacent to a county described by Subdivision (1) in which a municipality with a population of 35,000 or more is primarily situated and includes all or a part of the extraterritorial jurisdiction of a municipality with a population of 1.1 million or more.

(b) This section takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law. If the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes does not become law, this section has no effect.

SECTION _____. Subchapter C, Chapter 382, Local Government Code, is amended by adding Section 382.113 to read as follows:

Sec. 382.113. ANNEXATION OR EXCLUSION OF LAND. (a) A district may annex or exclude land from the district as provided by Subchapter J, Chapter 49, Water Code.

(b) Before a district may adopt an order adding or excluding land, the district must obtain the consent of:

(1) the county that created the district by a resolution of the county commissioners court; and

(2) a municipality in which the district is located, or in whose extraterritorial jurisdiction the district is located, by a resolution adopted by the municipality's governing body.

SECTION _____. Subsection (c), Section 382.153, Local Government Code, is amended to read as follows:

(c) A county must adopt an order providing whether a district has the authority to impose a hotel occupancy tax, sales and use tax, or ad valorem tax, and must provide the maximum rate at which the district may impose the tax. [~~A tax rate approved by the commissioners court and pledged to secure bonds, notes, grant agreements, or development agreements may not be reduced until the obligations of those instruments have been satisfied.~~]

SECTION _____. (a) The legislature validates and confirms all governmental acts and proceedings before the effective date of this Act of a district created under Subchapter C, Chapter 372, Local Government Code, as that chapter existed before the effective date of this Act, including acts of the district's board of directors.

(b) Subsection (a) of this section does not apply to a matter that on the effective date of this Act:

(1) is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final court judgment; or

(2) has been held invalid by a final court judgment.

SECTION _____. (a) The Sections of this Act amending Chapter 372, Local Government Code, take effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes does not become law. If the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law, the Sections of this Act amending Chapter 372, Local Government Code, have no effect.

(b) The Sections of this Act amending Chapter 382, Local Government Code, take effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law. If the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes does not become law, the Sections of this Act amending Chapter 382, Local Government Code, have no effect.

(2) Renumber SECTIONS of the bill appropriately.

Senate Amendment No. 4 (Senate Floor Amendment No. 5)

Amend **CSHB 3485** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 281, Health and Safety Code, is amended by adding Section 281.0282 to read as follows:

Sec. 281.0282. DALLAS COUNTY HOSPITAL DISTRICT; EMPLOYMENT OF HEALTH CARE PROVIDERS AND PHYSICIANS.

(a) The board of the Dallas County Hospital District may appoint, contract for, or employ physicians, dentists, and other health care providers as the board considers necessary for the efficient operation of the district.

(b) The term of an employment contract entered into under this section may not exceed four years.

(c) This section may not be construed as authorizing the board of the Dallas County Hospital District to supervise or control the practice of medicine, as prohibited by Subtitle B, Title 3, Occupations Code.

(d) The authority granted to the board of the Dallas County Hospital District under Subsection (a) to employ physicians shall apply only as necessary for the district to fulfill the district's statutory mandate to provide medical care for the indigent and needy residents of the district as provided by Section 281.046.

(e) The Dallas County Hospital District shall establish a committee consisting of at least five actively practicing physicians who provide care in the district. The committee shall approve existing policies or adopt new policies, if no policies exist, to ensure that a physician who is employed by the district is exercising the physician's independent medical judgment in providing care to patients.

(f) The chair of the committee must be a member of the executive committee of the Dallas County Hospital District's medical staff.

(g) The policies adopted or approved by the committee shall include policies relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, governance of the committee, and due process.

(h) Each member of a committee shall provide biennially to the chief medical officer of the Dallas County Hospital District a signed, verified statement indicating that the committee member:

(1) is licensed by the Texas Medical Board;

(2) will exercise independent medical judgment in all committee matters, including matters relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, and due process;

(3) will exercise the committee member's best efforts to ensure compliance with the Dallas County Hospital District's policies that are adopted or established by the committee; and

(4) will report immediately to the Texas Medical Board any action or event that the committee member reasonably and in good faith believes constitutes a compromise of the independent medical judgment of a physician in caring for a patient.

(i) The committee shall adopt rules requiring the disclosure of financial conflicts of interest by a committee member.

(j) For all matters relating to the practice of medicine, each physician employed by the board shall ultimately report to the chief medical officer of the Dallas County Hospital District.

SECTION _____. Chapter 311, Health and Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. EMPLOYMENT OF PHYSICIANS BY CERTAIN
HOSPITALS

Sec. 311.061. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a hospital located in a county with a population of 50,000 or less and operated by a governmental entity.

Sec. 311.062. EMPLOYMENT OF PHYSICIAN PERMITTED. (a) A hospital may employ a physician and retain all or part of the professional income generated by the physician for medical services provided at the hospital if the hospital:

(1) is certified by the Texas Medical Board under Section 162.001(d), Occupations Code;

(2) satisfies the requirements of Subchapter A, Chapter 162, Occupations Code, including Texas Medical Board rules; and

(3) satisfies the requirements of this subchapter.

(b) A hospital subject to this subchapter may continue to employ any physicians employed by the hospital on or before the date of release of a federal decennial census that shows the county's population exceeds 50,000. The hospital may not employ a new physician after that date.

(c) The requirements of this subchapter and Subchapter A, Chapter 162, Occupations Code, may not be voided or waived by contract.

Sec. 311.063. HOSPITAL POLICIES. (a) A hospital shall adopt, maintain, and enforce policies to ensure that a physician employed under this subchapter whose professional income is retained under Section 311.062 exercises independent medical judgment when providing care to patients at the hospital.

(b) The policies adopted under this section must include policies relating to:

- (1) credentialing and privileges;
- (2) quality assurance;
- (3) utilization review;
- (4) peer review;
- (5) medical decision-making; and
- (6) due process.

(c) The policies adopted under this section, including any amendments to the policies, must be approved by the hospital governing board after input from the medical staff as appropriate.

(d) The policies adopted under this section must include the implementation of a complaint mechanism for processing and resolving complaints regarding interference or attempted interference with the physician's independent medical judgment. The policies must address the manner in which the public can access board complaint procedures.

(e) The policies of the hospital must be drafted and interpreted in a manner that reserves to physicians, including physicians employed and physicians not employed by the hospital, the sole authority to engage in the practice of medicine.

Sec. 311.064. CREDENTIALING AND PRIVILEGES. (a) A physician employed by a hospital under this subchapter is subject to the same standards and procedures regarding credentialing, peer review, quality of care, and privileges as a physician not employed by the hospital.

(b) A hospital shall give equal consideration regarding the issuance of credentials and privileges to physicians employed by the hospital and physicians not employed by the hospital.

Sec. 311.065. OTHER HOSPITAL-PHYSICIAN RELATIONSHIPS. This subchapter may not be construed as altering, voiding, or prohibiting any relationship between a hospital and a physician, including a contract or arrangement with an approved nonprofit health corporation that is certified under Section 162.001(b), Occupations Code, and that holds a certificate of authority issued under Chapter 844, Insurance Code.

Sec. 311.066. MEDICAL STAFF BYLAWS. The medical staff bylaws of a hospital may not discriminate against or favor a physician based solely on the physician's employment status with the hospital, including emergency call or charity care obligations.

Sec. 311.067. FAIR PROCESS; PEER REVIEW. (a) Termination of a physician's employment by a hospital is subject to a fair review process.

(b) A hospital that employs physicians shall provide peer review and quality assurance through a multi-hospital peer review agreement, an external independent peer review organization, or an internal peer review process approved by the hospital governing board with appropriate input from the medical staff.

Sec. 311.068. REFERRAL OF PATIENTS. (a) In this section, "referral" means referral for admissions, diagnostic tests and procedures, surgeries, or other health care services.

(b) An employment agreement entered into between a physician and a hospital under this subchapter:

(1) must state that the hospital may not set goals regarding referrals; and

(2) may not set, as a condition of employment, the volume or number of referrals that must be made.

Sec. 311.069. NONRETALIATION REQUIREMENTS. (a) A hospital may not terminate, retaliate against, or otherwise penalize a person who reports in good faith to the hospital or the Texas Medical Board a violation or attempted violation of this subchapter, Subchapter A, Chapter 162, Occupations Code, or Texas Medical Board rules.

(b) A hospital may not prohibit, restrict, or discourage a physician from communicating with the hospital or advocating for a patient regarding medically appropriate health care.

(c) A physician who makes a report under this section:

(1) is immune from civil liability for a report made in good faith; and

(2) may not be disciplined by the Texas Medical Board for any corporate practice of medicine violation related to the reported action, event, or policy.

Sec. 311.070. LIABILITY. (a) In this section:

(1) "Governmental unit" has the meaning assigned by Section 101.001, Civil Practice and Remedies Code.

(2) "Governmental hospital" means a hospital that is owned or operated by a governmental unit.

(3) "Health care liability claim" has the meaning assigned by Section 74.001, Civil Practice and Remedies Code.

(b) Chapters 101 and 108, Civil Practice and Remedies Code, do not apply in an action in which final judgment is rendered in a health care liability claim against a physician employed under this subchapter by a governmental hospital.

(c) A physician's civil liability is limited to a maximum amount of \$250,000 for each single occurrence of bodily injury or death in an action in which final judgment is rendered in a health care liability claim against a physician employed under this subchapter by a governmental hospital.

(d) A governmental hospital shall maintain professional liability insurance or a plan of self-insurance covering each physician employed by the hospital in the amount of \$250,000 for each single occurrence of bodily injury or death.

SECTION ____. Section 162.001, Occupations Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The board by rule shall certify a health organization that:

(1) applies for certification on a form approved by the board; ~~and~~

(2) presents proof satisfactory to the board that the organization meets the requirements of Subsection (b), ~~(c)~~ (c), or (d); and

(3) states that the health organization has consulted with the organization's medical staff before filing an application for certification under Subsection (d), if appropriate.

(d) The board shall certify a health organization to employ physicians licensed by the board if the organization is in compliance with Subchapter E, Chapter 311, Health and Safety Code, and this subchapter, including board rules.

SECTION ____. Subchapter A, Chapter 162, Occupations Code, is amended by adding Sections 162.004-162.007 to read as follows:

Sec. 162.004. EMPLOYER AND EMPLOYEE REQUIREMENTS. The following requirements apply to an organization certified under Section 162.001(d) that employs physicians:

(1) the organization shall ensure that each physician retains independent medical judgment in providing care to patients at the organization and may not be penalized for reasonably advocating for patient care;

(2) the organization shall provide a certain portion of medical services free of charge, or at a reduced fee commensurate with a patient's ability to pay;

(3) a physician employed by the organization shall participate in the provision of services under Subdivision (2);

(4) an organization may not include or enforce a noncompete clause in a physician employment contract or condition privileges on the continuation or termination of an employment contract; and

(5) a physician who has privileges at the organization and is employed by the hospital and a physician who is not employed by the hospital must be given equal consideration and treatment in the creation and execution of all medical staff bylaw provisions regardless of the physician's employer.

Sec. 162.005. FEES; ENFORCEMENT. (a) The board may charge a reasonable fee as necessary for the certification of an organization under Section 162.001(d) and for the investigation, review, and enforcement of the organization's compliance with this subchapter and Subchapter E, Chapter 311, Health and Safety Code.

(b) The board may adopt and impose fines and administrative remedies, including the revocation of certification under Section 162.003, for a violation of this subchapter or Subchapter E, Chapter 311, Health and Safety Code.

Sec. 162.006. BIENNIAL COMPLIANCE STATEMENT. When an organization applies for certification, and every two years after that date, an organization seeking certification under Section 162.001(d) shall provide to the board a compliance statement signed by the organization's chief executive officer attesting that the organization is in compliance with all requirements for certification and continued certification, including the requirements of this subchapter and Subchapter E, Chapter 311, Health and Safety Code.

Sec. 162.007. DOCUMENTS IN SUPPORT OF CERTIFICATION AND BIENNIAL COMPLIANCE STATEMENTS. (a) An organization shall submit to the board at the time application for certification under Section 162.001(d) is made a copy of the hospital's policies, bylaws, and medical staff bylaws that demonstrate compliance with the requirements of this subchapter and Subchapter E, Chapter 311, Health and Safety Code.

(b) An organization certified under Section 162.001(d) shall submit to the board as part of the organization's biennial compliance statement copies of any changes or amendments to the hospital's bylaws, policies, and medical staff bylaws that were submitted to the board after the organization's initial approved application for certification.

Senate Amendment No. 5 (Senate Floor Amendment No. 6)

Amend **CSHB 3485** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Article 49.01, Code of Criminal Procedure, is amended to read as follows:

Art. 49.01. DEFINITIONS. In this chapter ~~[article]~~:

(1) "Autopsy" means a post mortem examination of the body of a person, including an external examination of the body [~~X-rays~~] and an examination of the internal organs [~~and structures after dissection~~], to determine the cause and manner of death or the nature of any pathological changes that may have contributed to the death or to obtain information or material for evidentiary or identification purposes. The forensic pathologist or physician performing the autopsy may limit the individuals in attendance at the examination and may vary the extent of the examination. The examination may include:

(A) radiographs;

(B) a microscopic examination;

(C) retention of an organ part or whole organ;

(D) an anthropologic examination;

(E) a dental examination;

(F) any other procedure considered necessary by the examining forensic pathologist or physician; or

(G) at the discretion of the medical examiner, the medical examiner's designee, or the justice of the peace, as appropriate, an in-person examination of the scene of death or injury or an examination of the scene through reports or photographs related to the injury or death.

(1-a) "Forensic pathologist" means a physician who is board certified in anatomic and forensic pathology by the American Board of Pathology.

(2) "Inquest" means an investigation into the cause and circumstances of the death of a person, and a determination, made with or without a formal court hearing, as to whether the death was caused by an unlawful act or omission. The term includes each level of investigation, from rudimentary information gathering to a complete autopsy examination and formal hearing.

(3) "Inquest hearing" means a formal court hearing held to determine whether the death of a person was caused by an unlawful act or omission and, if the death was caused by an unlawful act or omission, to obtain evidence to form the basis of a criminal prosecution.

(4) "Institution" means any place where health care services are rendered, including a hospital, clinic, health facility, nursing home, extended-care facility, out-patient facility, foster-care facility, and retirement home.

(5) "Physician" means a practicing doctor of medicine or doctor of osteopathic medicine who is licensed by the Texas ~~[State Board of]~~ Medical Board ~~[Examiners]~~ under Subtitle B, Title 3, Occupations Code.

SECTION _____. Section 1, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. OFFICE AUTHORIZED. Subject to the provisions of this Article ~~[Act]~~, the Commissioners Court of any county having a population of more than one million ~~[and not having a reputable medical school as defined in Articles 4501 and 4503, Revised Civil Statutes of Texas,]~~ shall establish and maintain the office of medical examiner, and the Commissioners Court of any county may establish and provide for the maintenance of the office of medical examiner. Population shall be according to the last preceding federal census.

SECTION _____. Subsection (b), Section 1-a, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

(b) There may be only one chief medical examiner in a medical examiners district, although the chief medical examiner ~~[he]~~ may employ, within the district, necessary staff personnel, including deputy medical examiners. When a county becomes a part of a medical examiners district, the effect is the same within the county as if the office of medical examiner had been established in that county alone. A ~~[The]~~ district medical examiner has all the powers and duties within the district that a medical examiner who serves in a single county has within that county.

SECTION _____. Section 2, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 2. APPOINTMENTS AND QUALIFICATIONS. (a) The commissioners court shall appoint the chief medical examiner, who serves ~~[shall serve]~~ at the pleasure of the commissioners court. The chief medical examiner must be:

(1) board certified in anatomic and forensic pathology by the American Board of Pathology; and

(2) ~~[No person shall be appointed medical examiner unless he is]~~ a physician licensed by the Texas ~~[State Board of]~~ Medical Board ~~[Examiners. To the greatest extent possible, the medical examiner shall be appointed from persons having training and experience in pathology, toxicology, histology and other medico-legal sciences].~~

(b) The chief medical examiner shall devote the ~~[so much of his]~~ time and energy ~~[as is]~~ necessary to perform ~~[in the performance of]~~ the duties conferred by this Article.

SECTION _____. Section 3, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 3. ASSISTANTS. (a) The chief medical examiner may, subject to the approval of the commissioners court, employ the ~~[such]~~ deputy medical examiners, medical, dental, or anthropologic consultants, scientific experts, trained technicians, officers, and employees ~~[as may be]~~ necessary to properly perform ~~[the proper performance of]~~ the duties imposed by this Article on ~~[upon]~~ the chief medical examiner.

(b) A deputy medical examiner must:

- (1) be board certified in anatomic and forensic pathology; or
- (2) have satisfactorily completed accredited residency and fellowship training programs in anatomic and forensic pathology and, not later than the third anniversary of the date the training programs were completed, obtain board certification in anatomic and forensic pathology.

SECTION _____. Section 4, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. SALARIES. The commissioners court shall establish and pay the salaries and compensations of the chief medical examiner and the chief medical examiner's ~~his~~ staff.

SECTION _____. Section 6, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 6. DEATH INVESTIGATIONS. (a) A chief ~~Any~~ medical examiner, or the chief medical examiner's ~~his~~ duly authorized deputy medical examiner, shall ~~be authorized, and it shall be his duty, to~~ hold inquests with or without a jury in the ~~within his~~ county in which the office is established~~;~~ in the following cases:

(1) ~~1-~~ When a person dies ~~shall die~~ within twenty-four hours after the person is:

(A) admitted ~~admission~~ to a hospital or institution;

(B) confined ~~or~~ in prison or in jail; or

(C) placed in law enforcement custody;

(2) ~~2-~~ When any person:

(A) is killed;

(B) ~~or~~ from any cause dies an unnatural death, except under sentence of the law;

(C) ~~or~~ dies in the absence of one or more good witnesses; or

(D) dies as a result of medical treatment or therapy;

(3) ~~3-~~ When the body or a body part of a person is found and~~;~~ the cause or circumstances of death are unknown~~;~~ ~~and~~

~~[(A) the person is identified; or~~

~~[(B) the person is unidentified];~~

(4) ~~4-~~ When the circumstances of the death of any person ~~are such as to~~ lead to suspicion that the person died ~~he came to his death~~ by unlawful means;

(5) ~~5-~~ When any person commits suicide, or the circumstances of the person's ~~his~~ death ~~are such as to~~ lead to suspicion that the person ~~he~~ committed suicide;

(6) ~~6-~~ When a person dies who has not ~~without having~~ been attended during the preceding year by a duly licensed and practicing physician~~;~~ ~~and the local health officer or registrar required to report the cause of death under Section 193.005, Health and Safety Code, does not know the cause of death. When the local health officer or registrar of vital statistics whose duty it is to~~

~~certify the cause of death does not know the cause of death, he shall so notify the medical examiner of the county in which the death occurred and request an inquest];~~

(7) ~~[7-]~~ When the person is a child ~~[who is]~~ younger than six years of age and the death is reported under Chapter 264, Family Code; ~~[and]~~

(8) When an unidentified person dies; and

(9) ~~[8-]~~ When a person dies who has been attended immediately preceding the person's ~~[his]~~ death by a duly licensed and practicing physician or physicians~~[-]~~ and the ~~[such]~~ physician or physicians ~~[are not certain as to the cause of death and]~~ are unable to certify to a reasonable degree of medical probability [with certainty] the cause of death as required by Section 193.005 ~~[193.004]~~, Health and Safety Code.

(a-1) If a physician is unable to certify the cause of death to a reasonable degree of medical probability, [In case of such uncertainty] the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased ~~[shall have]~~ died, shall ~~[so]~~ report the inability to the medical examiner of the county in which the death occurred~~[-]~~ and request an inquest.

(a-2) If a medical examiner determines after performing an inquest that the death is due to natural causes and the deceased person was attended by a physician at the time of death or during the preceding year, the medical examiner may waive the medical examiner's authority to further investigate the case. If the medical examiner waives the authority to further investigate the case, the attending physician shall certify the cause of death.

(b) The inquests authorized and required by this Article shall be held by the chief medical examiner of the county in which the death occurred.

(c) In making such investigations and holding such inquests, the chief medical examiner or an authorized deputy medical examiner may administer oaths and take affidavits. In the absence of next of kin or legal representatives of the deceased, the chief medical examiner or authorized deputy medical examiner shall take charge of the body and all property found with it.

(d) A medical examiner may subpoena medical records, law enforcement records, or other types of records required to perform the duties imposed under this section.

SECTION _____. Section 6a, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 6a. ORGAN TRANSPLANT DONORS; NOTICE; INQUESTS.

(a) When death occurs to an individual designated a prospective organ donor for transplantation by a licensed physician under circumstances requiring the chief medical examiner of the county in which death occurred, or the chief medical examiner's authorized deputy medical examiner, to hold an inquest, the chief medical examiner, or a member of the chief medical examiner's [his] staff, shall [will] be [so] notified by the administrative head of the facility in which the prospective donor is located [transplantation is to be performed].

(b) When notified pursuant to Subsection (a) of this Section, the chief medical examiner or the chief medical examiner's deputy medical examiner shall perform an inquest on the deceased prospective organ donor.

(c) Subject to the procedures and requirements established by Section 693.002, Health and Safety Code, a medical examiner may:

(1) determine before or after the medical examiner examines the body of the deceased that the release of organs or tissues for transplant purposes will likely hinder the determination of the cause or manner of death or compromise an evidentiary aspect of the examination; and

(2) based on the determination, prohibit or limit the extent of the organ or tissue removal.

SECTION _____. Subsection (b), Section 7, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

(b) A person investigating ~~the [a]~~ death of an unidentified person [described by Subdivision 3(B) of Section 6(a)] shall report the death to the missing children and missing persons information clearinghouse of the Department of Public Safety and the national crime information center not later than the 10th working day after the date the investigation began.

SECTION _____. Section 8, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 8. REMOVAL OF BODIES. When any death under circumstances set out in Section 6 of this Article occurs [shall have occurred], the body shall not be disturbed or removed from the position in which it is found by any person without authorization from the chief medical examiner or an authorized deputy medical examiner, except for the purpose of preserving the [such] body from loss or destruction or maintaining the flow of traffic on a highway, railroad, or airport.

SECTION _____. Section 9, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 9. AUTOPSY. (a) If the cause of death is [shall be] determined beyond a reasonable doubt as a result of the investigation, the medical examiner shall prepare [file] a report on the investigation [thereof] setting forth specifically the cause of death and file the report with the district attorney or criminal district attorney, or in a county in which there is no district attorney or criminal district attorney with the county attorney, of the county in which the death occurred.

(b) If in the opinion of the medical examiner an autopsy is necessary to determine the cause or manner of death, to better determine any pathological or injurious process present, or to obtain evidence for a potential legal proceeding or for identification purposes, or if the autopsy [such] is requested by the district attorney or criminal district attorney, or county attorney where there is no district attorney or criminal district attorney, the autopsy shall be [immediately] performed by the chief medical examiner or a duly authorized deputy medical examiner. In [those] cases where a complete autopsy is considered [deemed] unnecessary by the medical examiner to ascertain the cause of death, the medical examiner may perform a limited autopsy or external inspection of the body that

may include ~~[involving the]~~ taking ~~[of]~~ blood samples or any other samples of body fluids, tissues, or organs ~~[, in order]~~ to ascertain the cause of death or whether a crime has been committed.

(c) If ~~[he]~~ the identity ~~[ease]~~ of a body of a human being ~~[whose identity]~~ is unknown, the medical examiner may authorize the ~~[such]~~ investigative and laboratory tests and processes ~~[as are]~~ required to determine the ~~[its]~~ identity and ~~[as well as]~~ the cause of death.

(d) The extent of an autopsy is solely at the discretion of the medical examiner.

(e) A medical examiner is not required to notify or seek any approval from a deceased person's next of kin to perform an autopsy or any other type of examination related to an autopsy.

(f) On ~~[In performing an autopsy the medical examiner or authorized deputy may use the facilities of any city or county hospital within the county or such other facilities as are made available. Upon]~~ completion of the autopsy, the medical examiner shall prepare ~~[file]~~ a report setting forth the findings in detail and file the report with the office of the district attorney or criminal district attorney of the county, or if there is no district attorney or criminal district attorney, with the county attorney of the county.

(g) ~~(b)~~ A medical examination on an unidentified person shall include the following information to enable a timely and accurate identification of the person:

- (1) all available fingerprints and palm prints;
 - (2) dental charts and radiographs (X-rays) of the person's teeth;
 - (3) ~~[frontal and lateral]~~ facial photographs with scale indicated;
 - (4) notation ~~[and photographs, with scale indicated,]~~ of a significant scar, mark, tattoo, or item of clothing or other personal effect found with or near the body;
 - (5) notation of any identified antemortem medical conditions; and
 - (6) notation of observations pertinent to the estimation of time of death ~~[, and~~
- ~~[(7) precise documentation of the location of burial of the remains].~~

(h) ~~(e)~~ A medical examination on an unidentified person may include the following information to enable a timely and accurate identification of the person:

- (1) full body radiographs (X-rays); and
- (2) ~~[hair]~~ specimens from the body for DNA characterization and comparison ~~[with roots]~~.

(i) A medical examiner performing an autopsy of a deceased person may retain an organ or part of an organ if the medical examiner determines that retaining the organ or organ part is necessary for further examination and testing. After completing the examination or testing on the organ or organ part, the medical examiner shall:

- (1) retain the organ or organ part as required by law or by published professional or accreditation standards;
- (2) dispose of the organ or organ part as a hazardous biological specimen; or

(3) release the organ or organ part to the funeral establishment or crematory under Subsection (m)(2).

(j) A medical examiner may not be required to perform an autopsy on a person whose death resulted from a highly infectious disease or a chemical or radiological agent that presents a hazard to the medical examiner, the medical examiner's staff, or the public.

(k) Except as provided by Subsection (l), a medical examiner may not perform an autopsy on a deceased person if the medical examiner receives before the performance of the autopsy a notarized affidavit signed by the person before the person's death that states the person's objection for religious reasons to the performance of an autopsy on the person after the person's death.

(l) A medical examiner may perform an autopsy on a deceased person following receipt of a notarized affidavit under Subsection (k) if the chief medical examiner determines a compelling public necessity exists to perform the autopsy on the deceased person despite the objection.

(m) If the medical examiner performs the autopsy despite receipt of a notarized affidavit under Subsection (k), the medical examiner shall:

(1) use the least invasive means possible in the performance of the autopsy; and

(2) notwithstanding Subsection (i), release to the funeral establishment or crematory any organ or organ part retained by the medical examiner, except as required by law or by published professional or accreditation standards.

(n) In this section, "compelling public necessity" means:

(1) a criminal homicide investigation in which the deceased person is the victim;

(2) an immediate and substantial threat to public health;

(3) the death of a child under 12 years of age for which the cause of death is not apparent and neglect or a threat to public health was suspected;

(4) the cause or manner of death of the deceased person is not apparent after a diligent investigation by the medical examiner; or

(5) the autopsy is required by law.

SECTION _____. Section 10, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 10. DISINTERMENTS AND CREMATIONS. (a) The [When a body upon which an inquest ought to have been held has been interred, the] medical examiner may cause a body that has been interred and on which an inquest should have been held [it] to be disinterred for the purpose of holding the [such] inquest.

(b) A [Before any] body on[,- upon] which an inquest is authorized by [the provisions of] this Article may not[,- can] be [lawfully] cremated unless[;-] an examination is [autopsy shall be] performed on the body [thereon] as provided in this Article[;-] or a certificate that the examination [no autopsy] was not necessary is [shall be] furnished by the medical examiner.

(c) Before a ~~[any]~~ dead body may ~~[can]~~ be ~~[lawfully]~~ cremated, the owner or operator of the crematory shall demand and be furnished with a certificate, signed by the medical examiner of the county in which the death occurred stating ~~[showing]~~ that:

(1) an examination ~~[autopsy]~~ was performed on the [said] body; or

(2) an examination on the body ~~[that no autopsy thereon]~~ was not necessary.

(d) The ~~[It shall be the duty of the]~~ medical examiner shall ~~[to]~~ determine whether or not, from all the circumstances surrounding the death, an examination ~~[autopsy]~~ is necessary prior to issuing a certificate under ~~[the provisions of]~~ this section.

(e) The owner or operator of a crematory requesting authorization to cremate a body shall provide the medical examiner with a legible and properly completed death certificate.

(f) A medical examiner is not required to perform an examination ~~[No autopsy shall be required by the medical examiner]~~ as a prerequisite to cremation if the ~~[in case]~~ death was ~~[is]~~ caused by ~~[the]~~ pestilential or highly infectious diseases ~~[of Asiatic cholera, bubonic plague, typhus fever, or smallpox].~~

(g) All certificates furnished to the owner or operator of a crematory by any medical examiner, under the terms of this Article, shall be preserved by the [such] owner or operator until the second anniversary of ~~[such crematory for a period of two years from]~~ the date of the body's cremation ~~[of said body].~~

(h) A medical examiner is not required to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.

SECTION _____. Section 10a, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 10a. WAITING PERIOD BETWEEN DEATH AND CREMATION.

(a) The body of a deceased person shall not be cremated within 48 hours after the time of death as indicated on the regular death certificate, unless:

(1) the death certificate indicates death was caused by ~~[the]~~ pestilential or highly infectious diseases; ~~[of Asiatic cholera, bubonic plague, typhus fever, or smallpox,] or~~

(2) ~~[unless]~~ the time requirement is waived in writing by the county medical examiner or, in counties without ~~[not having]~~ a county medical examiner, a justice of the peace.

(b) In a public health disaster, the commissioner of state ~~[public]~~ health services may designate other communicable diseases for which cremation within 48 hours of the time of death is authorized.

SECTION _____. Section 11, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 11. RECORDS. (a) The medical examiner shall:

(1) keep full and complete records properly indexed that include; ~~[giving]~~ the name if known of every person whose death is investigated, the place where the body was found, the date, and the cause and manner of death;; ~~[;]~~ and

(2) ~~[shall]~~ issue a death certificate.

(b) The full report and detailed findings of the autopsy, if any, shall be a part of the record.

(c) ~~[Copies of all records shall promptly be delivered to the proper district, county, or criminal district attorney in any case where further investigation is advisable.]~~ The records are subject to required public disclosure in accordance with Chapter 552, Government Code, except that a photograph or x-ray of a body taken during a medical examiner investigation [an autopsy] is excepted from required public disclosure in accordance with Chapter 552, Government Code, but is subject to disclosure:

(1) under a subpoena or authority of other law; or

(2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement.

SECTION _____. Section 12, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 12. TRANSFER OF DUTIES OF JUSTICE OF PEACE. When the commissioners court of any county establishes ~~[shall establish]~~ the office of medical examiner, all powers and duties of justices of the peace in the ~~[such]~~ county relating to the investigation of deaths and inquests ~~[shall]~~ vest in the office of the medical examiner. Any subsequent General Law pertaining to the duties of justices of the peace in death investigations and inquests ~~[shall]~~ apply to the medical examiner in the county ~~[such counties as]~~ to the extent not inconsistent with this Article, and all laws or parts of laws otherwise in conflict with this Article ~~[herewith]~~ are ~~[hereby]~~ declared ~~[to be]~~ inapplicable to this Article.

SECTION _____. Subsection (a), Section 14, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

(a) A person commits an offense if the person knowingly violates this article or knowingly provides false information to a medical examiner in the performance by the medical examiner of an investigation under this article.

SECTION _____. Section 13, Article 49.25, Code of Criminal Procedure, is repealed.

SECTION _____. Article 49.25, Code of Criminal Procedure, is amended by adding Sections 13A and 13B to read as follows:

Sec. 13A. FEES. A medical examiner may charge reasonable fees for services provided by the medical examiner's office under this Article, including cremation approvals, court testimonies, consultations, and depositions.

Sec. 13B. EDUCATION AND RESEARCH. (a) A medical examiner may use for educational or teaching purposes photographs taken during a death investigation.

(b) A medical examiner's office may engage in educational and research activities that do not interfere with the performance of the duties imposed on the office under this Article.

SECTION _____. Notwithstanding Sections 2 and 3, Article 49.25, Code of Criminal Procedure, as amended by this Act, a person serving as the chief medical examiner or a deputy medical examiner for a medical examiners district or county in this state on the effective date of this Act is not required to be board

certified in anatomic and forensic pathology by the American Board of Pathology to continue to hold that position of chief medical examiner or deputy medical examiner for that district or county.

**HB 3864 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Smithee called up with senate amendments for consideration at this time,

HB 3864, A bill to be entitled An Act relating to the acceptance of certain donated building projects by the Parks and Wildlife Department.

Representative Smithee 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 3864**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3864**: Smithee, chair; Homer, Heflin, Swinford, and McCall.

LEAVE OF ABSENCE GRANTED

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

Geren on motion of Farabee.

**HB 3896 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Oliveira called up with senate amendments for consideration at this time,

HB 3896, A bill to be entitled An Act relating to the authority of the governing body of a municipality or the commissioners court of a county to enter into an ad valorem tax abatement agreement.

Representative Oliveira moved to concur in the senate amendments to **HB 3896**.

The motion to concur in the senate amendments to **HB 3896** prevailed by (Record 1502): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent;

King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Geren; Heflin; Kuempel; Lewis.

Absent — Burnam; Hernandez.

Senate Committee Substitute

CSHB 3896. A bill to be entitled An Act relating to the authority of the governing body of a municipality or the commissioners court of a county to enter into an ad valorem tax abatement agreement.

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

SECTION 1. Section 312.006, Tax Code, as amended by Chapters 1029 (**HB 1449**) and 1505 (**HB 1200**), Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 312.006. EXPIRATION DATE. If not continued in effect, this chapter expires September 1, 2019 [~~2009~~].

SECTION 2. Subchapter A, Chapter 312, Tax Code, is amended by adding Section 312.007 to read as follows:

Sec. 312.007. DEFERRAL OF COMMENCEMENT OF ABATEMENT PERIOD. (a) In this section, "abatement period" means the period during which all or a portion of the value of real property or tangible personal property that is the subject of a tax abatement agreement is exempt from taxation.

(b) Notwithstanding any other provision of this chapter, the governing body of the taxing unit granting the abatement and the owner of the property that is the subject of the agreement may agree to defer the commencement of the abatement period until a date that is subsequent to the date the agreement is entered into, except that the duration of an abatement period may not exceed 10 years.

SECTION 3. Section 312.402, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) The commissioners court may execute a tax abatement agreement with the owner of taxable real property located in a reinvestment zone designated under this subchapter or with the owner of tangible personal property located on real property in a reinvestment zone to exempt from taxation all or a portion of the value of the real property, all or a portion of the value of the tangible personal property located on the real property, or all or a portion of the value of both[-The court may execute a tax abatement agreement with the owner of a leasehold interest in tax exempt real property or leasehold interests or improvements on tax exempt real property that is located in a reinvestment zone designated under

~~this subchapter to exempt a portion of the value of tangible personal property or leasehold interests or improvements on tax-exempt real property located on the real property. The execution, duration, and other terms of an agreement made under this section are governed by the provisions of Sections 312.204, 312.205, and 312.211 applicable to a municipality. Section 312.2041 applies to an agreement made by a county under this section in the same manner as it applies to an agreement made by a municipality under Section 312.204 or 312.211.~~

(a-1) The commissioners court may execute a tax abatement agreement with the owner of a leasehold interest in tax-exempt real property located in a reinvestment zone designated under this subchapter to exempt all or a portion of the value of the leasehold interest in the real property. The court may execute a tax abatement agreement with the owner of tangible personal property or an improvement located on tax-exempt real property that is located in a designated reinvestment zone to exempt all or a portion of the value of the tangible personal property or improvement located on the real property.

(a-2) The execution, duration, and other terms of an agreement entered into under this section are governed by the provisions of Sections 312.204, 312.205, and 312.211 applicable to a municipality. Section 312.2041 applies to an agreement entered into under this section in the same manner as that section applies to an agreement entered into under Section 312.204 or 312.211.

(a-3) The commissioners court may execute a tax abatement agreement with a lessee of taxable real property located in a reinvestment zone designated under this subchapter to exempt from taxation all or a portion of the value of the fixtures, improvements, or other real property owned by the lessee and located on the property that is subject to the lease, all or a portion of the value of tangible personal property owned by the lessee and located on the real property that is the subject of the lease, or all or a portion of the value of both the fixtures, improvements, or other real property and the tangible personal property described by this subsection.

SECTION 4. Section 312.007, Tax Code, as added by this Act, is intended to clarify rather than change existing law.

SECTION 5. An ad valorem tax abatement agreement that was executed before the effective date of this Act by the commissioners court of a county and an owner of taxable real property or tangible personal property or an owner of a leasehold interest in tax-exempt real property, under Section 312.402, Tax Code, as that section existed before the effective date of this Act, that provides for an exemption from taxation of all or a portion of the value of real property, tangible personal property, or both, or of all or a portion of the value of a leasehold interest in tax-exempt real property, that is not invalid for a reason other than an inconsistency with Section 312.402, Tax Code, as that section existed before the effective date of this Act, and that is consistent with Section 312.402, Tax Code, as amended by this Act, is ratified and validated as of the date the agreement was executed.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 4009 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Weber called up with senate amendments for consideration at this time,

HB 4009, A bill to be entitled An Act relating to the establishment of a victim assistance program to provide services to domestic victims of trafficking.

Representative Weber 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 4009**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4009**: Weber, chair; Thompson, Anchia, Hunter, and Hughes.

**HJR 14 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Corte called up with senate amendments for consideration at this time,

HJR 14, A joint resolution proposing a constitutional amendment to limit the public taking of private property.

Representative Corte 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 **HJR 14**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HJR 14**: Corte, chair; Hilderbran, Bonnen, Peña, and Woolley.

LEAVE OF ABSENCE GRANTED

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

Gattis on motion of Crabb.

(Bohac in the chair)

**HB 339 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Phillips called up with senate amendments for consideration at this time,

HB 339, A bill to be entitled An Act relating to driver education and driver's licensing requirements for minors.

Representative Phillips moved to concur in the senate amendments to **HB 339**.

The motion to concur in the senate amendments to **HB 339** prevailed by (Record 1503): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Driver.

Senate Committee Substitute

CSHB 339, A bill to be entitled An Act relating to driver education and driver's licensing requirements for minors.

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

SECTION 1. This Act shall be known as the Less Tears More Years Act.

SECTION 2. Section 29.902, Education Code, is amended by adding Subsection (c) to read as follows:

(c) A school district shall consider offering a driver education and traffic safety course during each school year. If the district offers the course, the district may:

(1) conduct the course and charge a fee for the course in the amount determined by the agency to be comparable to the fee charged by a driver education school that holds a license under Chapter 1001; or

(2) contract with a driver education school that holds a license under Chapter 1001 to conduct the course.

SECTION 3. Section 1001.101, Education Code, is amended to read as follows:

Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND TEXTBOOKS. (a) The commissioner by rule shall establish or approve the curriculum and designate the textbooks to be used in a driver education course, including a driver education course conducted by a school district, driver education school, or parent or other individual under Section 521.205, Transportation Code.

(b) A driver education course must require the student to complete:

(1) 7 hours of behind-the-wheel instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code;

(2) 7 hours of observation instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code; and

(3) 20 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, in the presence of an adult who meets the requirements of Section 521.222(d)(2), Transportation Code.

SECTION 4. Subchapter F, Chapter 1001, Education Code, is amended by adding Section 1001.257 to read as follows:

Sec. 1001.257. DENIAL OF LICENSE. The commissioner may not issue or renew a driver education instructor license, including a temporary license, to a person who has six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, Transportation Code.

SECTION 5. Section 521.165, Transportation Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as provided by Subsection (d), in ~~the~~ issuing a driver's license for certain types of vehicles, the director may waive a driving test for an applicant who has successfully completed and passed the training and testing conducted by a person certified under Subsection (a).

(d) The director may not waive the driving test required by Section 521.161 for an applicant who is under 18 years of age.

SECTION 6. Section 521.204(a), Transportation Code, is amended to read as follows:

(a) The department may issue a Class C driver's license to an applicant under 18 years of age only if the applicant:

(1) is 16 years of age or older;

(2) has submitted to the department a driver education certificate issued under Section 9A, Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), that states that the person has completed and passed a driver education course approved by the department under Section 521.205 or by the Texas Education Agency;

(3) has obtained a high school diploma or its equivalent or is a student:

(A) enrolled in a public school, home school, or private school who attended school for at least 80 days in the fall or spring semester preceding the date of the driver's license application; or

(B) who has been enrolled for at least 45 days, and is enrolled as of the date of the application, in a program to prepare persons to pass the high school equivalency exam; ~~and~~

(4) has submitted to the department written parental or guardian permission for the department to access the applicant's school enrollment records maintained by the Texas Education Agency; and

(5) has passed the examination required by Section 521.161.

SECTION 7. Section 521.205(a), Transportation Code, is amended to read as follows:

(a) The department by rule shall provide for approval of a driver education course conducted by the parent, stepparent, foster parent, legal guardian, step-grandparent, or grandparent of a person who is required to complete a driver education course to obtain a Class C license. The rules must provide that:

(1) the person conducting the course possess a valid license for the preceding three years that ~~and the license~~ has not been suspended, revoked, or forfeited in the past three years for an offense that involves the operation of a motor vehicle ~~traffic related violations~~;

(2) the student driver spend a minimum number of hours in:

(A) classroom instruction; and

(B) behind-the-wheel instruction;

(3) the person conducting the course not be convicted of:

(A) criminally negligent homicide; or

(B) driving while intoxicated; ~~and~~

(4) the person conducting the course not be disabled because of mental illness; and

(5) the person conducting the course not have six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, at the time the person begins conducting the course.

SECTION 8. Subchapter J, Chapter 521, Transportation Code, is amended by adding Section 521.206 to read as follows:

Sec. 521.206. COLLISION RATE STATISTICS PUBLICATION. (a) The department shall collect data regarding collisions of students taught by public schools, driver education schools licensed under Chapter 1001, Education Code, and other entities that offer driver education courses to students for which a uniform certificate of course completion is issued. The collision rate is computed by determining the number of an entity's students who complete a driver education course during a state fiscal year, dividing that number by the number of

collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(b) The department shall collect data regarding the collision rate of students taught by course instructors approved under Section 521.205. The collision rate is computed by determining the number of students who completed a course approved under Section 521.205 during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(c) Not later than October 1 of each year, the department shall issue a publication listing the collision rate for students taught by each driver education entity and the collision rate for students taught by a course instructor approved under Section 521.205, noting the severity of collisions involving students of each entity and each type of course.

SECTION 9. Section 521.271, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Each original driver's license and provisional license expires as follows:

(1) except as provided by Section 521.2711, a driver's license expires on the first birthday of the license holder occurring after the sixth anniversary of the date of the application;

(2) a provisional license expires on ~~[the earlier of:~~
[~~(A)~~] the 18th birthday of the license holder; ~~or~~
[~~(B)~~] the first birthday of the license holder occurring after the date of the application];

(3) an instruction permit expires on the 18th birthday of the license holder ~~[second birthday of the license holder occurring after the date of the application];~~ and

(4) an occupational license expires on the first anniversary of the court order granting the license.

(a-1) The department and the Texas Education Agency shall enter into a memorandum of understanding under which the department may access the agency's electronic enrollment records to verify a student's enrollment in a public school. The memorandum of understanding must specify that the department may only access information necessary to verify the identity and enrollment status of a license renewal applicant and only if a parent or guardian of the applicant has provided written permission for the department to access that information. Nothing in this subsection may be construed to allow the release of information in violation of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

SECTION 10. Section 521.421(c), Transportation Code, is amended to read as follows:

(c) The fee for issuance ~~[or renewal]~~ of a provisional license or instruction permit is \$15 ~~[\$5]~~.

SECTION 11. Section 545.424, Transportation Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (f) to read as follows:

(a) A person under 18 years of age ~~[- during the six month period following issuance of an original Class A, B, or C driver's license to the person;]~~ may not operate a motor vehicle:

(1) during the 12-month period following issuance of an original Class A, B, or C driver's license to the person:

(A) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(B) ~~[(2)]~~ with more than one passenger in the vehicle under 21 years of age who is not a family member; or

(2) ~~[(2)]~~ while using a wireless communications device, except in case of emergency.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the 12-month ~~[six month]~~ period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped:

(1) after midnight and before 5 a.m. unless:

(A) the person is in sight of the person's parent or guardian; or

(B) the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(2) while using a wireless communications device, except in case of emergency.

(c) This section does not apply to:

(1) the holder of a hardship license; ~~[or]~~

(2) a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit; or

(3) a person licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device.

(f) In this section, "wireless communication device" means a handheld or hands-free device that uses commercial mobile service, as defined by 47 U.S.C. Section 332.

SECTION 12. (a) For the purpose of compiling data for the publication required by Section 521.206, Transportation Code, as added by this Act, the Texas Department of Public Safety shall determine the number of minor students taught by each driver education entity and the total number of minor students taught by courses approved under Section 521.205, Transportation Code, who become licensed during the state fiscal year beginning September 1, 2009, and ending August 31, 2010.

(b) The first publication of collision rate data compiled under Section 521.206, Transportation Code, as added by this Act, shall be issued not later than October 1, 2011.

SECTION 13. Not later than November 30, 2009, the Texas Department of Public Safety shall appoint a task force to review and make recommendations regarding the effectiveness of the materials provided by the Texas Education Agency for use in courses licensed under Chapter 1001, Education Code, or authorized by Section 521.205. The task force shall consist of the following members:

- (1) a representative of the Texas Department of Public Safety;
- (2) a representative of the Texas Education Agency;
- (3) a commercial provider of driver education courses;
- (4) a member of an interested group or association, as determined by the department; and
- (5) other appropriate members, as determined by the department.

SECTION 14. (a) Section 29.902(c), Education Code, as added by this Act, applies beginning with the 2010-2011 school year.

(b) Not later than January 1, 2010, the commissioner of education shall adopt rules as required by Section 1001.101, Education Code, as amended by this Act.

(c) Each driver education and training program approved by the Texas Education Agency under Chapter 1001, Education Code, must comply with the curriculum requirements of Section 1001.101, Education Code, as amended by this Act, not later than May 1, 2010.

(d) Section 521.165, Transportation Code, as amended by this Act, applies only to an application for a driver's license submitted on or after the effective date of this Act. An application for a driver's license submitted before the effective date of this Act is subject to the law in effect on the date the application was submitted, and that law is continued in effect for that purpose.

(e) The changes in law made by this Act to Section 521.205, Transportation Code, apply to a course approved under that section that begins on or after the effective date of this Act. A course beginning before the effective date of this Act is governed by the law in effect on the date the course was commenced, and that law is continued in effect for that purpose.

(f) The changes in law made by this Act to Sections 521.271, 521.421, and 545.424, Transportation Code, apply only to a person issued a driver's license on or after the effective date of this Act. A person issued a driver's license before the effective date of this Act is governed by the law in effect on the date the license was issued, and that law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 339** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 1001, Education Code, is amended by adding Section 1001.110 to read as follows:

Sec. 1001.110. INFORMATION RELATING TO DRIVING DISTRACTIONS. (a) The commissioner by rule shall require that information relating to the effect of using a wireless communication device or engaging in

other actions that may distract a driver on the safe or effective operation of a motor vehicle be included in the curriculum of each driver education course or driving safety course.

(b) In developing rules under this section, the commissioner shall consult with the department.

SECTION _____. As soon as practicable after the effective date of this Act, the commissioner of education shall adopt the rules required by Section 1001.110, Education Code, as added by this Act.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 339** (Senate committee printing) as follows:

(1) In SECTION 3 of the bill, strike the heading of Section 1001.101, Education Code, (page 1, lines 28 and 29) and substitute:

Sec. 1001.101. ADULT AND MINOR DRIVER EDUCATION COURSE CURRICULUM AND TEXTBOOKS.

(2) In SECTION 3 of the bill, in added Subsection (a), Section 1001.101, Education Code, between "course" and the comma (page 1, line 31) insert "for minors and adults".

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

SECTION _____. Subsection (d), Section 521.142, Transportation Code, is amended to read as follows:

(d) If the applicant is under 21 [~~25~~] years of age, the application must state whether the applicant has completed a driver education course required by Section 521.1601 [~~approved by the department~~].

SECTION _____. The heading to Subchapter H, Chapter 521, Transportation Code, is amended to read as follows:

SUBCHAPTER H. EDUCATION AND EXAMINATION REQUIREMENTS

SECTION _____. Subchapter H, Chapter 521, Transportation Code, is amended by adding Sections 521.1601 and 521.167 to read as follows:

Sec. 521.1601. DRIVER EDUCATION REQUIRED. The department may not issue a driver's license to a person who is younger than 21 years of age unless the person submits to the department a driver education certificate issued under Chapter 1001, Education Code, that states that the person has completed and passed:

(1) a driver education and traffic safety course approved by the Texas Education Agency under Section 29.902, Education Code, or a driver education course approved by that agency under Section 1001.101 of that code or approved by the department under Section 521.205; or

(2) if the person is 18 years of age or older, a driver education course approved by the Texas Education Agency under Section 1001.101 or 1001.1015, Education Code.

Sec. 521.167. WAIVER OF CERTAIN EDUCATION AND EXAMINATION REQUIREMENTS. A person who has completed and passed a driver education course approved by the Texas Education Agency under Section 1001.1015, Education Code, is not required to take the highway sign and traffic

law parts of the examination required under Section 521.161 if those parts have been successfully completed as determined by a licensed driver education instructor.

SECTION _____. Section 1001.004, Education Code, is amended to read as follows:

Sec. 1001.004. COST OF ADMINISTERING CHAPTER. (a) Except as provided by Subsection (b), the ~~The~~ cost of administering this chapter shall be included in the state budget allowance for the agency.

(b) The commissioner may charge a fee to each driver education school in an amount not to exceed the actual expense incurred in the regulation of driver education courses established under Section 1001.1015.

SECTION _____. Subsection (a), Section 1001.055, Education Code, is amended to read as follows:

(a) The agency shall print and supply to each licensed or exempt driver education school driver education certificates to be used for certifying completion of an approved driver education course to satisfy the requirements of Sections ~~Section~~ 521.204(a)(2) and 521.1601, Transportation Code. The certificates must be numbered serially.

SECTION _____. Subchapter C, Chapter 1001, Education Code, is amended by adding Section 1001.1015 to read as follows:

Sec. 1001.1015. ADULT DRIVER EDUCATION COURSE CURRICULUM AND EDUCATIONAL MATERIALS. (a) The commissioner by rule shall establish the curriculum and designate the educational materials to be used in a driver education course exclusively for adults.

(b) A driver education course under Subsection (a) must:

(1) be a six-hour course; and

(2) include instruction in:

(A) alcohol and drug awareness;

(B) the traffic laws of this state;

(C) highway signs, signals, and markings that regulate, warn, or direct traffic; and

(D) the issues commonly associated with motor vehicle accidents, including poor decision-making, risk taking, impaired driving, distraction, speed, failure to use a safety belt, driving at night, failure to yield the right-of-way, and using a wireless communication device while operating a vehicle.

(c) A course approved under Subsection (a) may be offered as an online course.

(d) A driving safety course or a drug and alcohol driving awareness program may not be approved as a driver education course under Subsection (a).

SECTION _____. The changes in law made by Section 521.142, Transportation Code, as amended by this Act, and Sections 521.1601 and 521.167, Transportation Code, as added by this Act, apply to an application for the issuance of a driver's license filed on or after the effective date of this Act. An application for the issuance of a driver's license filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that law is continued in effect for that purpose.

**HB 281 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Anchia called up with senate amendments for consideration at this time,

HB 281, A bill to be entitled An Act relating to grants for school-based health centers and reports submitted by those centers.

Representative Anchia moved to concur in the senate amendments to **HB 281**.

The motion to concur in the senate amendments to **HB 281** prevailed by (Record 1504): 138 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Christian; Phillips.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Flores; McClendon; Strama.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1504. I intended to vote no.

Laubenberg

I was shown voting yes on Record No. 1504. I intended to vote no.

Paxton

Senate Committee Substitute

CSHB 281, A bill to be entitled An Act relating to grants for school-based health centers and reports submitted by those centers.

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

SECTION 1. Section 38.063, Education Code, is amended by amending Subsections (a), (b), (d), (e), (f), and (g) and adding Subsections (e-1) and (e-2) to read as follows:

(a) Subject to the availability of federal or state appropriated funds, the commissioner of state [public] health services shall administer a program under which grants are awarded to assist school districts and local health departments, hospitals, health care systems, universities, or nonprofit organizations that contract with school districts with the costs of ~~[operating]~~ school-based health centers in accordance with this section.

(b) The commissioner of state [public] health services, by rules adopted in accordance with this section, shall establish procedures for awarding grants. The rules must provide that:

(1) grants are awarded annually ~~[to school districts on an annual basis]~~ through a competitive process to:

(A) school districts; and

(B) local health departments, hospitals, health care systems, universities, or nonprofit organizations that have contracted with school districts to establish and operate school-based health centers;

(2) subject to the availability of federal or state appropriated funds, each grant is for a term of five years; and

(3) a preference is given to school-based health centers in school districts that are located in rural areas or that have low property wealth per student.

(d) A school district, local health department, hospital, health care system, university, or nonprofit organization may not receive more than \$250,000 per state fiscal biennium through grants awarded under this section.

(e) To be eligible to receive a grant, a school district, local health department, hospital, health care system, university, or nonprofit organization must provide matching funds in accordance with rules adopted under Subsection (b). The matching funds may be obtained from any source available to the district, local health department, hospital, health care system, university, or nonprofit organization, including in-kind contributions, community or foundation grants, individual contributions, and local governmental agency operating funds.

(e-1) A grant under this section may not be given to a nonprofit organization that offers reproductive services, contraceptive services, counseling, or referrals, or any other services that require a license under Chapter 245, Health and Safety Code, or that is affiliated with a nonprofit organization that is licensed under Chapter 245, Health and Safety Code.

(e-2) A school district, local health department, hospital, health care system, university, or nonprofit organization receiving a grant under this section may use the grant funds to:

(1) establish a new school-based health center;

(2) expand an existing school-based health center; or

(3) operate a school-based health center.

(f) The commissioner of state [public] health services shall adopt rules establishing standards for health care centers funded through grants that place primary emphasis on delivery of health services and secondary emphasis on population-based models that prevent emerging health threats.

(g) The commissioner of state [public] health services shall require client surveys to be conducted in school-based health centers funded through grants awarded under this section~~], and the results of those surveys must be included in the annual report required under Section 38.064].~~

SECTION 2. Section 38.064, Education Code, is amended to read as follows:

Sec. 38.064. REPORT TO LEGISLATURE. (a) Based on statistics obtained from every school-based health center in this state that receives funding through the Department of State Health Services, the Department of State Health Services [commissioner of public health] shall issue a biennial [an annual] report to the legislature about the relative efficacy of services delivered by the [school based health] centers during the preceding two years and any increased academic success of students at campuses served by those centers, with special emphasis on any:

(1) increased attendance, including attendance information regarding students with chronic illnesses;

(2) decreased drop-out rates;

(3) improved student health; [and]

(4) increased student immunization rates;

(5) increased student participation in preventive health measures, including routine physical examinations and checkups conducted in accordance with the Texas Health Steps program; and

(6) improved performance on student assessment instruments administered under Subchapter B, Chapter 39.

(b) The Department of State Health Services may modify any requirement imposed by Subsection (a) if necessary to comply with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) [In obtaining statistics for preparation of the report required by this section, the commissioner of public health shall ensure that data is collected for each county and aggregated appropriately according to geographical region].

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 431 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Lucio called up with senate amendments for consideration at this time,

HB 431, A bill to be entitled An Act relating to design, construction, and renovation standards for state buildings and facilities.

Representative Lucio moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 431**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 431**: Lucio, chair; Anchia, Keffer, Otto, and Maldonado.

**HB 51 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Branch called up with senate amendments for consideration at this time,

HB 51, A bill to be entitled An Act relating to funding and incentives to support emerging public research universities in developing and maintaining programs of the highest tier.

Representative Branch moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 51**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 51**: Branch, chair; McCall, Eiland, Cohen, and Madden.

**SB 2513 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Dunnam, the house granted the request of the senate for the appointment of a Conference Committee on **SB 2513**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 2513**: Dunnam, chair; Anderson, Farrar, S. Miller, and Veasey.

**HB 459 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Leibowitz called up with senate amendments for consideration at this time,

HB 459, A bill to be entitled An Act relating to county abatement and regulation of nuisances and certain massage parlors; providing civil and criminal penalties.

Representative Leibowitz 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 459**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 459**: Leibowitz, chair; T. King, Bohac, Walle, and Harless.

**HB 963 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Guillen called up with senate amendments for consideration at this time,

HB 963, A bill to be entitled An Act relating to a criminal history evaluation letter determining occupational license eligibility.

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 963**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 963**: Guillen, chair; Thompson, Gutierrez, Madden, and McReynolds.

**HB 1322 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 1322, A bill to be entitled An Act relating to the establishment of an online resource for teachers of students with special health needs.

Representative Hochberg 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 1322**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1322**: Hochberg, chair; Allen, Farias, Jackson, and Shelton.

**HB 2000 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative McCall called up with senate amendments for consideration at this time,

HB 2000, A bill to be entitled An Act relating to health benefit plan coverage for certain amino acid-based elemental formulas.

Representative McCall 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 2000**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2000**: McCall, chair; Madden, Bohac, S. King, and Pierson.

HB 2941 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Paxton called up with senate amendments for consideration at this time,

HB 2941, A bill to be entitled An Act relating to the disclosure of certain ad valorem tax appraisal information and other confidential information.

Representative Paxton moved to concur in the senate amendments to **HB 2941**.

The motion to concur in the senate amendments to **HB 2941** prevailed by (Record 1505): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Crownover; Farrar; Hamilton; Sheffield; Taylor.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2941** (Senate committee version) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 14), strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(2) In SECTION 1 of the bill, following proposed Section 552.148(d), Government Code (page 1, between lines 43 and 44), insert the following:

(e) This section applies to information described by Subsections (a), (c), and (d) and to an item of information or comparable sales data described by Subsection (b) only if the information, item of information, or comparable sales data relates to real property that is located in a county having a population of 20,000 or more.

**HB 3076 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Deshotel called up with senate amendments for consideration at this time,

HB 3076, A bill to be entitled An Act relating to a parenting and paternity awareness program used in the health curriculum for public schools.

Representative Deshotel 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 3076**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3076**: Deshotel, chair; Eissler, Allen, Patrick, and Hochberg.

**HB 3144 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gonzalez Toureilles called up with senate amendments for consideration at this time,

HB 3144, A bill to be entitled An Act relating to an exemption from the sales and use tax for parts for certain machinery and equipment used in agricultural operations and for aircraft used in connection with agriculture.

Representative Gonzalez Toureilles moved to concur in the senate amendments to **HB 3144**.

The motion to concur in the senate amendments to **HB 3144** prevailed by (Record 1506): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles;

Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Dutton; Farrar; Sheffield.

Senate Committee Substitute

CSHB 3144, A bill to be entitled An Act relating to an exemption from the sales and use tax for property used in agricultural operations and for aircraft used in connection with agriculture.

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

SECTION 1. Section 151.316(a), Tax Code, is amended to read as follows:

(a) The following items are exempted from the taxes imposed by this chapter:

- (1) horses, mules, and work animals;
- (2) animal life the products of which ordinarily constitute food for human consumption;
- (3) feed for farm and ranch animals;
- (4) feed for animals that are held for sale in the regular course of business;
- (5) seeds and annual plants the products of which:
 - (A) ordinarily constitute food for human consumption;
 - (B) are to be sold in the regular course of business; or
 - (C) are used to produce feed for animals exempted by this section;
- (6) fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:
 - (A) food for human consumption;
 - (B) feed for animal life; or
 - (C) other agricultural products to be sold in the regular course of business;
- (7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:
 - (A) food for human consumption;

- (B) grass;
- (C) feed for animal life; or
- (D) other agricultural products to be sold in the regular course of

business;

(8) machinery and equipment exclusively used in, and pollution control equipment required as a result of, the processing, packing, or marketing of agricultural products by an original producer at a location operated by the original producer for processing, packing, or marketing the producer's own products if:

(A) 50 percent or more of the products processed, packed, or marketed at or from the location are produced by the original producer and not purchased or acquired from others; and

(B) the producer does not process, pack, or market for consideration any agricultural products that belong to other persons in an amount greater than five percent of the total agricultural products processed, packed, or marketed by the producer; ~~and~~

(9) ice exclusively used by commercial fishing boats in the storing of aquatic species including but not limited to shrimp, other crustaceans, finfish, mollusks, and other similar creatures;

(10) tangible personal property, including a tire, sold or used to be installed as a component part of a motor vehicle, machinery, or other equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed or animal life; or

(D) other agricultural products to be sold in the regular course of

business;

(11) machinery and equipment exclusively used in an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3; and

(12) tangible personal property used for or incorporated into a structure that is used for the disposal of poultry carcasses in accordance with Section 26.303, Water Code.

SECTION 2. The change in law made by this Act by the amendment of Section 151.316(a), Tax Code, does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. The changes in law made by this Act to Section 151.328, Tax Code, are a clarification of existing law and do not imply that the former law may be construed as inconsistent with the law as amended by this Act.

SECTION 4. This Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3144** (Senate committee printing), on page 2 line 14, by striking "used for or".

**HB 3220 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hancock called up with senate amendments for consideration at this time,

HB 3220, A bill to be entitled An Act relating to the applicability of certain laws to open-enrollment charter schools.

Representative Hancock 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 3220**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3220**: Hancock, chair; Jackson, Eissler, Dutton, and Lucio.

**SB 726 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hughes, the house granted the request of the senate for the appointment of a Conference Committee on **SB 726**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 726**: Hughes, chair; Bolton, Hopson, Pitts, and Orr.

**HB 3480 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Truitt called up with senate amendments for consideration at this time,

HB 3480, A bill to be entitled An Act relating to certain investment products made available to certain public school employees and the companies authorized to provide those products; providing civil penalties.

Representative Truitt moved to concur in the senate amendments to **HB 3480**.

The motion to concur in the senate amendments to **HB 3480** prevailed by (Record 1507): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Cohen; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.;

Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Christian; Coleman; Cook; Dutton; Hughes; McCall; Sheffield.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3480** (committee printing) as follows and adjust accordingly:

1) Page 3, line 16 after "revoked", insert the following: without first providing the employee with notice in writing that:

(A) indicates the reason the subject of the salary reduction agreement is no longer an eligible qualified investment or why certification has been denied, suspended, or revoked; and

(B) clearly states that by signing the notice the employee is agreeing to enter into or continue the salary reduction agreement

2) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION ____ . Chapter 22 (**SB 17**), Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), is amended by adding Sections 9A and 9B to read as follows:

Sec. 9A. A person, other than an employee of an educational institution, or an affiliate of the person may not enter into or renew a contract under which the person is to provide services for or administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986, unless the person:

(1) holds a license or certificate of authority issued by the Texas Department of Insurance;

(2) is registered as a securities dealer or agent or investment advisor with the State Securities Board; or

(3) is a financial institution that:

(A) is authorized by state or federal law to exercise fiduciary powers; and

(B) has its main office, a branch office, or a trust office in this state.

Sec. 9B. (a) This section applies to an entity under this Act that enters into a contract with an educational institution to administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986.

(b) If a person described by Subsection (a) holds a meeting at which qualified investment products will be marketed to employees of the educational institution, the person must provide representatives of other companies certified to the retirement system under Section 5 or 8 of this Act an opportunity to attend and market their qualified investment products at the meeting.

MESSAGE FROM THE SENATE

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

HB 3876 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Phillips called up with senate amendments for consideration at this time,

HB 3876, A bill to be entitled An Act relating to certain enforcement actions alleging the failure to pay child support.

Representative Phillips 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 3876**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3876**: Phillips, chair; Lewis, Hughes, Hodge, and Peña.

HB 4244 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Hochberg called up with senate amendments for consideration at this time,

HB 4244, A bill to be entitled An Act relating to resident tuition rates for certain competitive scholarship recipients at public institutions of higher education.

Representative Hochberg 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 4244**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4244**: Hochberg, chair; Morrison, Aycock, Villarreal, and S. King.

**HJR 36 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Otto called up with senate amendments for consideration at this time,

HJR 36, A joint resolution proposing a constitutional amendment authorizing the legislature to provide for the ad valorem taxation of a residence homestead solely on the basis of the property's value as a residence homestead; and authorizing the legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations.

Representative Otto moved to concur in the senate amendments to **HJR 36**.

The motion to concur in the senate amendments to **HJR 36** prevailed by (Record 1508): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Ayccock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Veasey.

STATEMENT OF VOTE

When Record No. 1508 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

Senate Committee Substitute

HJR 36, A joint resolution proposing a constitutional amendment authorizing the legislature to provide for the ad valorem taxation of a residence homestead solely on the basis of the property's value as a residence homestead;

authorizing the legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations; and authorizing the legislature to provide for the administration and enforcement of uniform standards and procedures for appraisal of property for ad valorem tax purposes.

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

ARTICLE 1. APPRAISAL OF RESIDENCE HOMESTEADS

SECTION 1.01. Section 1, Article VIII, Texas Constitution, is amended by adding Subsection (j) to read as follows:

(j) The Legislature by general law may provide for the taxation of real property that is the residence homestead of the property owner solely on the basis of the property's value as a residence homestead, regardless of whether the residential use of the property by the owner is considered to be the highest and best use of the property.

SECTION 1.02. The constitutional amendment proposed by this article shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the legislature to provide for the ad valorem taxation of a residence homestead solely on the basis of the property's value as a residence homestead."

ARTICLE 2. CONSOLIDATED BOARDS OF EQUALIZATION

SECTION 2.01. Section 18(c), Article VIII, Texas Constitution, is amended to read as follows:

(c) The Legislature, by general law, shall provide for a single board of equalization for each appraisal entity consisting of qualified persons residing within the territory appraised by that entity. The Legislature, by general law, may authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations. Members of a ~~the~~ board of equalization may not be elected officials of a ~~the~~ county or of the governing body of a taxing unit.

SECTION 2.02. The constitutional amendment proposed by this article shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the legislature to authorize a single board of equalization for two or more adjoining appraisal entities that elect to provide for consolidated equalizations."

ARTICLE 3. UNIFORM APPRAISAL STANDARDS AND PROCEDURES

SECTION 3.01. Section 23(b), Article VIII, Texas Constitution, is amended to read as follows:

(b) Administrative and judicial enforcement of uniform standards and procedures for appraisal of property for ad valorem tax purposes shall be ~~as~~ prescribed by general law ~~[, shall originate in the county where the tax is imposed, except that the legislature may provide by general law for political subdivisions with boundaries extending outside the county].~~

SECTION 3.02. The constitutional amendment proposed by this article shall be submitted to the voters at an election to be held November 3, 2009. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing for uniform standards and procedures for the appraisal of property for ad valorem tax purposes."

HB 3479 - VOTE RECONSIDERED

Representative Gallego moved to reconsider the vote by which the house concurred in the senate amendments to **HB 3479**.

The motion to reconsider prevailed.

**HB 3479 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

HB 3479, A bill to be entitled An Act relating to filing of instruments conveying real property in certain counties.

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3479**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3479**: Gallego, chair; Christian, Castro, Herrero, and Chisum.

**HB 756 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Martinez Fischer called up with senate amendments for consideration at this time,

HB 756, A bill to be entitled An Act relating to the making or acceptance of political contributions in a building owned by or leased to the state.

Representative Martinez Fischer 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 756**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 756**: Martinez Fischer, chair; Anchia, Laubenberg, Corte, and Gutierrez.

**HB 451 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Allen called up with senate amendments for consideration at this time,

HB 451, A bill to be entitled An Act relating to health benefit plan coverage for autism spectrum disorder.

Representative Allen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 451**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 451**: Allen, chair; Bolton, Leibowitz, Cohen, and Herrero.

**HB 1218 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative D. Howard called up with senate amendments for consideration at this time,

HB 1218, A bill to be entitled An Act relating to a pilot project to exchange secure electronic health information between the Health and Human Services Commission and local or regional health information exchanges.

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 1218**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1218**: D. Howard, chair; Kolkhorst, Coleman, J. Davis, and Rose.

**HB 2161 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative S. Turner called up with senate amendments for consideration at this time,

HB 2161, A bill to be entitled An Act relating to the issuance of a personal identification certificate to present or former inmates of the Texas Department of Criminal Justice.

Representative S. Turner moved to concur in the senate amendments to **HB 2161**.

The motion to concur in the senate amendments to **HB 2161** prevailed by (Record 1509): 120 Yeas, 23 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Crabb; Craddick; Creighton; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Fletcher; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Harless; Harper-Brown;

Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Keffer; Kent; King, P.; King, S.; King, T.; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Anderson; Aycock; Button; Chisum; Christian; Cook; Corte; Darby; Elkins; Flynn; Hancock; Hardcastle; Howard, C.; Jackson; Jones; Kleinschmidt; Merritt; Orr; Phillips; Riddle; Sheffield; Smith, W.; Weber.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1509. I intended to vote no.

Branch

I was shown voting yes on Record No. 1509. I intended to vote no.

D. Miller

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2161** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2161** (engrossed version) as follows:

(1) In SECTION 2 of the bill, added Section 501.0165(c), Government Code (page 2, line 20), after the period, add "The memorandum of understanding must require the Department of State Health Services to electronically verify the birth record of an inmate whose name and any other personal information is provided by the department and to electronically report the recorded filing information to the Department of Public Safety to validate the identity of an inmate under this section.".

(2) In SECTION 2 of the bill, added Section 501.0165(d), Government Code (page 2, line 22), strike "any" and substitute "the actual".

(3) In SECTION 2 of the bill, in added Section 501.0165(d), Government Code (page 2, line 24), after the period add "The department may charge an inmate for the actual costs incurred under this section or the fees required by Section 521.421, Transportation Code.".

(4) Insert the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION _____. Section 521.001(a), Transportation Code, is amended by amending Subsection (1) and adding Subsections (1-a) and (7-a) to read as follows:

(1) "Correctional facility" means:

(A) a place described by Section 1.07(a)(14), Penal Code; or

(B) a secure correctional facility or secure detention facility, as

defined by Section 51.02, Family Code.

(1-a) "Department" means the Department of Public Safety.

(7-a) "Parole facility" means a place described by Section 508.118 or 508.119, Government Code.

SECTION _____. Section 521.101, Transportation Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) A personal identification certificate issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

SECTION _____. Section 521.271, Transportation Code, is amended to read as follows:

Sec. 521.271. LICENSE EXPIRATION. (a) Each original driver's license and provisional license expires as follows:

(1) except as provided by Section 521.2711, a driver's license expires on the first birthday of the license holder occurring after the sixth anniversary of the date of the application;

(2) a provisional license expires on the earlier of:

(A) the 18th birthday of the license holder; or

(B) the first birthday of the license holder occurring after the date of the application;

(3) an instruction permit expires on the second birthday of the license holder occurring after the date of the application; ~~and~~

(4) an occupational license expires on the first anniversary of the court order granting the license; and

(5) unless an earlier date is otherwise provided, a driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

(b) Except as provided by Section 521.2711, a driver's license that is renewed expires on the earlier of:

(1) the sixth anniversary of the expiration date before renewal; or

(2) for a renewal driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility, the first birthday of the license holder occurring after the first anniversary of the date of issuance unless an earlier date is otherwise provided.

SECTION _____. Section 521.421, Transportation Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) The fee for a personal identification certificate issued under Section 501.0165, Government Code, is \$5.

(a-2) Except as provided by Subsection (a-1), the department by rule shall establish the fee for a personal identification certificate or driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility.

SECTION _____. Section 522.051, Transportation Code, is amended by adding Subsection (g) to read as follows:

(g) A commercial driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance. The department by rule shall establish the fee for a commercial driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility.

SECTION _____. Section 522.052, Transportation Code, is amended by adding Subsection (h) to read as follows:

(h) A renewal commercial driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

HB 3186 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative McCall called up with senate amendments for consideration at this time,

HB 3186, A bill to be entitled An Act relating to the collection and use of biometric identifiers.

Representative McCall moved to concur in the senate amendments to **HB 3186**.

The motion to concur in the senate amendments to **HB 3186** prevailed by (Record 1510): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson;

Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rose; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Vaught; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Crownover; Dukes; Rodriguez; Smith, T.; Turner, S.; Veasey; Villarreal.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3186** (senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 503.001(c-1), Business & Commerce Code (page 1, line 37), between "individual" and "is", insert "captured for a commercial purpose".

(2) In SECTION 1 of the bill, in added Section 503.001(c-2), Business & Commerce Code (page 1, line 45), between "identifier" and "has", insert "captured for a commercial purpose".

HB 103 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative F. Brown called up with senate amendments for consideration at this time,

HB 103, A bill to be entitled An Act relating to the operation of certain health benefit plans through student health centers of certain institutions of higher education.

Representative F. Brown moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 103**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 103**: F. Brown, chair; Branch, Villarreal, Patrick, and McClendon.

HB 3202 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Bonnen called up with senate amendments for consideration at this time,

HB 3202, A bill to be entitled An Act relating to authorizing the transfer of certain real property held by the Texas Department of Criminal Justice.

Representative Bonnen moved to concur in the senate amendments to **HB 3202**.

The motion to concur in the senate amendments to **HB 3202** prevailed by (Record 1511): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Dukes; Pierson.

Senate Committee Substitute

CSHB 3202, A bill to be entitled An Act relating to authorizing the transfer of certain real property held by the Texas Department of Criminal Justice.

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

SECTION 1. AUTHORIZATION FOR TRANSFER. (a) Not later than January 1, 2010, the Texas Department of Criminal Justice shall transfer to Brazoria County the real property specified in Section 2 of this Act.

(b) Consideration for the transfer authorized by Subsection (a) of this section shall be in the form of an agreement between the parties that requires Brazoria County to use the property in a manner that primarily promotes a public purpose that benefits the public interest of the state.

(c) If Brazoria County fails to use the property in the manner described by an agreement under Subsection (b) of this section for more than 180 continuous days, ownership of the property automatically reverts to the Texas Department of Criminal Justice.

(d) The Texas Department of Criminal Justice shall transfer the property to Brazoria County by an appropriate instrument of transfer. The instrument of transfer must include:

(1) a provision that:

(A) requires Brazoria County to use the property in a manner that primarily promotes a public purpose that benefits the public interest of the state; and

(B) indicates that ownership of the property automatically reverts to the Texas Department of Criminal Justice if Brazoria County no longer uses the property in a manner that primarily promotes a public purpose that benefits the public interest of the state; and

(2) a provision that:

(A) excludes from the transfer all mineral interests in and under the property; and

(B) prohibits any exploration, drilling, or other similar intrusion on the property related to mineral interests.

SECTION 2. PROPERTY DESCRIPTION. The Texas Department of Criminal Justice property to be transferred as provided by Section 1 of this Act consists of approximately 332 acres, more or less, being part of that 7,424.4 tract or parcel of land conveyed to the Prison Commission of the State of Texas as recorded in Book 145, Page 242 of the Deed Records Brazoria County, Texas, said 332 acres, more or less, being out of the Jared E. Groce grant in Brazoria County, Texas, near Angleton, Texas, bounded by the Brazoria County Airport property to the West and State Highway 288 to the East, the northern boundary being the northern boundary of the said 7,424.4 tract or parcel of land, the southern boundary being the northern boundary of a tract or parcel of land conveyed to RH Retrieve, Ltd. as recorded as Document # 2007018866 in the Official Public Records of Brazoria County, Texas.

SECTION 3. AUTHORIZATION FOR TRANSFER. (a) Not later than October 31, 2010, the Texas Department of Criminal Justice shall transfer to the City of Houston the real property specified in Section 4 of this Act, including any improvements affixed to the property.

(b) Consideration for the transfer authorized by Subsection (a) of this section shall be in the form of an agreement between the parties that requires the City of Houston to use the property in a manner that primarily promotes a public purpose that benefits the public interest of the state.

(c) If the City of Houston fails to use the property in the manner described by an agreement under Subsection (b) of this section for more than 180 continuous days, ownership of the property automatically reverts to the Texas Department of Criminal Justice.

(d) The Texas Department of Criminal Justice shall transfer the property to the City of Houston by an appropriate instrument of transfer. The instrument of transfer must include:

(1) a provision that:

(A) requires the City of Houston to use the property in a manner that primarily promotes a public purpose that benefits the public interest of the state; and

(B) indicates that ownership of the property automatically reverts to the Texas Department of Criminal Justice if the City of Houston no longer uses the property in a manner that primarily promotes a public purpose that benefits the public interest of the state; and

(2) a provision that:

(A) excludes from the transfer all mineral interests in and under the property; and

(B) prohibits any exploration, drilling, or other similar intrusion on the property related to mineral interests.

SECTION 4. PROPERTY DESCRIPTION. The Texas Department of Criminal Justice property to be transferred as provided by Section 3 of this Act is described as follows:

Being a tract or parcel containing 0.0204 acre (888 square feet) of land situated in the H. Reinerman Survey, Abstract Number 644, City of Houston, Harris County, Texas, being out of and a part of Tract 1, Block 2 of BROOKHOLLOW/HOUSTON, SECTION ONE, a subdivision of record in Volume 144, Page 79, Harris County Map Records (H.C.M.R.), out of and a part of Tract 2, Block 2 of BROOKHOLLOW/HOUSTON, SECTION TWO, a subdivision of record in Volume 148, Page 33, H.C.M.R., and being out of and a part of a called 197,847 square foot tract conveyed to the State of Texas Department of Public Safety (State of Texas) by deed recorded under Harris County Clerks File (H.C.C.F.) Number C580248, said 0.0204 acre tract being more particularly described as follows (bearings are oriented to the bearing base reflected in the record plat of said BROOKHOLLOW/HOUSTON, SECTION ONE):

BEGINNING at a mag nail found marking the easterly corner of a called 0.0650 acre tract conveyed to the City of Houston by deed recorded under H.C.C.F. Number X311063, said nail marking the northerly corner of the herein described tract;

THENCE, South 44°54'53" East, over and across said 197,847 square foot tract, a distance of 17.50 feet to a PK Nail set marking the easterly corner of the herein described tract

THENCE, South 45°05'07" West, over and across said 197,847 square foot tract, a distance of 50.75 feet to a PK Nail set marking the southerly corner of the herein described tract;

THENCE, North 44°54'53" West, over and across said 197,847 square foot tract, a distance of 17.50 feet to a Mag Nail found marking the southerly corner of said 0.0650 acre tract and marking the westerly corner of the herein described tract;

THENCE, North 45°05'07" East, along the southeasterly line of said 0.0650 acre tract, a distance of 50.75 feet to the POINT OF BEGINNING and containing 0.204 acre (888 square feet) of land.

SECTION 5. EFFECTIVE DATE. 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, 2009.

**HB 3612 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Otto called up with senate amendments for consideration at this time,

HB 3612, A bill to be entitled An Act relating to the creation of a pilot program that allows taxpayer appeals from certain appraisal review board determinations in certain counties to be heard by the State Office of Administrative Hearings.

Representative Otto 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 3612**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3612**: Otto, chair; Gattis, Quintanilla, Darby, and Heflin.

**HB 4275 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE INSTRUCTED
CONFERENCE COMMITTEE APPOINTED**

Representative Menendez called up with senate amendments for consideration at this time,

HB 4275, A bill to be entitled An Act relating to the application process and scoring for the low income housing tax credit program.

Representative Menendez 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 4275**.

The motion prevailed.

Representative S. Turner moved to instruct the Conference Committee on **HB 4275** to remove the substance of the Whitmire amendment in the text of the conference committee report on **HB 4275**.

The motion to instruct the conferees prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4275**: Menendez, chair; Thompson, Kent, Leibowitz, and Bohac.

**HB 3481 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Veasey called up with senate amendments for consideration at this time,

HB 3481, A bill to be entitled An Act relating to the right to an expunction of records and files relating to a person's arrest.

Representative Veasey moved to concur in the senate amendments to **HB 3481**.

The motion to concur in the senate amendments to **HB 3481** prevailed by (Record 1512): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Dutton; Flores; Hodge; McClendon; Orr.

Senate Committee Substitute

CSHB 3481, A bill to be entitled An Act relating to the right to an expunction of records and files relating to a person's arrest.

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

SECTION 1. Articles 55.01(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) ~~[of this section]~~; or

(B) convicted and subsequently pardoned; or

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending, provided that there was no court-ordered community supervision under Article 42.12 for the offense and that each of the following conditions exist]:

(A) an indictment or information charging the person with the commission of a felony or misdemeanor:

(i) was [has] not [been] presented against the person for the [an] offense at any time before the date of the petition for expunction, and more than 180 days have elapsed from the date of the person's arrest for the offense; [arising out of the transaction for which the person was arrested] or

(ii) regardless of whether there is no statute of limitations for the offense, was [if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been] dismissed or quashed and, if the offense was a felony, more than 180 days have elapsed from the date the indictment or information was dismissed or quashed[.] and[;]

~~[(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or~~

~~[(ii) the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void; or~~

(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired [the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

~~[(C) the person has not been convicted of a felony in the five years preceding the date of the arrest].~~

(b) Except as provided by Subsection (c) ~~[of this section]~~, a district court may expunge all records and files relating to the arrest of a person who has been arrested for commission of a felony or misdemeanor under the procedure established under Article 55.02 ~~[of this code]~~ if:

(1) the person is:

(A) ~~[(1)]~~ tried for the offense for which the person was arrested;

(B) ~~[(2)]~~ convicted of the offense; and

(C) ~~[(3)]~~ acquitted by the court of criminal appeals or, if the period for granting a petition for discretionary review has expired, by a court of appeals;
or

(2) an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the appropriate district court before the person is tried for the offense, regardless of whether an indictment or information has been presented against the person in relation to the offense.

SECTION 2. Article 55.01(a-1), Code of Criminal Procedure, is repealed.

SECTION 3. The change in law made by this Act applies to a person seeking expunction of records relating to an arrest regardless of whether the arrest occurred before, on, or after the effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3481** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, strike amended Article 55.01(a), Code of Criminal Procedure (page 1, lines 15-60), and substitute the following:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) ~~[of this section]~~, or

(B) convicted and subsequently:

(i) pardoned; or

(ii) otherwise granted relief on the basis of actual innocence with respect to that offense; or

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending, provided that there was no court-ordered community supervision under Article 42.12 for the offense and that ~~[each of the following conditions exist]~~:

(A) an indictment or information charging the person with the commission of a felony or misdemeanor:

(i) was ~~[an]~~ ~~[was]~~ ~~[has]~~ not ~~[been]~~ presented against the person for the offense at any time before the date of the petition for expunction, and more than 180 days have elapsed from the date of the person's arrest for the offense; ~~[arising out of the transaction for which the person was arrested]~~ or

(ii) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, was ~~[if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been]~~ dismissed or quashed and, if the offense was a felony, more than 180 days have elapsed from the date ~~the~~ indictment or information was dismissed or quashed ~~[;]~~ and ~~[;]~~

~~[(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or~~

~~[(ii)]~~ the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void; or

~~(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired [the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and]~~

~~[(C) the person has not been convicted of a felony in the five years preceeding the date of the arrest].~~

(2) Strike SECTION 3 of the bill (page 2, lines 18-21) and substitute the following appropriately numbered SECTION:

SECTION _____. This Act applies to an expunction of arrest records and files for any criminal offense:

(1) that occurred before, on, or after the effective date of this Act; or

(2) for which a pardon or other relief on the basis of actual innocence was granted before, on, or after the effective date of this Act.

(3) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Article 55.02, Code of Criminal Procedure, is amended by adding Section 1a to read as follows:

Sec. 1a. (a) The trial court presiding over a case in which a defendant is convicted and subsequently pardoned or otherwise subsequently granted relief on the basis of actual innocence of the offense of which the defendant was convicted, if the trial court is a district court, or a district court in the county in which the trial court is located, shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(B) not later than the 30th day after the date the court receives notice of the pardon or other grant of relief. The person shall provide to the district court all of the information required in a petition for expunction under Section 2(b).

(b) The attorney for the state shall prepare an expunction order under this section for the court's signature.

(c) The court shall include in an expunction order under this section a listing of each official, agency, or other entity of this state or political subdivision of this state and each private entity that there is reason to believe has any record or file that is subject to the order. The court shall also provide in an expunction order under this section that the Department of Public Safety and the Texas Department of Criminal Justice shall:

(1) return all records and files that are subject to the expunction order to the court; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(d) The court shall retain all records and files provided to the court under Subsection (c) until the statute of limitations has run for any civil case or proceed in relating the wrongful imprisonment of the person subject to the expunction order.

SECTION _____. Subsection (a), Section 2, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) A person who is entitled to expunction of records and files under Article 55.01(a)(2) [~~55.01(a)~~] or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

- (1) the petitioner was arrested; or
- (2) the offense was alleged to have occurred.

SECTION _____. Subsection (c), Section 3, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official or agency or other governmental entity of this state or of any political subdivision of this state named in [~~designated by the person who is the subject of~~] the order. The certified copy of the order must be sent by secure electronic mail, electronic transmission, or facsimile transmission or otherwise by certified mail, return receipt requested. In sending the order to a governmental entity named in the order [~~designated by the person~~], the clerk may elect to substitute hand delivery for certified mail under this subsection, but the clerk must receive a receipt for that hand-delivered order.

SECTION _____. Subsection (a), Section 5, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Subsections (f) and (g), on receipt of the order, each official or agency or other governmental entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or in cases other than those described by Section 1a, if removal is impracticable, obliterate all portions of the record or file that identify the person who is the subject of the order and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

(4) Renumber subsequent SECTIONS of the bill appropriately.

**HB 4424 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hernandez called up with senate amendments for consideration at this time,

HB 4424, A bill to be entitled An Act relating to operations fees and child support service fees assessed by domestic relations offices.

Representative Hernandez 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 4424**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4424**: Hernandez, chair; Lucio, Martinez, Hughes, and Creighton.

**HB 4445 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hernandez called up with senate amendments for consideration at this time,

HB 4445, A bill to be entitled An Act relating to the licensing and appointment of certain court interpreters.

Representative Hernandez moved to concur in the senate amendments to **HB 4445**.

The motion to concur in the senate amendments to **HB 4445** prevailed by (Record 1513): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Giddings; Gonzales; Gonzalez Toureilles; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Gallego; Guillen; Kolkhorst; Martinez; Peña; Raymond.

STATEMENTS OF VOTE

When Record No. 1513 was taken, I was in the house but away from my desk. I would have voted yes.

Gallego

When Record No. 1513 was taken, I was in the house but away from my desk. I would have voted yes.

Kolkhorst

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 4445** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 57.002, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A licensed court interpreter appointed by a court under Subsection (a) or (b) must hold a license that includes the appropriate designation under Section 57.043(d) that indicates the interpreter is permitted to interpret in that court.

SECTION 2. Section 57.043, Government Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) The executive director shall issue a court interpreter license to an applicant who:

(1) can interpret for an individual who can hear but who does not comprehend English or communicate in English;

(2) passes the appropriate examination prescribed by the executive director not earlier than two years before the date the executive director receives the applicant's application for a license; and

(3) possesses the other qualifications for the license required by this subchapter or by rules adopted under this subchapter.

(d) A license issued under this subchapter must include at least one of the following designations:

(1) a basic designation that permits the interpreter to interpret court proceedings in justice courts and municipal courts that are not municipal courts of record, other than a proceeding before the court in which the judge is acting as a magistrate; or

(2) a master designation that permits the interpreter to interpret court proceedings in all courts in this state, including justice courts and municipal courts described by Subdivision (1).

(e) In adopting rules relating to licensing under this subchapter, the commission shall, after consulting with the board, prescribe the minimum score an individual must achieve on an examination to receive a license that includes a basic designation under Subsection (d) and the minimum score an individual must achieve to receive a license that includes a master designation under that subsection.

SECTION 3. Section 57.046(a), Government Code, is amended to read as follows:

(a) The executive director shall prepare examinations under this subchapter that test an applicant's knowledge, skill, and efficiency in interpreting under this subchapter. The same examinations must be used for issuing a license that includes a basic designation or master designation as described by Section 57.043(d).

SECTION 4. (a) Notwithstanding Section 57.043(e), Government Code, as added by this Act, and not later than December 1, 2009, the executive director of the Texas Department of Licensing and Regulation shall issue to a person who, on September 1, 2009, holds a court interpreter license issued under Section

57.043(a), Government Code, a new court interpreter license that includes a master designation described by Section 57.043(d)(2), Government Code, as added by this Act.

(b) Section 57.043(d), Government Code, as added by this Act, applies only to a court interpreter license, other than a court interpreter license issued under Subsection (a) of this section, that is initially issued under Section 57.043(a), Government Code, on or after September 1, 2009, and to the subsequent renewal of that license.

(c) Section 57.002(b-1), Government Code, as added by this Act, applies only to the appointment of a licensed court interpreter on or after January 1, 2010. An appointment before that date is governed by the law in effect on the date the appointment was made, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2009.

HB 4730 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Craddick called up with senate amendments for consideration at this time,

HB 4730, A bill to be entitled An Act relating to the Martin County Hospital District.

Representative Craddick moved to concur in the senate amendments to **HB 4730**.

The motion to concur in the senate amendments to **HB 4730** prevailed by (Record 1514): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocck; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Gallego.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1514. I intended to vote no.

Aycock

I was shown voting yes on Record No. 1514. I intended to vote no.

Darby

When Record No. 1514 was taken, I was in the house but away from my desk. I would have voted yes.

Gallego

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 4730** (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering any subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) The board may employ physicians or other health care providers as the board considers necessary for the efficient operation of the district.

(b) The board shall adopt and maintain policies to ensure that a physician employed under this section exercises independent medical judgment when providing care to patients at the hospital operated by the district. The policies adopted under this subsection must include policies relating to:

- (1) credentialing;
- (2) quality assurance;
- (3) utilization review;
- (4) peer review;
- (5) medical decision-making; and
- (6) due process.

(c) A physician employed by the district under this section is subject to the same standards and procedures regarding credentialing, peer review, quality of care, and privileges as a physician not employed by the district.

(d) The district shall give equal consideration regarding the issuance of credentials and privileges to physicians employed by the hospital and physicians not employed by the district.

(e) A physician employed by the district shall retain independent medical judgment in providing care to patients at the hospital operated by the district and may not be penalized for reasonably advocating for patient care.

(f) This section may not be construed as altering, voiding, or prohibiting any relationship between a hospital and a physician, including a contract or arrangement with an approved nonprofit health corporation that is certified under Section 162.001(b), Occupations Code, and that holds a certificate of authority issued under Chapter 844, Insurance Code.

(g) A contract to employ a physician pursuant to this section shall not include a covenant not to compete upon termination of the contract.

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

**HJR 127 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative P. King called up with senate amendments for consideration at this time,

HJR 127, A joint resolution proposing a constitutional amendment to allow an officer or enlisted member of the Texas State Guard or other state militia or military force to hold other civil offices.

Representative P. King 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 **HJR 127**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HJR 127**: P. King, chair; Guillen, Peña, Flynn, and Vaught.

**HB 171 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Olivo called up with senate amendments for consideration at this time,

HB 171, A bill to be entitled An Act relating to consideration of mitigating factors in determining appropriate disciplinary action to be taken against a public school student.

Representative Olivo 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 171**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 171**: Olivo, chair; Eissler, Aycock, Patrick, and Allen.

**HB 537 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Berman called up with senate amendments for consideration at this time,

HB 537, A bill to be entitled An Act relating to the transportation of children in motor vehicles; creating an offense.

Representative Berman 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 537**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 537**: Berman, chair; Naishtat, Bolton, Weber, and Darby.

(Bonnen in the chair)

**HB 1041 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Parker called up with senate amendments for consideration at this time,

HB 1041, A bill to be entitled An Act relating to school district policies addressing sexual abuse of children.

Representative Parker 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 1041**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1041**: Parker, chair; Zerwas, Rose, Chavez, and Shelton.

**HB 1819 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Bohac called up with senate amendments for consideration at this time,

HB 1819, A bill to be entitled An Act relating to minimum habitability standards for multi-family rental buildings in certain municipalities; providing a penalty.

Representative Bohac moved to concur in the senate amendments to **HB 1819**.

The motion to concur in the senate amendments to **HB 1819** prevailed by (Record 1515): 124 Yeas, 12 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Castro; Chavez; Cohen; Coleman; Cook; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flores; Flynn; Frost; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer;

Kent; King, P.; King, S.; King, T.; Kleinschmidt; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley.

Nays — Button; Chisum; Christian; Craddick; Howard, C.; Kolkhorst; Laubenberg; Parker; Paxton; Phillips; Sheffield; Zerwas.

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

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Dutton; Farrar; Gallego; Miller, D.; Rios Ybarra; Veasey.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1515. I intended to vote no.

Callegari

When Record No. 1515 was taken, I was in the house but away from my desk. I would have voted yes.

Gallego

I was shown voting yes on Record No. 1515. I intended to vote no.

Kleinschmidt

When Record No. 1515 was taken, I was in the house but away from my desk. I would have voted no.

D. Miller

Senate Committee Substitute

CSHB 1819, A bill to be entitled An Act relating to minimum habitability standards for multi-family rental buildings in certain municipalities; providing a penalty.

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

SECTION 1. Subchapter G, Chapter 214, Local Government Code, is amended by adding Section 214.219 to read as follows:

Sec. 214.219. MINIMUM HABITABILITY STANDARDS FOR MULTI-FAMILY RENTAL BUILDINGS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 1.7 million or more. This section does not affect the authority of a municipality to which this section does not apply to enact or enforce laws relating to multi-family rental buildings.

(b) In this section:

(1) "Multi-family rental building" means a building that has three or more single-family residential units.

(2) "Unit" means one or more rooms rented for use as a permanent residence under a single lease to one or more tenants.

(c) A municipality shall adopt an ordinance to establish minimum habitability standards for multi-family rental buildings, including requiring maintenance of the proper operating condition of:

(1) foundations, stairways, walls, floors, ceilings, and all supporting structures at a level sufficient to bear reasonably imposed loads without material risk to tenants;

(2) foundations, walls, floors, ceilings, doors, and windows so that the interior of each unit is reasonably protected from adverse weather conditions;

(3) signs to identify each unit in a multi-family residential building and each building in a complex of multi-family residential buildings, sufficiently legible and conspicuous to allow emergency personnel to locate a unit at night;

(4) electric circuits and outlets in each unit sufficient to safely carry the electrical load imposed by the normal use of lighting and appliances;

(5) approved heating devices capable of maintaining a minimum inside temperature of 70 degrees Fahrenheit when the outside temperature is 20 degrees Fahrenheit;

(6) plumbing to supply each unit with potable water at adequate pressure;

(7) water heating devices to supply each unit with a reasonable amount of water at a minimum temperature of 120 degrees Fahrenheit;

(8) one or more toilets for each unit or group of units, located in a manner to afford privacy to the user and connected to a water source and to a public sanitary sewer system or to a septic system approved under Chapter 366, Health and Safety Code;

(9) security devices required by Section 92.153, Property Code; and

(10) swimming pools, if any, in a manner consistent with the requirements of Chapter 757, Health and Safety Code.

(d) The municipality shall designate in the ordinance the method for determining the devices that qualify as approved heating devices under Subsection (c)(5).

(e) A municipality may establish other standards as necessary to reduce material risks to the physical health or safety of tenants of multi-family rental buildings.

(f) A municipality shall establish a program for the inspection of multi-family rental buildings to determine if the buildings meet the minimum required habitability standards. The program shall include inspections under the direction of:

(1) the municipality's building official, as defined by the International Building Code or by a local amendment to the code under Section 214.216;

(2) the chief executive of the municipality's fire department; and

(3) the municipality's health authority, as defined by Section 121.021, Health and Safety Code.

(g) The owner of a multi-family rental building commits an offense if the owner violates an ordinance adopted under this section. An offense under this subsection is a Class C misdemeanor. Each day the violation continues constitutes a separate offense.

(h) A municipality may impose a civil penalty under Section 54.017 for a violation of this section.

SECTION 2. A municipality shall adopt the minimum habitability standards required under Section 214.219, Local Government Code, as added by this Act, not later than December 31, 2009.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 2)

Amend **CSHB 1819** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter G, Chapter 214, Local Government Code, is amended by adding Section 214.219 to read as follows:

Sec. 214.219. MINIMUM HABITABILITY STANDARDS FOR MULTI-FAMILY RENTAL BUILDINGS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 1.7 million or more. This section does not affect the authority of a municipality to which this section does not apply to enact or enforce laws relating to multi-family rental buildings.

(b) In this section:

(1) "Multi-family rental building" means a building that has three or more single-family residential units.

(2) "Unit" means one or more rooms rented for use as a permanent residence under a single lease to one or more tenants.

(c) A municipality shall adopt an ordinance to establish minimum habitability standards for multi-family rental buildings, including requiring maintenance of proper operating conditions.

(d) A municipality may establish other standards as necessary to reduce material risks to the physical health or safety of tenants of multi-family rental buildings.

(e) A municipality shall establish a program for the inspection of multi-family rental buildings to determine if the buildings meet the minimum required habitability standards. The program shall include inspections under the direction of:

(1) the municipality's building official, as defined by the International Building Code or by a local amendment to the code under Section 214.216;

(2) the chief executive of the municipality's fire department; and

(3) the municipality's health authority, as defined by Section 121.021, Health and Safety Code.

(f) A municipality may not order the closure of a multi-family rental building due to a violation of an ordinance adopted by the municipality relating to habitability unless the municipality makes a good faith effort to locate housing with comparable rental rates in the same school district for the residents displaced by the closure.

(g) The owner of a multi-family rental building commits an offense if the owner violates an ordinance adopted under this section. An offense under this subsection is a Class C misdemeanor. Each day the violation continues constitutes a separate offense.

(h) A municipality may impose a civil penalty under Section 54.017 for a violation of this section.

SECTION 2. A municipality shall adopt the minimum habitability standards required by Section 214.219, Local Government Code, as added by this Act, not later than December 31, 2010.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 2003 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative McCall called up with senate amendments for consideration at this time,

HB 2003, A bill to be entitled An Act relating to the creation of the offense of online harassment.

Representative McCall 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 2003**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2003**: McCall, chair; Castro, Madden, Pierson, and S. King.

**HB 2012 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Kent called up with senate amendments for consideration at this time,

HB 2012, A bill to be entitled An Act relating to the criminal consequences of operating without a valid driver's license a motor vehicle for which financial responsibility is not established.

Representative Kent 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 2012**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2012**: Vaught, chair; Kent, S. King, Gattis, and Bohac.

(Bohac in the chair)

**HB 2488 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 2488, A bill to be entitled An Act relating to open-source textbooks for public schools.

HB 2488 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOCHBERG: Thank you, Mr. Speaker and members. The senate added some good amendments, that were actually germane, dealing with the acquisition of content and certifying to make sure that all districts do indeed provide all necessary content to all school districts. For the purposes of legislative intent, I would like to indicate that Floor Amendment No. 1 does not require the purchase or provision of any instructional materials or content beyond what is required in current law.

REMARKS ORDERED PRINTED

Representative Hochberg moved to print his remarks.

The motion prevailed.

Representative Hochberg moved to concur in the senate amendments to **HB 2488**.

The motion to concur in the senate amendments to **HB 2488** prevailed by (Record 1516): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.;

Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Gattis; Geren; Heflin; Kuempel; Lewis.

Absent — Anchia; England; Legler; Oliveira.

Senate Committee Substitute

CSHB 2488, A bill to be entitled An Act relating to open-source textbooks for public schools.

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

SECTION 1. Section 31.002, Education Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Electronic textbook" means computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, on-line services, an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including an open-source textbook.

(1-a) "Open-source textbook" means an electronic textbook that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the textbook. The term includes a state-developed open-source textbook purchased under Subchapter B-1.

SECTION 2. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.0241 to read as follows:

Sec. 31.0241. ADOPTION OF OPEN-SOURCE TEXTBOOKS. (a) In this section, "eligible institution" means:

(1) a public, private, or independent college or university located in this state that spends at least \$75 million per year on research that may be reported under Section 61.051(h); or

(2) a public technical institute, as defined by Section 61.003.

(b) The State Board of Education shall place an open-source textbook for a secondary-level course submitted for adoption by an eligible institution on a conforming or nonconforming list if:

(1) the textbook is written, compiled, or edited primarily by faculty of the eligible institution who specialize in the subject area of the textbook;

(2) the eligible institution identifies each contributing author;

(3) the appropriate department of the eligible institution certifies the textbook for accuracy; and

(4) the eligible institution determines that the textbook qualifies for placement on the conforming or nonconforming list based on the extent to which the textbook covers the essential knowledge and skills identified under Section 28.002 for the subject for which the textbook is written and certifies that:

(A) for a textbook for a senior-level course, a student who successfully completes a course based on the textbook will be prepared, without remediation, for entry into the eligible institution's freshman-level course in that subject; or

(B) for a textbook for a junior-level and senior-level course, a student who successfully completes the junior-level course based on the textbook will be prepared for entry into the senior-level course.

(c) This section does not prohibit an eligible institution from submitting a textbook for placement on a conforming or nonconforming list through any other adoption process provided by this chapter.

SECTION 3. Section 31.026, Education Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to an open-source textbook.

SECTION 4. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.0261 to read as follows:

Sec. 31.0261. CONTRACTS FOR PRINTING OF OPEN-SOURCE TEXTBOOKS. The State Board of Education may execute a contract for the printing of an open-source textbook listed on the conforming or nonconforming list. The contract must allow a school district to requisition printed copies of an open-source textbook as provided by Section 31.103.

SECTION 5. Section 31.027, Education Code, is amended by adding Subsection (d) to read as follows:

(d) This section does not apply to an open-source textbook.

SECTION 6. Chapter 31, Education Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. STATE-DEVELOPED OPEN-SOURCE TEXTBOOKS

Sec. 31.071. PURCHASE AUTHORITY. (a) The commissioner may purchase state-developed open-source textbooks in accordance with this subchapter.

(b) The commissioner:

(1) shall purchase any state-developed open-source textbooks through a competitive process; and

(2) may purchase more than one state-developed open-source textbook for a subject or grade level.

(c) A state-developed open-source textbook must be irrevocably owned by or licensed to the state for use in the applicable subject or grade level. The state must have unlimited authority to modify, delete, combine, or add content to the textbook after purchase.

(d) The commissioner may issue a request for proposals for a state-developed open-source textbook:

(1) in accordance with the textbook review and adoption cycle under Section 31.022; or

(2) at any other time the commissioner determines that a need exists for additional textbook options.

(e) The costs of administering this subchapter and purchasing state-developed open-source textbooks shall be paid from the state textbook fund, as determined by the commissioner.

Sec. 31.072. CONTENT REQUIREMENTS. (a) A state-developed open-source textbook must:

(1) be evaluated by teachers or other experts, as determined by the commissioner, before purchase; and

(2) meet the requirements for inclusion on a conforming or nonconforming textbook list under Section 31.023.

(b) Following a curriculum revision by the State Board of Education, the commissioner shall require the revision of a state-developed open-source textbook relating to that curriculum. The commissioner may, at any time, require an additional revision of a state-developed open-source textbook or contract for ongoing revisions of a textbook for a period not to exceed the period under Section 31.022 for which a textbook for that subject and grade level may be adopted. The commissioner shall use a competitive process to request proposals to revise a state-developed open-source textbook under this subsection.

(c) The commissioner shall provide for special and bilingual state-developed open-source textbooks in the same manner provided under Sections 31.028 and 31.029.

Sec. 31.073. COST. (a) For purposes of this section, the commissioner shall determine the cost to a school district or open-enrollment charter school for a state-developed open-source textbook in an amount sufficient to cover state expenses associated with the textbook, including expenses incurred by the state in soliciting, evaluating, revising, and purchasing the textbook.

(b) If a school district or open-enrollment charter school selects a state-developed open-source textbook instead of another textbook adopted under Subchapter B, the difference between the cost determined by the commissioner under Subsection (a) and the maximum price for a textbook in the same subject area, as determined by the State Board of Education under Section 31.025, shall be allocated as follows:

(1) 50 percent of the amount shall be credited to the state textbook fund under Section 31.021 to be used for purposes of this subchapter; and

(2) 50 percent of the amount shall be credited to the school district or open-enrollment charter school for use as provided by Section 31.1011(c).

(c) Notwithstanding Section 31.022, a school district or open-enrollment charter school may adopt a state-developed open-source textbook at any time, regardless of the textbook review and adoption cycle under that section.

(d) A school district or open-enrollment charter school may not be charged for selection of a state-developed open-source textbook in addition to a textbook adopted under Subchapter B.

Sec. 31.074. DISTRIBUTION. (a) The commissioner shall provide for the distribution of state-developed open-source textbooks in a manner consistent with distribution of textbooks adopted under Subchapter B.

(b) The commissioner may use a competitive process to contract for printing or other reproduction of a state-developed open-source textbook on behalf of a school district or open-enrollment charter school. The commissioner may not require a school district or open-enrollment charter school to contract with a state-approved provider for the printing or reproduction of a state-developed open-source textbook.

Sec. 31.075. OWNERSHIP; LICENSING. (a) A state-developed open-source textbook is the property of the state.

(b) The commissioner shall provide a license to each public school in the state, including a school district, an open-enrollment charter school, and a state or local agency educating students in any grade from prekindergarten through high school, to use and reproduce a state-developed open-source textbook.

(c) The commissioner may provide a license to use a state-developed open-source textbook to an entity not listed in Subsection (b). In determining the cost of a license under this subsection, the commissioner shall seek, to the extent feasible, to recover the costs of developing, revising, and distributing state-developed open-source textbooks.

Sec. 31.076. RULES; FINALITY OF DECISIONS. (a) The commissioner may adopt rules necessary to implement this subchapter.

(b) A decision by the commissioner regarding the purchase, revision, cost, or distribution of a state-developed open-source textbook is final and may not be appealed.

Sec. 31.077. ADOPTION SCHEDULE. The commissioner shall develop a schedule for the adoption of state-developed open-source textbooks under this subchapter. In developing the adoption schedule under this section, the commissioner shall consider:

(1) the availability of funds;

(2) the existing textbook adoption cycles under Subchapter B; and

(3) the availability of textbooks for development or purchase by the

state.

SECTION 7. Section 31.103, Education Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) A school district or open-enrollment charter school that selects an open-source textbook shall requisition a sufficient number of printed copies for use by students unable to access the textbook electronically unless the district or school provides to each student:

(1) electronic access to the textbook at no cost to the student; or

(2) printed copies of the portion of the textbook that will be used in the

course.

(e) The commissioner may establish a list of equipment or devices that a school district or open-enrollment charter school may purchase using textbook credits or textbook credits in combination with other available funds to provide electronic access to open-source textbooks under Subsection (d)(1).

SECTION 8. Section 31.104, Education Code, is amended by amending Subsections (b) and (c) and adding Subsections (g) and (h) to read as follows:

(b) A school district or open-enrollment charter school may order replacements for textbooks that have been lost or damaged directly from:

- (1) the textbook depository; ~~or~~
- (2) the textbook publisher or manufacturer if the textbook publisher or manufacturer does not have a designated textbook depository in this state under Section 31.151(a)(6)(B); or
- (3) any source for a printed copy of an open-source textbook.

(c) Each textbook must state that the textbook is the property of or is licensed to this state, as appropriate. Each textbook, other than an electronic textbook or a printed copy of an open-source textbook, must be covered by the student under the direction of the teacher. Except as provided by Subsection (g), a ~~A~~ student must return all textbooks to the teacher at the end of the school year or when the student withdraws from school.

(g) At the end of the school year for which an open-source textbook that a school district or open-enrollment charter school does not intend to use for another student is distributed, the printed copy of the open-source textbook becomes the property of the student to whom it is distributed.

(h) This section does not apply to an electronic copy of an open-source textbook.

SECTION 9. Section 31.151(a), Education Code, is amended to read as follows:

(a) A publisher or manufacturer of textbooks:

(1) shall furnish any textbook the publisher or manufacturer offers in this state, at a price that does not exceed the lowest price at which the publisher offers that textbook for adoption or sale to any state, public school, or school district in the United States;

(2) shall automatically reduce the price of a textbook sold for use in a school district or open-enrollment charter school to the extent that the price is reduced elsewhere in the United States;

(3) shall provide any textbook or ancillary item free of charge in this state to the same extent that the publisher or manufacturer provides the textbook or ancillary item free of charge to any state, public school, or school district in the United States;

(4) shall guarantee that each copy of a textbook sold in this state is at least equal in quality to copies of that textbook sold elsewhere in the United States and is free from factual error;

(5) may not become associated or connected with, directly or indirectly, any combination in restraint of trade in textbooks or enter into any understanding or combination to control prices or restrict competition in the sale of textbooks for use in this state;

(6) shall:

(A) maintain a depository in this state or arrange with a depository in this state to receive and fill orders for textbooks, other than open-source textbooks, on-line textbooks, or on-line textbook components, consistent with State Board of Education rules; or

(B) deliver textbooks to a school district or open-enrollment charter school without a delivery charge to the school district, open-enrollment charter school, or state, if:

(i) the publisher or manufacturer does not maintain or arrange with a depository in this state under Paragraph (A) and the publisher's or manufacturer's textbooks and related products are warehoused or otherwise stored less than 300 miles from a border of this state; or

(ii) the textbooks are open-source textbooks, on-line textbooks, or on-line textbook components;

(7) shall, at the time an order for textbooks is acknowledged, provide to school districts or open-enrollment charter schools an accurate shipping date for textbooks that are back-ordered;

(8) shall guarantee delivery of textbooks at least 10 business days before the opening day of school of the year for which the textbooks are ordered if the textbooks are ordered by a date specified in the sales contract; and

(9) shall submit to the State Board of Education an affidavit certifying any textbook the publisher or manufacturer offers in this state to be free of factual errors at the time the publisher executes the contract required by Section 31.026.

SECTION 10. This Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2488** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 31, Education Code, is amended by adding Section 31.004 to read as follows:

Sec. 31.004. CERTIFICATION OF PROVISION OF TEXTBOOKS, ELECTRONIC TEXTBOOKS, AND INSTRUCTIONAL MATERIALS. Each school district and open-enrollment charter school shall annually certify to the State Board of Education and the commissioner that, for each subject in the required curriculum and each grade level, the district provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by the State Board of Education for that subject and grade level.

SECTION _____. To the extent of any conflict, Section 31.004, Education Code, as added by this Act, prevails over Section 31.004, Education Code, as added by **HB 4294**, Acts of the 81st Legislature, Regular Session, 2009, regardless of the relative dates of enactment.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 2488** (Senate committee report) as follows:

In SECTION 2 of the bill, on page 1, strike lines 32-35 and substitute "(1) a public institution of higher education that is designated as a research university or emerging research university under the higher education coordinating board's accountability system, or a private university located in this state that is a member of the Association of American Universities; or".

(Gattis and Geren now present)

**HB 3201 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative P. King called up with senate amendments for consideration at this time,

HB 3201, A bill to be entitled An Act relating to the designation of certain fire marshals and related officers, inspectors, and investigators and certain railroad peace officers as peace officers.

Representative P. King moved to concur in the senate amendments to **HB 3201**.

The motion to concur in the senate amendments to **HB 3201** prevailed by (Record 1517): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Giddings; Hartnett; Hodge; Howard, D.; McReynolds.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3201** as follows:

- (1) On page 2, lines 44-46, strike subsection (37).
- (2) On page 2, lines 47 - page 3, line 48, strike Section 2.

**HB 2954 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Coleman called up with senate amendments for consideration at this time,

HB 2954, A bill to be entitled An Act relating to authorizing an increase in the student center fee at Texas Southern University.

Representative Coleman moved to concur in the senate amendments to **HB 2954**.

The motion to concur in the senate amendments to **HB 2954** prevailed by (Record 1518): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycocck; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Allen; Edwards; Giddings; Thibaut.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2954** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, in the recital (page 1, line 12) strike "Subsections (a), (c), and (e)" and substitute "Subsections (a), (c), (d), and (e)".

(2) In SECTION 1 of the bill, immediately following amended Section 54.522(c), Education Code (page 1, between lines 34 and 35), insert the following:

(d) The board may not increase the amount of the student center fee [~~by more than 10 percent~~] in any academic year unless the amount of the increase is approved by a majority of the students voting in an election held for that purpose or by a majority of the student government of the institution.

HB 3526 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Callegari called up with senate amendments for consideration at this time,

HB 3526, A bill to be entitled An Act relating to the adoption of rules by the Texas Water Development Board regarding supplemental funding resulting from federal economic recovery legislation.

Representative Callegari moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3526**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3526**: Callegari, chair; Ritter, T. King, Creighton, and Lucio.

**HB 3689 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative McClendon called up with senate amendments for consideration at this time,

HB 3689, A bill to be entitled An Act relating to the functions and continuation of the Texas Youth Commission and the Texas Juvenile Probation Commission and to the functions of the Office of Independent Ombudsman for the Texas Youth Commission.

Representative McClendon 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 3689**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3689**: McClendon, chair; McReynolds, Kolkhorst, S. Turner, and Madden.

**HB 1030 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Callegari called up with senate amendments for consideration at this time,

HB 1030, A bill to be entitled An Act relating to the scheduling of hearings before appraisal review boards on property tax protests.

Representative Callegari moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1030**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1030**: Callegari, chair; C. Howard, S. Turner, Bohac, and Fletcher.

**HB 3653 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Marquez called up with senate amendments for consideration at this time,

HB 3653, A bill to be entitled An Act relating to the use of restraints to control the movement of pregnant women and female children confined in certain correctional facilities in this state.

Representative Marquez 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 3653**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3653**: Marquez, chair; S. King, Olivo, Guillen, and Strama.

**HB 2113 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Walle called up with senate amendments for consideration at this time,

HB 2113, A bill to be entitled An Act relating to the holidays for members of fire and police departments in certain municipalities.

Representative Walle moved to concur in the senate amendments to **HB 2113**.

The motion to concur in the senate amendments to **HB 2113** prevailed by (Record 1519): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios

Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Flores; Turner, S.

Senate Committee Substitute

CSHB 2113, A bill to be entitled An Act relating to the holidays for members of fire and police departments in certain municipalities.

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

SECTION 1. Section 142.0013 (c), Local Government Code, is amended to read as follows:

(c) A fire fighter and a police officer shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees, at least one of which shall be designated as September 11th.

SECTION 2. This Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2113** (Senate committee printing) by striking the words "~~and a police officer~~" from page 1, line 15, SECTION 1 of the bill and inserting the following new SECTION 2 as recited below and renumber existing SECTIONS of the bill accordingly:

SECTION 2. Section 142.0013, Local Government Code, is amended by adding new subsection (d) to read as follows:

(d) A police officer shall be granted the same number of vacation days and holidays, or days in lieu of vacation days or holidays, granted to other municipal employees.

HB 2504 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Kolkhorst called up with senate amendments for consideration at this time,

HB 2504, A bill to be entitled An Act relating to requiring a public institution of higher education to make available to the public on the institution's Internet website certain undergraduate course information.

Representative Kolkhorst moved to concur in the senate amendments to **HB 2504**.

The motion to concur in the senate amendments to **HB 2504** prevailed by (Record 1520): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver;

Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Hartnett; Patrick.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2504** (Senate committee report) in SECTION 1 of the bill in added Section 51.974, Education Code, (page 1, line 15), strike "Each institution of higher education" and substitute "Each institution of higher education, other than a medical and dental unit.".

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2504** (Senate committee report) in SECTION 1 of the bill in added Section 51.974, Education Code, (page 1, line 54), strike "fourth" and substitute "second".

Senate Amendment No. 3 (Senate Floor Amendment No. 3)

Amend **HB 2504** (Senate committee printing) in SECTION 1 of the bill, by adding the following and renumbering accordingly:

Institutions of higher education included in this section shall conduct end of course student evaluations of faculty and develop a plan to make evaluations available on the institution's website.

Senate Amendment No. 4 (Senate Floor Amendment No. 4)

Amend **HB 2504** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0777 to read as follows:

Sec. 61.0777. UNIFORM STANDARDS FOR PUBLICATION OF COST OF ATTENDANCE INFORMATION. (a) The board shall prescribe uniform standards intended to ensure that information regarding the cost of attendance at institutions of higher education and at private or independent institutions of

higher education approved under Subchapter F to receive tuition equalization grant funds is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families. In developing the standards, the board shall examine common and recommended practices regarding the publication of such information and shall solicit recommendations and comments from institutions of higher education and affected private or independent institutions of higher education.

(b) The uniform standards must:

(1) address all of the elements that constitute the total cost of attendance, including tuition and fees, room and board costs, book and supply costs, transportation costs, and other personal expenses; and

(2) prescribe model language to be used to describe each element of the cost of attendance.

(c) Each institution of higher education and each private or independent institution of higher education approved under Subchapter F to receive tuition equalization grant funds that offers an undergraduate degree or certificate program shall:

(1) prominently display on the institution's Internet website in accordance with the uniform standards prescribed under this section information regarding the cost of attendance at the institution by a full-time entering first-year student; and

(2) conform to the uniform standards in any electronic or printed materials intended to provide to prospective undergraduate students information regarding the cost of attendance at the institution.

(d) Each institutions of higher education shall consider the uniform standards prescribed under this section when providing information to the public or to prospective students regarding the cost of attendance at the institution by nonresident students, graduate students, or students enrolled in professional programs.

(e) The board shall prescribe requirements for an institution of higher education to provide on the institution's Internet website consumer-friendly and readily understandable information regarding student financial aid opportunities. The required information must be provided in connection with the information displayed under Subsection (c)(1) and must include a link to the primary federal student financial aid Internet website intended to assist persons applying for student financial aid.

(f) The board shall provide on the board's Internet website a program or similar tool that will compute for a person accessing the website the estimated net cost of attendance for a full-time entering first-year student attending an institution described by Subsection (c). The board shall require each of those institutions to provide the board with the information the board requires to administer this subsection.

(g) The board shall prescribe the initial standards and requirements under this section not later than January 1, 2010. Institutions of higher education shall comply with the standards and requirements not later than April 1, 2010. This subsection expires January 1, 2011.

(h) The board shall encourage private or independent institutions of higher education approved under Subchapter F to participate in the tuition equalization grant program to the greatest extent practicable, to prominently display the information described by Subsections (a) and (b) on their Internet websites in accordance with the standards established under those subsections, and to conform to those standards in electronic and printed materials intended to provide to prospective undergraduate students information regarding the cost of attendance at the institutions. The board shall also encourage those institution to include on their Internet websites a link t the primary federal student financial aid Internet website intended to assist persons applying for student financial aid.

(i) The board shall make the program or tool described by Subsection (f) available to private or independent institutions of higher education described by Subsection (h), and those institutions shall make that program or tool, or another program or tool that complies with the requirements for the net price calculator required under Section 132(h)(3), Higher Education Act of 1965 (20 U.S. C. Section 1015a) available on their Internet websites not later than the date by which the institutions are required by Section 132(h)(3) to make the net price calculator publicly available on their Internet websites.

Senate Amendment No. 5 (Senate Floor Amendment No. 5)

Amend **HB 2504** by adding the following sections to the bill, numbered appropriately, and by renumbering any subsequent sections of the bill accordingly:

SECTION _____. Subchapter E, Chapter 56, Education Code, is amended by adding Section 56.080 to read as follows:

Sec. 56.080. ONLINE LIST OF WORK-STUDY EMPLOYMENT OPPORTUNITIES. Each institution of higher education shall:

(1) establish and maintain an online list of work-study employment opportunities, sorted by department as appropriate, available to students on the institution's campus; and

(2) ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the institution's Internet website.

SECTION _____. As soon as practicable after the effective date of this Act, each public institution of higher education shall establish an online list of work-study employment opportunities for students as required by Section 56.080, Education Code, as added by this Act.

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, 2009.

HB 2525 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hughes called up with senate amendments for consideration at this time,

HB 2525, A bill to be entitled An Act relating to political expenditures made by a corporation or labor organization to finance the establishment and administration of a political committee.

Representative Hughes moved to concur in the senate amendments to **HB 2525**.

The motion to concur in the senate amendments to **HB 2525** prevailed by (Record 1521): 125 Yeas, 16 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycocock; Berman; Bolton; Bonnen; Branch; Callegari; Castro; Chavez; Cohen; Coleman; Cook; Corte; Crabb; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kolkhorst; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber.

Nays — Brown, B.; Brown, F.; Button; Chisum; Christian; Craddick; Hancock; Howard, C.; Kleinschmidt; Laubenberg; Legler; Madden; Parker; Paxton; Shelton; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Burnam; Deshotel; Woolley.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1521. I intended to vote no.

Fletcher

I was shown voting yes on Record No. 1521. I intended to vote no.

Flynn

I was shown voting yes on Record No. 1521. I intended to vote no.

Kolkhorst

I was shown voting no on Record No. 1521. I intended to vote yes.

Laubenberg

I was shown voting yes on Record No. 1521. I intended to vote no.

D. Miller

I was shown voting yes on Record No. 1521. I intended to vote no.

Riddle

When Record No. 1521 was taken, I was in the house but away from my desk. I would have voted no.

Woolley

Senate Committee Substitute

CSHB 2525, A bill to be entitled An Act relating to political expenditures made by a corporation or labor organization to finance the establishment and administration of a political committee.

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

SECTION 1. Section 253.100, Election Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) A corporation, acting alone or with one or more other corporations, may make one or more political expenditures to finance the establishment or administration of a general-purpose committee. In addition to any other expenditure that is considered permissible under this section, a corporation may make an expenditure for the maintenance and operation of a general-purpose committee, including an expenditure for:

(1) office space maintenance and repairs;
(2) telephone and Internet services;
(3) office equipment;
(4) utilities;
(5) general office and meeting supplies;
(6) salaries for routine clerical, data entry, and administrative assistance necessary for the proper administrative operation of the committee;

(7) legal and accounting fees for the committee's compliance with this title;

(8) routine administrative expenses incurred in establishing and administering a general-purpose political committee;

(9) management and supervision of the committee, including expenses incurred in holding meetings of the committee's governing body to interview candidates and make endorsements relating to the committee's support;

(10) the recording of committee decisions;

(11) expenses incurred in hosting candidate forums in which all candidates for a particular office in an election are invited to participate on the same terms; or

(12) expenses incurred in preparing and delivering committee contributions.

(c) A labor organization may engage in activity authorized for a corporation by this section [~~Subsections (a) and (b)~~]. For purposes of this section, the members of a labor organization are considered to be corporate stockholders.

(d) A corporation or labor organization may not make expenditures under this section for:

(1) political consulting to support or oppose a candidate;

- (2) telephoning or telephone banks to communicate with the public;
- (3) brochures and direct mail supporting or opposing a candidate;
- (4) partisan voter registration and get-out-the-vote drives;
- (5) political fund-raising other than from its stockholders or members, as applicable, or the families of its stockholders or members;
- (6) voter identification efforts, voter lists, or voter databases that include persons other than its stockholders or members, as applicable, or the families of its stockholders or members;
- (7) polling designed to support or oppose a candidate other than of its stockholders or members, as applicable, or the families of its stockholders or members; or
- (8) recruiting candidates.

(e) Subsection (d) does not apply to a corporation or labor organization making an expenditure to communicate with its stockholders or members, as applicable, or with the families of its stockholders or members as provided by Section 253.098.

SECTION 2. The change in law made by this Act applies only to a political expenditure made under Section 253.100, Election Code, as amended by this Act, on or after the effective date of this Act. A political expenditure made under Section 253.100, Election Code, before the effective date of this Act is governed by the law in effect at the time the expenditure is made, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

HB 2582 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Gonzalez Toureilles called up with senate amendments for consideration at this time,

HB 2582, A bill to be entitled An Act relating to the production and taxation of renewable diesel fuel.

Representative Gonzalez Toureilles 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 2582**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2582**: Gonzalez Toureilles, chair; Herrero, Alonzo, Hughes, and Swinford.

**HB 2656 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative D. Miller called up with senate amendments for consideration at this time,

HB 2656, A bill to be entitled An Act relating to the composition of the board of trustees of the Teacher Retirement System of Texas.

Representative D. Miller moved to concur in the senate amendments to **HB 2656**.

The motion to concur in the senate amendments to **HB 2656** prevailed by (Record 1522): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Burnam; Eiland; England; Madden; McCall.

STATEMENT OF VOTE

When Record No. 1522 was taken, I was in the house but away from my desk. I would have voted yes.

Madden

Senate Committee Substitute

CSHB 2656, A bill to be entitled An Act relating to the composition of the board of trustees of the Teacher Retirement System of Texas.

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

SECTION 1. Sections 825.002(a) and (d), Government Code, are amended to read as follows:

(a) The governor shall appoint, with the advice and consent of the senate and as provided by this section, eight ~~[seven]~~ members of the board of trustees.

(d) The governor shall appoint two members ~~[one member]~~ of the board from a slate of three former members of the retirement system who have retired and are receiving benefits from the retirement system and who have been nominated in accordance with Subsections (f) and (g) by the persons who have retired and are receiving benefits from the retirement system. The two members hold office for staggered terms.

SECTION 2. Section 825.003, Government Code, is amended to read as follows:

Sec. 825.003. TRUSTEES APPOINTED BY GOVERNOR FROM NOMINEES OF BOARD OF EDUCATION. The governor shall appoint one member ~~[two members]~~ of the board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. The member appointed under this subsection ~~[These members]~~ must be a person ~~[persons]~~ who has ~~[have]~~ demonstrated financial expertise, has ~~[have]~~ worked in private business or industry, and has ~~[have]~~ broad investment experience, preferably in investment of pension funds.

SECTION 3. Sections 825.010(a) and (c), Government Code, are amended to read as follows:

(a) It is a ground for removal from the board of trustees that a trustee:

(1) does not have at the time of taking office the qualifications required for the trustee's position;

(2) does not maintain during service on the board the qualifications required for the trustee's position;

(3) violates a prohibition established by Section 825.002(b) or 825.0032 applicable to the trustee;

(4) cannot because of illness or disability discharge the trustee's duties for a substantial part of the term for which the trustee is appointed; or

(5) is absent from more than half of the regularly scheduled board meetings that the person is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of trustees of the ground. The presiding officer shall then notify the governor ~~[appropriate appointing officer]~~ and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the board, who shall notify the governor ~~[appropriate appointing officer]~~ and the attorney general that a potential ground for removal exists.

SECTION 4. (a) This Act applies only to the appointment of a trustee of the board of trustees of the Teacher Retirement System of Texas that occurs on or after the effective date of this Act.

(b) A person who is serving as a trustee immediately before the effective date of this Act may complete the trustee's term of office, and the trustee's qualifications for serving as a trustee are governed by the law in effect immediately before the effective date of this Act until the date that trustee's term expires.

SECTION 5. This Act takes effect September 1, 2009.

**HB 2752 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Eiland called up with senate amendments for consideration at this time,

HB 2752, A bill to be entitled An Act relating to independent audits of insurer financial statements and insurer internal controls.

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 2752**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2752**: Eiland, chair; Smithee, Hancock, Taylor, and Martinez Fischer.

HB 2833 - MOTION TO CONCUR IN SENATE AMENDMENTS

Representative Marquez called up with senate amendments for consideration at this time,

HB 2833, A bill to be entitled An Act relating to authorizing certain counties to adopt a building code in their unincorporated areas; providing a penalty.

HB 2833 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE MARQUEZ: It is in my intent, the term "new residential construction," applies only to additional sites—built construction. "New residential construction" does not include any structure that is constructed pursuant to either Chapter 1201 of the Occupations Code, or modular home construction pursuant to Chapter 1202 of the Occupations Code, which are both already extensively regulated and preempted by federal and state law, as well as having specific dedicated state agencies to regulate and ensure compliance and consumer protection. Furthermore, it is not the purpose of this bill to supersede the state energy building code for residential construction any more than current law does.

REMARKS ORDERED PRINTED

Representative Marquez moved to print her remarks.

The motion prevailed.

REPRESENTATIVE BOLTON: This bill came through our County Affairs committee that we sit on, right?

MARQUEZ: Yes, ma'am.

BOLTON: The original purpose of the bill was because of concerns in your border county, right, with unincorporated areas?

MARQUEZ: Yes, ma'am. There was a concern that there were no standards for unincorporated areas when it came to single-family homes. We wanted to just allow there to be some oversight. Originally, we had that the county was going to oversee that particular ordinance—or those buildings—but then we moved it to—we substituted within our community and came up with a compromise to allow it to come under TRCC.

BOLTON: Right.

MARQUEZ: Well, as you know, within the senate, TRCC was going to be dissolved at the end of this year. So, this bill was a vehicle to make sure that we have some type of standard for homes in unincorporated areas.

BOLTON: So, with the pending demise—the end of TRCC—without this amendment onto your bill, there would be zero building codes for unincorporated areas, right?

MARQUEZ: Yes, ma'am. Unless this bill passes, there will be no inspections at all. That will lead to substandard housing all over the state.

BOLTON: So, your intent is not to increase the regulation, or the codes, for housing in the unincorporated areas. Your intent, with concurring with this amendment, is simply to keep some kind of codes in statute that impacts—that oversees housing in the unincorporated areas, right?

MARQUEZ: Yes, ma'am.

BOLTON: Because otherwise, if we don't get this language, which is the current code, onto your bill, then housing in the unincorporated areas—there would be no safety standards; there would be no engineering standards; there would be nothing to make sure that people weren't, just frankly, getting ripped off by disreputable builders. Is that correct?

MARQUEZ: Yes, ma'am. Just so that the membership knows, and for the sake of Ms. Riddle's earlier question, this bill has been vetted with the Texas Association of Builders and Texas Manufactured Housing, as well as the land developers. They are all for this, because this will avoid them being undercut by any type of competition—meaning fly-by-night construction or fly-by-night builders that come in to communities, build substandard homes, and then leave—not responsible for any type of inspection.

BOLTON: I have some information here that says that the Texas Association of Builders, the Conference of Urban Counties, the Texas Land Developers Association, the Texas Municipal League, as well as your fine county of El Paso County, all support concurring with this amendment on this piece of legislation. Is that correct?

MARQUEZ: Yes, ma'am.

REMARKS ORDERED PRINTED

Representative Bolton moved to print remarks between Representative Marquez and Representative Bolton.

The motion prevailed.

Representative Marquez moved to concur in the senate amendments to **HB 2833**.

The motion to concur in the senate amendments to **HB 2833** was withdrawn.

**HB 3628 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Jones called up with senate amendments for consideration at this time,

HB 3628, A bill to be entitled An Act relating to the date by which the executive director of the Texas Department of Licensing and Regulation must require compliance with certain elevator safety standards.

Representative Jones moved to concur in the senate amendments to **HB 3628**.

The motion to concur in the senate amendments to **HB 3628** prevailed by (Record 1523): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Aycock; Darby; Harless; Kent; Patrick; Veasey.

STATEMENT OF VOTE

When Record No. 1523 was taken, I was in the house but away from my desk. I would have voted yes.

Kent

Senate Committee Substitute

CSHB 3628, A bill to be entitled An Act relating to the date by which the executive director of the Texas Department of Licensing and Regulation must require compliance with certain elevator safety standards.

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

SECTION 1. Section 754.014(f), Health and Safety Code, is amended to read as follows:

(f) The executive director shall grant a delay until September 1, 2012 [2010], for compliance with the requirements for door restrictors or firefighter's service in the ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation and the equipment was not subsequently installed. This subsection expires October 1, 2012.

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, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 3628** (senate committee printing) by striking SECTION 1 of the bill, amending Section 754.014(f), Health and Safety Code (page 1, lines 14 through 21), and substituting the following:

SECTION 1. Section 754.014, Health and Safety Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) The executive director shall grant a delay until September 1, 2012 [2010], for compliance with the requirements for [~~door restrictors or~~] firefighter's service in the ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation and the equipment was not subsequently installed. This subsection expires October 1, 2012.

(f-1) The executive director shall grant a delay until September 1, 2010, for compliance with the requirements for door restrictors in the ASME Code A17.3. This subsection expires October 1, 2010.

HB 4294 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Branch called up with senate amendments for consideration at this time,

HB 4294, A bill to be entitled An Act relating to textbooks, electronic textbooks, instructional material, and technological equipment in public schools.

HB 4294 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CHISUM: Mr. Branch, I want to make sure we're not trying to diminish the existing powers of the SBOE. Would you mind if I asked you a couple of questions for legislative intent?

REPRESENTATIVE BRANCH: I'd be happy to answer any questions.

CHISUM: It's my understanding that it is not your intention to circumvent the SBOE's authority to approve the content of our textbooks. In fact, the notwithstanding clause ensures that there will be an SBOE approved textbook available for each student in each classroom across our state. Is that correct?

BRANCH: That is correct, the specific clause reads: "Notwithstanding any other provision of this chapter, a school district or open-enrollment charter school must purchase a classroom set of textbooks adopted by the State Board of Education under Section 31.023 or 31.035 for each subject and grade level in the foundation and enrichment curriculum." By this provision alone, the intent of the commissioner's list is clear. The commissioner's list is intended to supplement SBOE approved material, and could potentially include electronic versions of textbooks already reviewed and adopted by the SBOE.

CHISUM: What safeguards are built into this bill to ensure that the SBOE will continue to have the authority to review the content used to educate our kids in our classrooms?

BRANCH: Again, this bill is meant to allow districts to purchase materials to supplement the textbooks approved by the SBOE. The best example I can think of is using Rosetta Stone to supplement our approved Spanish textbooks. We have worked hard to develop a series of safeguards for the SBOE including: requiring the TEA commissioner to give SBOE ample time to comment on all materials before they are placed on the commissioner's list; and ensure SBOE maintains authority over TEKS development and review. The bill also includes verification language that requires districts to certify annually to the SBOE and the TEA commissioner that, for each subject in the required curriculum and in each grade level, the textbooks purchased cover all elements of the essential knowledge and skills adopted by the SBOE.

CHISUM: Is it your intention for districts that would like to utilize this option in the next school year be able to do so?

BRANCH: Absolutely. The intent of this legislation is for the commissioner to adopt an initial list so that electronic textbook and instructional materials on the list will be available for requisition by school districts and open-enrollment charter schools for the 2010-2011 school year, in concert with Proclamation 2010.

CHISUM: Mr. Branch, will you help me next session if indeed we find that not all textbooks are able to be reviewed and registered by SBOE?

BRANCH: I will.

REMARKS ORDERED PRINTED

Representative Chisum moved to print remarks between Representative Branch and Representative Chisum.

The motion prevailed.

Representative Branch moved to concur in the senate amendments to **HB 4294**.

The motion to concur in the senate amendments to **HB 4294** prevailed by (Record 1524): 118 Yeas, 24 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Aycock; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Cohen; Coleman; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Flores; Flynn; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hunter; Jackson; Jones; Keffer; Kent; King, P.; King, S.; Kleinschmidt; Laubenberg; Legler; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley.

Nays — Anderson; Berman; Bonnen; Callegari; Chisum; Christian; Crabb; Elkins; Fletcher; Gattis; Geren; Harper-Brown; Howard, C.; Hughes; Isett; Kolkhorst; Madden; Miller, D.; Miller, S.; Paxton; Phillips; Truitt; Weber; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Driver; King, T.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1524. I intended to vote no.

Legler

Senate Committee Substitute

CSHB 4294, A bill to be entitled An Act relating to textbooks, electronic textbooks, instructional material, and technological equipment in public schools.

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

SECTION 1. Subchapter A, Chapter 31, Education Code, is amended by adding Section 31.004 to read as follows:

Sec. 31.004. CERTIFICATION OF PROVISION OF TEXTBOOKS, ELECTRONIC TEXTBOOKS, AND INSTRUCTIONAL MATERIALS. Each school district and open-enrollment charter school shall annually certify to the State Board of Education and the commissioner that, for each subject in the required curriculum and each grade level, the district provides each student with textbooks, electronic textbooks, or instructional materials that cover all elements of the essential knowledge and skills adopted by the State Board of Education for that subject and grade level.

SECTION 2. Section 31.021, Education Code, is amended by adding Subsection (f) to read as follows:

(f) The state textbook fund may be used to purchase technological equipment necessary to support the use of electronic textbooks or instructional material included on the list adopted under Section 31.0231 or any textbook or material approved by the State Board of Education.

SECTION 3. Section 31.022, Education Code, is amended by adding Subsection (f) to read as follows:

(f) The board shall amend any request for production issued for the purchase of textbooks to conform to the textbook funding levels provided by the General Appropriations Act for the year of implementation.

SECTION 4. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.0231 to read as follows:

Sec. 31.0231. ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIAL LIST. (a) The commissioner shall adopt a list of:

(1) electronic textbooks; and

(2) instructional material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade five.

(b) A school district may select an electronic textbook or instructional material on the list adopted under Subsection (a) to be funded by the state textbook fund under Section 31.021.

(c) Before the commissioner places an electronic textbook or instructional material on the list adopted under Subsection (a), the electronic textbook or instructional material:

(1) must be reviewed and recommended to the commissioner by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology; and

(2) must satisfy criteria adopted for the purpose by commissioner rule.

(d) The criteria adopted under Subsection (c)(2) must:

(1) include evidence of alignment with current research in the subject for which the electronic textbook or instructional material is intended to be used;

(2) include coverage of the essential knowledge and skills identified under Section 28.002 for the subject for which the electronic textbook or instructional material is intended to be used and identify:

(A) each of the essential knowledge and skills for the subject and grade level or levels covered by the electronic textbook or instructional material; and

(B) the percentage of the essential knowledge and skills for the subject and grade level or levels covered by the electronic textbook or instructional material; and

(3) include appropriate training for teachers.

(e) The commissioner shall update, as necessary, the list adopted under Subsection (a). Before the commissioner places an electronic textbook or instructional material on the updated list, the requirements of Subsection (c) must be met. Before the commissioner removes an electronic textbook or instructional material from the updated list, the removal must be recommended by a panel of recognized experts in the subject area of the electronic textbook or instructional material and experts in education technology.

(f) After notice to the commissioner explaining in detail the changes, the provider of an electronic textbook or instructional material on the list adopted under Subsection (a) may update the navigational features or management system related to the electronic textbook or instructional material.

(g) After notice to the commissioner and a review by the commissioner, the provider of an electronic textbook or instructional material on the list adopted under Subsection (a) may update the content of the electronic textbook or instructional material if needed to accurately reflect current knowledge or information.

(h) The commissioner shall adopt rules as necessary to implement this section. The rules must:

(1) be consistent with Section 31.151 regarding the duties of publishers and manufacturers and the imposition of a reasonable administrative penalty; and

(2) require public notice of an opportunity for the submission of an electronic textbook or instructional material.

SECTION 5. Section 31.101, Education Code, is amended by amending Subsections (a) and (c) and adding Subsections (b-1), (c-1), and (e) to read as follows:

(a) Each year, during a period established by the State Board of Education, the board of trustees of each school district and the governing body of each open-enrollment charter school shall:

(1) for a subject in the foundation curriculum, notify the State Board of Education of the textbooks selected by the board of trustees or governing body for the following school year from among the textbooks on the appropriate conforming or nonconforming list, including the list adopted under Section 31.0231; or

(2) for a subject in the enrichment curriculum:

(A) notify the State Board of Education of each textbook selected by the board of trustees or governing body for the following school year from among the textbooks on the appropriate conforming or nonconforming list, including the list adopted under Section 31.0231; or

(B) notify the State Board of Education that the board of trustees or governing body has selected a textbook that is not on the conforming or nonconforming list.

(b-1) If a school district or open-enrollment charter school selects for a particular subject or grade level an electronic textbook or instructional material on the list adopted under Section 31.0231, the state shall pay the district or school an amount equal to the cost of the electronic textbook or instructional material plus textbook credits under Section 31.1011 equal to 50 percent of the difference between that cost and the limitation established under Section 31.025 for a textbook for that subject and grade level, multiplied by the number of electronic textbooks or instructional materials the district or school needs for that subject and grade level.

(c) A school district or open-enrollment charter school that selects a textbook that is not on the conforming or nonconforming list or that selects an electronic textbook or instructional material that is on the list adopted under Section 31.0231:

(1) is responsible for the portion of the cost of the textbook that is not paid by the state under Subsection (b); and

(2) may use funds received from the state under Subsection (b) or (b-1), as applicable, ~~only~~ for purchasing the textbook, electronic textbook, or instructional material for which the funds were received or supplementing the allotment under Section 32.005 to purchase technological equipment according to rules adopted by the commissioner.

(c-1) Notwithstanding any other provision of this chapter, a school district or open-enrollment charter school must purchase a classroom set of textbooks adopted by the State Board of Education under Section 31.023 or 31.035 for each subject and grade level in the foundation and enrichment curriculum.

(e) A school district or open-enrollment charter school that selects a subscription-based electronic textbook or instructional material on the conforming list under Section 31.023 or the list adopted under Section 31.0231 may cancel the subscription and subscribe to a new electronic textbook or instructional material on the conforming list under Section 31.023 or the list adopted under Section 31.0231 before the end of the state contract period under Section 31.026 if:

(1) the district or school has used the electronic textbook or instructional material for at least one school year; and

(2) the agency approves the change based on a written request to the agency by the district or school that specifies the reasons for changing the electronic textbook or instructional material used by the district or school.

SECTION 6. Section 31.1011(c), Education Code, is amended to read as follows:

(c) Fifty percent of the total textbook credit of a school district or open-enrollment charter school shall be credited to the state textbook fund, and 50 percent of the credit shall be credited to the district or school to apply toward the requisition of:

(1) additional textbooks or electronic textbooks that are on the conforming or nonconforming list under Section 31.023 or the components of such textbooks, including any electronic components; ~~or~~

(2) supplemental textbooks as provided by Section 31.035;

(3) electronic textbooks or instructional materials on the list adopted under Section 31.0231; or

(4) technological equipment under Section 31.021(f).

SECTION 7. The heading to Section 31.152, Education Code, is amended to read as follows:

Sec. 31.152. ACCEPTING REBATE ON TEXTBOOKS, ELECTRONIC TEXTBOOKS, INSTRUCTIONAL MATERIALS, OR TECHNOLOGICAL EQUIPMENT.

SECTION 8. Sections 31.152(a) and (b), Education Code, are amended to read as follows:

(a) A school trustee, administrator, or teacher commits an offense if that person receives any commission or rebate on any textbooks, electronic textbooks, instructional materials, or technological equipment used in the schools with which the person is associated as a trustee, administrator, or teacher.

(b) A school trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

(1) is given to the person or the person's school;

(2) might reasonably tend to influence a trustee, administrator, or teacher in the selection of a textbook, electronic textbook, instructional material, or technological equipment; and

(3) could not be lawfully purchased with funds from the state textbook fund.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 2)

Amend **CSHB 4294** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, adding Section 31.004, Education Code (page 1, line 19), strike "required" and substitute "foundation".

(2) In SECTION 4 of the bill, adding Section 31.0231(c), Education Code (page 1, line 52), between "the" and "electronic", insert "State Board of Education must be given an opportunity to comment on the electronic textbook or instructional material. An".

(3) In SECTION 4 of the bill, adding Section 31.0231(c), Education Code (page 1, line 52), between "material" and the colon, insert "placed on the list adopted under Subsection (a)".

(4) In SECTION 4 of the bill, adding Section 31.0231(c)(1), Education Code (page 1, line 56), strike "and".

(5) In SECTION 4 of the bill, adding Section 31.0231(c)(2), Education Code (page 1, line 58), strike the period and substitute "; and".

(6) In SECTION 4 of the bill, add a new Subdivision (3) to added Section 31.0231(c), Education Code (page 1, between lines 58 and 59), to read as follows:

(3) must meet the National Instructional Materials Accessibility Standard, to the extent practicable as determined by the commissioner.

(7) In SECTION 4 of the bill, adding Section 31.0231(h)(1), Education Code (page 2, line 34), between "manufacturers" and "and the", insert ", as appropriate,".

Senate Amendment No. 2 (Senate Floor Amendment No. 3)

Amend **CSHB 4294** (Senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 32, Education Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. COMPUTER LENDING PILOT PROGRAM

Sec. 32.351. ESTABLISHMENT OF PILOT PROGRAM. The commissioner by rule shall establish a computer lending pilot program to provide computers to participating public schools that make computers available for use by students and their parents.

Sec. 32.352. PILOT PROGRAM ADMINISTRATION. The commissioner shall establish procedures for the administration of the pilot program, including procedures for distributing to participating public schools:

(1) any surplus or salvage data processing equipment available for distribution under the pilot program; or

(2) computers donated or purchased for that purpose with funds from any available source, including a foundation, private entity, governmental entity, and institution of higher education.

Sec. 32.353. ELIGIBLE SCHOOLS. A public school is eligible to participate in the pilot program if:

(1) 50 percent or more of the students enrolled in the school are educationally disadvantaged; and

(2) the school operates or agrees to operate a computer lending program that:

(A) allows students and parents to borrow a computer;

(B) includes an option for students and parents to work toward owning a computer initially borrowed under the school's lending program, subject to any applicable legal restrictions regarding disposition of the computer involved;

(C) provides computer training for students and parents; and

(D) operates outside regular school hours, including operation until at least 7 p.m. on at least three days each week.

Sec. 32.354. ANNUAL REPORT. Not later than January 1 of each year, the commissioner shall submit a report to the legislature regarding the computer lending pilot program established under this subchapter.

Sec. 32.355. EXPIRATION. This subchapter expires September 1, 2014.

SECTION _____. Section 2175.128, Government Code, is amended by adding Subsections (a-1) and (b-1) to read as follows:

(a-1) Notwithstanding Subsection (a), if a disposition of a state agency's surplus or salvage data processing equipment is not made under Section 2175.125 or 2175.184, the state agency shall make the equipment available to the commissioner of education for use in the computer lending pilot program established under Subchapter H, Chapter 32, Education Code. If the commissioner of education declines to take the equipment, the state agency shall transfer the equipment in accordance with Subsection (a). The state agency may not collect a fee or other reimbursement from the commissioner of education for the equipment made available under this subsection. This subsection expires September 1, 2014.

(b-1) Notwithstanding Subsection (b), if a disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education is not made under other law, the institution or agency shall make the equipment available to the commissioner of education for use in the computer lending pilot program established under Subchapter H, Chapter 32, Education Code. If the commissioner of education declines to take the equipment, the institution or agency shall transfer the equipment in accordance with Subsection (b). The state eleemosynary institution or institution or agency of higher education may not collect a fee or other reimbursement from the commissioner of education for the equipment made available under this subsection. This subsection expires September 1, 2014.

**HB 3827 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hancock called up with senate amendments for consideration at this time,

HB 3827, A bill to be entitled An Act relating to the delivery of regulated substances into underground storage tanks; providing a penalty.

Representative Hancock 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 3827**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3827**: Hancock, chair; Chisum, Legler, Ritter, and Farabee.

**HB 2555 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hilderbran called up with senate amendments for consideration at this time,

HB 2555, A bill to be entitled An Act relating to the length of time certain property acquired by a charitable organization to provide low-income housing may be exempted from ad valorem taxation.

Representative Hilderbran 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 2555**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2555**: Hilderbran, chair; Chisum, Hughes, Darby, and Rose.

**HB 2553 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hilderbran called up with senate amendments for consideration at this time,

HB 2553, A bill to be entitled An Act relating to the registration and operation of certain off-highway vehicles.

Representative Hilderbran 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 2553**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2553**: Hilderbran, chair; Corte, Phillips, Villarreal, and T. King.

**HB 2559 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Truitt called up with senate amendments for consideration at this time,

HB 2559, A bill to be entitled An Act relating to the powers and duties of the Employees Retirement System of Texas.

Representative Truitt moved to concur in the senate amendments to **HB 2559**.

The motion to concur in the senate amendments to **HB 2559** prevailed by (Record 1525): 100 Yeas, 43 Nays, 2 Present, not voting.

Yeas — Anchia; Anderson; Aycock; Berman; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Chisum; Christian; Cohen; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Edwards; Eiland; Eissler; Elkins; Farabee; Fletcher; Flores; Flynn; Frost; Gattis; Geren; Giddings; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Homer; Hopson; Howard, C.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.;

Kleinschmidt; Kolkhorst; Laubenberg; Legler; Madden; Mallory Caraway; McCall; McClendon; Menendez; Merritt; Miller, D.; Miller, S.; Morrison; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Raymond; Riddle; Ritter; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Truitt; Turner, S.; Vaught; Weber; Woolley; Zerwas.

Nays — Allen; Alonzo; Castro; Chavez; Coleman; Davis, Y.; Dukes; Dunnam; Dutton; England; Farias; Farrar; Gallego; Gonzales; Gonzalez Tourelles; Gutierrez; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Leibowitz; Lucio; Maldonado; Marquez; Martinez; Martinez Fischer; McReynolds; Miklos; Moody; Naishtat; Olivo; Pierson; Quintanilla; Rios Ybarra; Rodriguez; Thibaut; Thompson; Turner, C.; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Ortiz.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1525. I intended to vote no.

Burnam

Senate Committee Substitute

CSHB 2559, A bill to be entitled An Act relating to the powers and duties of and benefits available under the Employees Retirement System of Texas.

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

SECTION 1. Section 615.045, Government Code, is amended by amending Subsection (a) and adding Subsections (b-1) and (d) to read as follows:

(a) Records of individuals listed by Section 615.003 and of survivors eligible for benefits under this chapter that are in the custody of the Employees Retirement System of Texas, ~~or~~ an administering firm as defined by Section 1551.003, Insurance Code, a carrier as defined by Section 1551.007, Insurance Code, or another governmental agency acting with or on behalf of the retirement system are confidential and not subject to public disclosure, and the retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, because the records are exempt from the ~~[public information]~~ provisions of Chapter 552, except as otherwise provided by this section.

(b-1) A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule relating to the protection of confidential information.

(d) The retirement system has sole discretion in determining whether a record is subject to this section. For purposes of this section, a record includes any identifying information about any person, living or deceased, who is or was:

(1) an individual listed in Section 615.003; or

(2) a survivor, heir, or beneficiary of an individual listed in Section 615.003.

SECTION 2. Subchapter A, Chapter 811, Government Code, is amended by adding Sections 811.010 and 811.011 to read as follows:

Sec. 811.010. VENUE. Subject to and without waiving the retirement system's sovereign immunity or the official immunity of the trustees, officers, and employees of the retirement system, the venue for any action by or against the retirement system, the trustees, officers, or employees of the retirement system, or an administering firm, carrier, or other governmental agency acting in cooperation with or on behalf of the retirement system is in Travis County.

Sec. 811.011. STATUTE OF LIMITATIONS. Subject to and without waiving the retirement system's sovereign immunity or the official immunity of the trustees, officers, and employees of the retirement system, unless specifically provided otherwise by another statute, the statute of limitations for a claim against the retirement system or a trustee, officer, or employee of the retirement system is two years.

SECTION 3. Section 812.101, Government Code, is amended by adding Subsection (c) to read as follows:

(c) For a law enforcement or custodial officer, the withdrawal of accumulated contributions under Subsection (a) includes all of the officer's contributions made under Section 815.402(h).

SECTION 4. Section 812.201(c), Government Code, is amended to read as follows:

(c) A person who is retired from the elected class of membership and who again holds a position included in that class may elect to become a member again by filing notice with the retirement system. Except as provided by Section 812.203(c) [~~812.203(e)~~], when benefit payments are resumed, the retirement system shall recompute the annuity selected at the time of the person's original retirement to include the additional service established during membership under this subsection.

SECTION 5. Subchapter C, Chapter 812, Government Code, is amended by adding Section 812.205 to read as follows:

Sec. 812.205. WAITING PERIOD. A member who retires from the employee class on or after May 31, 2009, may not return to work in a position included in the employee class of membership before the 90th day after the date of the retiree's original retirement.

SECTION 6. Subchapter C, Chapter 812, Government Code, is amended by adding Section 812.206 to read as follows:

Sec. 812.206. RETURN TO WORK SURCHARGE. (a) This section applies only to a person who, on or after September 1, 2009:

(1) retires from the employee class; and

(2) is rehired as a retiree into a position that would otherwise include membership in the employee class.

(b) For each month that a department or agency of this state employs a person described by Subsection (a), the department or agency shall remit to the retirement system an amount equal to the amount of the state contribution that the department or agency would remit for an active member employed in the person's position. The amount remitted shall be deposited in the trust fund established under Section 815.310.

SECTION 7. Section 813.509, Government Code, is amended by amending Subsections (d) and (e) and adding Subsection (k) to read as follows:

(d) An individual who was a [A] member or employee on August 31, 2009, and who holds a position included in the employee class may use sick leave creditable under this section to satisfy service requirements for retirement under Section 814.104 or 814.107 if the sick leave attributed to the eligibility requirements remains otherwise unused on the last day of employment.

(e) A death benefit beneficiary [designee] under Section 814.302 may use the deceased member's sick leave credit under this section to qualify for making a death benefit plan selection under Section 814.302 if the decedent was a member or employee on August 31, 2009.

(k) A member who was not a member on the date hired and was hired on or after September 1, 2009, or a death benefit beneficiary of that member may use sick leave creditable under this section only for purposes of calculating the member's or beneficiary's annuity.

SECTION 8. Section 813.511, Government Code, is amended by amending Subsections (d) and (e) and adding Subsection (j) to read as follows:

(d) An individual who was a [A] member or employee on August 31, 2009, and who holds a position included in the employee class may use annual leave creditable under this section to satisfy service requirements for retirement under Section 814.104 or 814.107 if the annual leave attributed to the eligibility requirements remains otherwise unused on the last day of employment.

(e) A death benefit beneficiary [designee] under Section 814.302 may use the deceased member's annual leave credit under this section to qualify for making a death benefit plan selection under Section 814.302 if the decedent was a member or employee on August 31, 2009.

(j) A member who was not a member on the date hired and was hired on or after September 1, 2009, or a death benefit beneficiary of that member may use annual leave creditable under this section only for purposes of calculating the member's or beneficiary's annuity.

SECTION 9. Section 814.008(a), Government Code, is amended to read as follows:

(a) A retiree receiving an optional service or disability retirement annuity approved by the board of trustees or described by Section 814.108(c)(1)₂ [or] (c)(2), or (c)(5) may change the designated beneficiary as provided by this section for the benefits payable after the retiree's death.

SECTION 10. Subchapter A, Chapter 814, Government Code, is amended by adding Section 814.012 to read as follows:

Sec. 814.012. DISPOSITION OF UNCLAIMED BENEFICIARY BENEFITS. If, as of the fourth anniversary of the death of a member or annuitant, the retirement system has not paid benefits and a claim for benefits is not pending with the retirement system based on the death of the member or annuitant, the accumulated contributions of the deceased member or the balance of the reserve for the deceased annuitant reverts to the benefit of the retirement system. The retirement system shall transfer funds reverted under this section to the state accumulation account.

SECTION 11. Section 814.104, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d) of this section, Section 814.102, or by rule adopted under Section 813.304(d) or 803.202(a)(2), a member who has service credit in the retirement system is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 60 years old and has at least 5 years of service credit in the employee class; or

(2) has at least 5 years of service credit in the employee class and the sum of the member's age and amount of service credit in the employee class, including months of age and credit, equals or exceeds the number 80.

(d) Except as provided by Section 814.102 or by rule adopted under Section 813.304(d) or 803.202(a)(2), a member who was not a member on the date hired, was hired on or after September 1, 2009, and has service credit in the retirement system is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 65 years old and has at least 10 years of service credit in the employee class; or

(2) has at least 5 years of service credit in the employee class and the sum of the member's age and amount of service credit in the employee class, including months of age and credit, equals or exceeds the number 80.

SECTION 12. Section 814.105, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The standard service retirement annuity for service credited in the employee class of membership for a member who was not a member on the date hired, was hired on or after September 1, 2009, and is eligible to retire is an amount computed as the member's average monthly compensation for service in that class for the 48 highest months of compensation multiplied by 2.3 percent for each year of service credit in that class.

(d) The standard service retirement annuity computed under Subsection (c) is reduced by five percent for each year the member retires before the member reaches age 60, with a maximum possible reduction of 25 percent.

SECTION 13. Sections 814.107(c) and (d), Government Code, are amended to read as follows:

(c) The standard combined service retirement annuity that is payable under this section is based on retirement on or after the attainment of the normal retirement age, which for purposes of this section is the earlier of either the age of 50 or the age at which the sum of the member's age and amount of service credit in the employee class equals the number 80. A law enforcement or custodial

officer who retires before attaining the normal retirement age is entitled only to an annuity that is actuarially reduced from the annuity available at the normal retirement age to the law enforcement or custodial officer whose service credit annuity amount is based on [available at] the sum of the member's age and amount of law enforcement or custodial officer service credit and employee class service credit, and is not entitled to have the annuity recalculated at normal retirement age. The standard or reduced annuity is payable from the trust fund established by Section 815.310 and the law enforcement and custodial officer supplemental retirement fund in a ratio determined by the retirement system.

(d) A member who retires under this section retires simultaneously from the employee class of membership. ~~[Benefits for service in the employee class of membership become payable from the trust fund established by Section 815.310 at the normal retirement age under the computation provided by Section 814.105.]~~ Optional retirement annuities provided by Section 814.108 are available to a member eligible to receive a service retirement annuity under this section, but the same optional plan and beneficiary [designee] must be selected for the portion of the annuity payable from the law enforcement and custodial officer supplemental retirement fund and the portion payable from the trust fund established by Section 815.310.

SECTION 14. Subchapter B, Chapter 814, Government Code, is amended by adding Section 814.1075 to read as follows:

Sec. 814.1075. ADJUSTED BENEFITS FOR CERTAIN PEACE OFFICERS. (a) This section applies only to a person hired on or after September 1, 2009, who was not a member on the date hired.

(b) A member who has at least 20 years of service credit as a law enforcement or custodial officer is eligible to retire regardless of age and receive a standard service retirement annuity as provided by this section.

(c) The standard service retirement annuity payable for at least 20 years of service credit as a law enforcement or custodial officer is an amount computed on the basis of the member's average monthly compensation for the 48 highest months of compensation in the employee class multiplied by the sum of the percentage factor used in the computation of a standard service retirement annuity under Section 814.105(c) plus 0.5 percent.

(d) The standard combined service retirement annuity that is payable under this section is based on retirement at either the age of 55 or the age at which the sum of the member's age and amount of service credit in the employee class equals or exceeds the number 80. The annuity of a law enforcement or custodial officer who retires before reaching the age of 55 under any eligibility criteria is actuarially reduced by five percent for each year the member retires before the member reaches age 55, with a maximum possible reduction of 25 percent.

(e) An annuity payable under this section:

(1) is payable from the trust fund established by Section 815.310 and from the law enforcement and custodial officer supplemental retirement fund in a ratio determined by the retirement system; and

(2) is based on the service credit available to the law enforcement or custodial officer at the time of retirement and the sum of the member's age and amount of law enforcement or custodial officer service credit and employee class service credit.

(f) A member who retires under this section retires simultaneously from the employee class of membership. Optional retirement annuities provided by Section 814.108 are available to a member eligible to receive a service retirement annuity under this section, but the same optional plan and beneficiary must be selected for the portion of the annuity payable from the law enforcement and custodial officer supplemental retirement fund and the portion payable from the trust fund established by Section 815.310.

(g) The amount payable from the law enforcement and custodial officer supplemental retirement fund is reducible by the amount paid from the trust fund established by Section 815.310 for service as a law enforcement or custodial officer. The total combined amount of an annuity under this section may not be less than the authorized benefit under Subsection (c) subtracted by any amount necessary because of the selection of an optional annuity, because of retirement before the age of 55, or as provided by Subsection (h).

(h) The standard combined service retirement annuity payable for at least 20 years of service credit as a law enforcement or custodial officer may not exceed 100 percent of the average compensation computed under Subsection (c).

(i) For purposes of this section, service as a law enforcement or custodial officer is creditable as provided by rule of the board of trustees or on a month-to-month basis, whichever is greater.

SECTION 15. Sections 814.108(c), (g), and (h), Government Code, are amended to read as follows:

(c) An eligible person may select ~~[any optional retirement annuity approved by the board of trustees, or may select]~~ one of the following options, which ~~provides~~ provide that:

(1) after the retiree's death, the reduced annuity is payable in the same amount throughout the life of the person designated by the retiree before retirement;

(2) after the retiree's death, one-half of the reduced annuity is payable throughout the life of the person designated by the retiree before retirement;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to one or more beneficiaries ~~[designees]~~ or, if one does not exist, to the retiree's estate; ~~[or]~~

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to one or more beneficiaries ~~[designees]~~ or, if one does not exist, to the retiree's estate; or

(5) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of the person designated by the retiree before retirement.

(g) Except as provided by Section 814.008 or 814.1081, a person who selected an optional service retirement annuity approved by the board of trustees or an optional service retirement annuity described by Subsection (c)(1), ~~(c)(2), or (c)(5)~~ (c)(2), or (c)(5) may not change or revoke a beneficiary designation after the person's effective date of retirement.

(h) A beneficiary designation that names a former spouse as beneficiary for a guaranteed optional annuity described by Subsection (c)(3) or (c)(4) is invalid unless the designation is made after the date of the divorce.

SECTION 16. Section 814.1081(a), Government Code, is amended to read as follows:

(a) A person who retired and selected an optional service retirement annuity ~~[approved by the board of trustees or an optional service retirement annuity]~~ described by Section 814.108(c)(1), ~~(c)(2), or (c)(5)~~ (c)(2), or (c)(5) may change the optional annuity selection to the selection of a standard service retirement annuity by filing with the retirement system a request to change the annuity selection, if the retiree designated a person as beneficiary who:

(1) was not at the time of designation and is not currently the retiree's spouse or dependent child; or

(2) has executed since the designation a transfer and release, approved by a court of competent jurisdiction pursuant to a divorce decree, of the beneficiary's interest in the annuity and is not currently the retiree's spouse or dependent child.

SECTION 17. Section 814.202, Government Code, is amended by adding Subsection (g) to read as follows:

(g) A member otherwise eligible to receive a disability retirement annuity may not receive the annuity if the member is:

(1) still earning a salary or wage from the employment for which the member is claiming disability; or

(2) on leave without pay from the employment for which the member is claiming disability.

SECTION 18. Section 814.203, Government Code, is amended to read as follows:

Sec. 814.203. CERTIFICATION OF DISABILITY. (a) As soon as practicable after an application for disability retirement is filed, the medical board shall evaluate the medical and other pertinent information regarding the member's application. If the medical board finds that the member is mentally or physically incapacitated for the further performance of duty, as supported by substantial, objective, medical evidence, and that the incapacity is likely to be permanent, the medical board shall issue a certification of disability and submit it to the executive director. A certification under this section is admissible in a contested case under Section 815.511 without proving the medical board as experts.

(b) For purposes of this subchapter, a member is incapacitated for the further performance of duty if the member has demonstrably sought and been denied workplace accommodation of the disability in accordance with applicable law, and the member is physically or mentally unable to continue to hold the

position occupied or to hold any other position offering comparable pay. The employee's education, training, and experience must be considered when making a determination of incapacity under this subchapter.

(c) For the purposes of this section, "comparable pay" means 80 percent or more of the member's final state employment base pay before deductions for taxes or deferred compensation under state and federal law, including any longevity or hazardous duty pay, but excluding the monetary value of any insurance or retirement benefits. Comparable pay may be adjusted by the retirement system to account for adjustments in state pay rates.

SECTION 19. Subchapter C, Chapter 815, Government Code, is amended by adding Section 815.214 to read as follows:

Sec. 815.214. SUBPOENA. Notwithstanding any other law, the retirement system may issue a subpoena that conforms to Rule 176, Texas Rules of Civil Procedure, including a preappeal investigative subpoena or any subpoena otherwise authorized by the Texas Rules of Civil Procedure, that the retirement system determines necessary to protect the interests of a program or system administered by the retirement system.

SECTION 20. Section 815.301, Government Code, is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) In awarding contracts to private professional investment managers under Subsection (c) or otherwise acquiring private financial services, the board of trustees shall make a good faith effort to award contracts to or acquire services from qualified emerging fund managers.

(h) For purposes of Subsection (g):

(1) "Emerging fund manager" means a private professional investment manager that manages assets of not more than \$2 billion.

(2) "Private financial services" includes pension fund management, consulting, investment advising, brokerage services, hedge fund management, private equity fund management, and real estate investment.

(i) The retirement system shall report to the board of trustees on the methods and results of the system's efforts to hire emerging fund managers, including data disaggregated by race, ethnicity, gender, and fund size.

SECTION 21. Section 815.307, Government Code, as amended by Chapters 1103 (**HB 2240**) and 1111 (**HB 2359**), Acts of the 78th Legislature, Regular Session, 2003, is reenacted to read as follows:

Sec. 815.307. DUTY OF CARE. The assets of the retirement system shall be invested and reinvested without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. A determination of whether the board of trustees has exercised prudence with respect to an investment decision must be made taking into consideration the investment of all assets of the trust or all assets of the collective investment vehicle, as applicable, over which the board has management and control, rather than considering the prudence of a single investment of the trust or the collective investment vehicle, as applicable.

SECTION 22. Section 815.402, Government Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) Except as provided by Section 813.201, each payroll period, each department or agency of the state shall cause to be deducted from each member's compensation a contribution of:

(1) 6.5 ~~six~~ percent of the compensation if the member is not a member of the legislature, provided that if the state contribution to the retirement system is computed using a percentage less than 6.5 percent, the member's contribution is computed using a percentage equal to the percentage used to compute the state contribution, which may not be less than six percent; or

(2) eight percent of the compensation if the member is a member of the legislature.

(h) In addition to the contribution under Subsection (a)(1), each department or agency of the state that employs a law enforcement or custodial officer shall deduct an additional 0.5 percent contribution from that member's compensation, to be deposited in the law enforcement and custodial officer supplemental retirement fund, provided that, if the state contribution to the law enforcement and custodial officer supplemental retirement fund is computed using a percentage less than 0.5 percent, the member's contribution is computed using a percentage equal to the percentage used to compute the state contribution.

SECTION 23. Section 815.503, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (e) to read as follows:

(a) Records of members, annuitants, retirees, beneficiaries, and alternate payees under retirement plans administered by the retirement system that are in the custody of the system or of an administering firm ~~administrator~~, carrier, or other governmental agency acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure, and the retirement system, administering firm, carrier, or governmental agency is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, because the records are exempt from the ~~public access~~ provisions of Chapter 552, except as otherwise provided by this section.

(b) Records may be released to a member, annuitant, retiree, beneficiary, or alternate payee or to an authorized attorney, family member, or representative acting on behalf of the member, annuitant, retiree, beneficiary, or alternate payee. The retirement system may release the records to an administering firm ~~administrator~~, carrier, or agent or attorney acting on behalf of the retirement system, to another governmental entity having a legitimate need for the information to perform the purposes of the retirement system, or to a party in response to a subpoena issued under applicable law.

(b-1) A record released or received by the retirement system under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule relating to the protection of confidential information.

(e) The retirement system has sole discretion in determining if a record is subject to this section. For purposes of this section, a record includes any identifying information about a person, living or deceased, who is or was a member, annuitant, retiree, beneficiary, or alternate payee, under any retirement plan or program administered by the retirement system.

SECTION 24. Section 815.512, Government Code, is amended to read as follows:

Sec. 815.512. PROTECTION FROM DOUBLE OR MULTIPLE LIABILITY. (a) The executive director may cause an action for interpleader [~~a suit~~] concerning a claim to be filed on behalf of the retirement system in a district court in Travis County to protect the system from double or multiple liability if the executive director determines that a claim may expose the retirement system to such liability.

(b) A person may not pursue a counterclaim or other cause of action against the retirement system, a trustee, officer, or employee of the retirement system, or a carrier or administering firm for the retirement system in connection with a transaction or occurrence related to the interpleader action.

(c) A person who violates Subsection (b) is liable for the costs and attorney's fees incurred by the retirement system, a trustee, officer, or employee of the retirement system, or a carrier or administering firm for the retirement system as a result of the violation.

SECTION 25. Subchapter F, Chapter 815, Government Code, is amended by adding Section 815.515 to read as follows:

Sec. 815.515. DISPOSITION OF UNCLAIMED CONTRIBUTIONS OF FORMER MEMBERS. (a) Subject to Chapters 803 and 805, if the retirement system has not received a request for a refund of the accumulated contributions of a member in accordance with Subchapter B, Chapter 812, before the seventh anniversary of the member's last day of service, the retirement system may refund the accumulated contributions to the member or the member's heirs. If the member or the member's heirs cannot be found, the member's accumulated contributions revert to the retirement system.

(b) The retirement system shall credit any amounts that revert to the retirement system under Subsection (a) to the state accumulation account.

(c) The board of trustees may adopt rules to implement and administer this section.

SECTION 26. Section 837.003, Government Code, is amended by adding Subsection (e) to read as follows:

(e) At the time a service retirement, disability retirement, or death benefit annuity becomes payable, the retirement system shall refund any contributions, interest, or membership fees used to establish service credit that is not used in computing the amount of the annuity.

SECTION 27. Section 838.106, Government Code, is amended by adding Subsection (c) to read as follows:

(c) For the purpose of Subsection (a)(1), the term of a member leaving judicial office ends not later than December 31 regardless of the date on which the member's successor takes the oath of office.

SECTION 28. Section 839.103(a), Government Code, is amended to read as follows:

(a) Instead of a service retirement annuity payable under Section 839.102, a retiring member may elect to receive ~~[an optional service retirement annuity provided by the board of trustees or]~~ one of the following optional service retirement annuities, actuarially reduced to an actuarially equivalent value and consisting of:

(1) an annuity payable during the retiring member's life and continuing after death in the same amount, throughout the life of one person designated by the retiring member before retirement;

(2) an annuity payable during the retiring member's life and continuing after death in an amount equal to one-half of the amount payable during the retiring member's life, throughout the life of one person designated by the retiring member before retirement;

(3) an annuity payable for the greater of the rest of the retiring member's life or 60 months; ~~[or]~~

(4) an annuity payable for the greater of the rest of the retiring member's life or 120 months; or

(5) an annuity payable during the retiring member's life and continuing after death in an amount equal to three-fourths of the amount payable during the retiring member's life, throughout the life of one person designated by the retiring member before retirement.

SECTION 29. Section 840.303, Government Code, as amended by Chapters 1103 (**HB 2240**) and 1111 (**HB 2359**), Acts of the 78th Legislature, Regular Session, 2003, is reenacted to read as follows:

Sec. 840.303. DUTY OF CARE. The assets of the retirement system shall be invested and reinvested without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. A determination of whether the board of trustees has exercised prudence with respect to an investment decision must be made taking into consideration the investment of all assets of the trust or all assets of the collective investment vehicle, as applicable, over which the board has management and control, rather than considering the prudence of a single investment of the trust or the collective investment vehicle, as applicable.

SECTION 30. Section 840.402, Government Code, is amended to read as follows:

Sec. 840.402. RETIREMENT SYSTEM RECORDS. Records of members, annuitants, retirees, beneficiaries, and alternate payees of the retirement system are confidential and are not subject to public disclosure and are exempt from the provisions of Chapter 552. Records maintained as confidential under this section may be released or received in the manner provided by Section 815.503.

SECTION 31. Section 1551.003, Insurance Code, is amended by adding Subdivision (10-a) to read as follows:

(10-a) "Participant" means an eligible individual who participates in the group benefits program.

SECTION 32. Section 1551.004, Insurance Code, is amended to read as follows:

Sec. 1551.004. DEFINITION OF DEPENDENT. (a) In this chapter, "dependent" with respect to an individual eligible to participate in the group benefits program under Section 1551.101 or 1551.102 means the individual's:

- (1) spouse;
- (2) unmarried child younger than 25 years of age;
- (3) child of any age who the board of trustees determines lives with or has the child's care provided by the individual on a regular basis if:

(A) the child is mentally retarded or physically incapacitated to the extent that the child is dependent on the individual for care or support, as determined by the board of trustees;

(B) the child's coverage under this chapter has not lapsed; and

(C) the child is at least 25 years old and was enrolled as a participant in the health benefits coverage under the group benefits program on the date of the child's 25th birthday; ~~[and]~~

(4) child of any age who is unmarried, for purposes of health benefit coverage under this chapter, on expiration of the child's continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272) and its subsequent amendments; and

(5) ward, as that term is defined by Section 601, Texas Probate Code.

(b) In this section, "child" includes:

(1) a natural child, ~~[an]~~ adopted child, ~~[and a]~~ stepchild, or foster child;

[5] or

(2) a ~~[other]~~ child who is related by blood or marriage and was claimed as a dependent on the federal income tax return of ~~[is in a parent-child relationship with]~~ an individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102 for the calendar year preceding the plan year in which the child is first enrolled as a dependent under Subchapter D, and for each subsequent year in which the child is enrolled as a dependent.

(c) The requirement in Subsection (b)(2) that a child must be claimed as a dependent on a federal income tax return in the calendar year preceding the child's enrollment does not apply if:

(1) the child is born in the year in which the child is first enrolled; or

(2) the participant can demonstrate good cause for not claiming the child as a dependent in the preceding calendar year.

SECTION 33. Section 1551.063, Insurance Code, is amended by amending Subsections (a) and (c) and adding Subsections (d-1) and (f) to read as follows:

(a) The records of a participant in the group benefits program in the custody of the Employees Retirement System of Texas ~~[board of trustees]~~, or of an administering firm, ~~[administrator or]~~ carrier, or another governmental entity acting on behalf of the retirement system ~~[board]~~, are confidential and not subject to disclosure, and the retirement system, administering firm, carrier, or governmental entity ~~[board]~~ is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, because the records are exempt from the ~~[public access]~~ provisions of Chapter 552, Government Code, except as provided by this section.

(c) To accomplish the purposes of this chapter, the board of trustees may release the records to:

- (1) an administering firm [~~administrator~~], carrier, agent, or attorney acting on behalf of the board;
- (2) another governmental entity having a legitimate need for the information to perform a function of the board of trustees;
- (3) an authorized medical provider of the participant; or
- (4) a party in response to a subpoena issued under applicable law.

(d-1) A record released or received by the Employees Retirement System of Texas under this section may be transmitted electronically, including through the use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a law or rule relating to the protection of confidential information.

(f) The Employees Retirement System of Texas has sole discretion in determining if a record is subject to this section. For purposes of this section, a record includes any identifying information about a person, living or deceased, who is or was an employee, annuitant, dependent, or participant in the group benefits program.

SECTION 34. Section 1551.102(d), Insurance Code, is amended to read as follows:

(d) An individual is eligible to participate in the group benefits program as provided by Subsection (a) if [~~the individual~~]:

(1) the individual retires under the optional retirement program established by Chapter 830, Government Code;

(2) the individual has [~~-with~~] at least 10 years of eligible service credit;
and

(3) [~~(2) receives or is eligible to receive an annuity under that program and~~] the individual:

(A) is at least 65 years of age, or would have been eligible to retire and receive a service or disability retirement annuity from the Teacher Retirement System of Texas or the Employees Retirement System of Texas in an amount such that the sum of the person's age and amount of service credit, including months of age and credit, equals or exceeds the number 80 or would have been eligible to retire and receive a disability retirement annuity from the Teacher Retirement System of Texas or the Employees Retirement System of Texas, if the individual had not elected to participate in the optional retirement program, and is eligible to receive an annuity or periodic distribution of funds from an account under the optional retirement program; or

(B) is disabled as determined by the Employees Retirement System of Texas based on at least 10 years of eligible service credit, and is receiving an annuity or periodic distribution of funds from an account under the optional retirement program.

SECTION 35. Section 1551.155, Insurance Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A person who is the surviving spouse of an individual described by Subsection (a) may secure group health coverage without evidence of the person's insurability if the individual was eligible to participate in the group benefits program under Section 1551.101 or 1551.102 but was not participating at the time of the individual's death.

(d) A surviving spouse seeking group coverage under Subsection (c):

(1) must apply for the coverage not later than the 30th day after the date on which the individual who was eligible to participate in the group benefits program dies; and

(2) shall pay for the coverage at the group rate as provided by Subsection (b).

SECTION 36. The heading to Section 1551.156, Insurance Code, is amended to read as follows:

Sec. 1551.156. COVERAGE OPTIONS FOR SURVIVING DEPENDENT [~~WHEN THERE IS NO SURVIVING SPOUSE~~].

SECTION 37. Section 1551.156, Insurance Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) A person who is a surviving dependent of an annuitant may secure group health coverage after the death of the annuitant without evidence of the person's insurability if the annuitant was eligible to participate in the group benefits program of a retirement system named in this chapter but was not participating at the time of the individual's death.

(e) A surviving dependent seeking group coverage under Subsection (d):

(1) must apply for the coverage not later than the 30th day after the date on which the individual who was eligible to participate in the group benefits program dies; and

(2) shall pay for the coverage at the group rate as provided by Subsection (b).

SECTION 38. Section 1551.354, Insurance Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) The executive director may cause the filing of an action for interpleader [a suit] concerning the claim in a district court in Travis County on behalf of the Employees Retirement System of Texas to protect the group coverage plan from double or multiple liability.

(c) A person may not pursue a counterclaim or other cause of action against the Employees Retirement System of Texas, a trustee, officer, or employee of the retirement system, or a carrier or administering firm for the retirement system in connection with a transaction or occurrence related to the interpleader action.

(d) A person who violates Subsection (c) is liable for the costs and attorney's fees incurred by the Employees Retirement System of Texas, a trustee, officer, or employee of the retirement system, or a carrier or administering firm for the retirement system as a result of the violation.

SECTION 39. Subchapter H, Chapter 1551, Insurance Code, is amended by adding Section 1551.362 to read as follows:

Sec. 1551.362. SUBPOENA. Notwithstanding any other law, the Employees Retirement System of Texas may issue a subpoena that conforms to Rule 176, Texas Rules of Civil Procedure, including a preappeal investigative subpoena or any subpoena otherwise authorized by the Texas Rules of Civil Procedure, that the retirement system determines necessary to protect the interests of a program or system administered by the retirement system.

SECTION 40. Section 1551.401, Insurance Code, is amended by adding Subsection (g) to read as follows:

(g) Except as provided by Section 1551.259(d), the retirement system may deposit to the credit of the fund any unclaimed money on a finding that a good faith effort has been made to locate the person entitled to the money.

SECTION 41. The following laws are repealed:

- (1) Section 833.1035(c), Government Code;
- (2) Section 833.104, Government Code;
- (3) Section 835.1015(c), Government Code;
- (4) Section 838.1035(c), Government Code;
- (5) Section 838.104, Government Code;
- (6) Section 840.1025(c), Government Code;
- (7) Section 840.1027(c), Government Code;
- (8) Section 1551.218(c), Insurance Code; and
- (9) Section 1551.221, Insurance Code.

SECTION 42. Under Section 67, Article XVI, Texas Constitution, the Employees Retirement System of Texas may distribute a supplemental annuity payment on behalf of the State of Texas using money appropriated from the general revenue fund to the retirement system by an Act of the 81st Legislature, Regular Session, 2009, that is enacted and becomes law.

SECTION 43. Sections 811.010 and 811.011, Government Code, as added by this Act, and Sections 815.512, Government Code, and 1551.354, Insurance Code, as amended by this Act, apply only to an action filed by or against the Employees Retirement System of Texas, the trustees, officers, or employees of the retirement system, or an administering firm, carrier, or other governmental agency acting in cooperation with or on behalf of the retirement system on or after the effective date of this Act. An action filed before the effective date of this Act is governed by the law in effect when the action was filed, and that law is continued in effect for that purpose.

SECTION 44. Section 837.003(e), Government Code, as added by this Act, applies only to a service retirement, disability retirement, or death benefit annuity that becomes payable by the Judicial Retirement System of Texas Plan Two on or after the effective date of this Act. A service retirement, disability retirement, or death benefit annuity that becomes payable by the Judicial Retirement System of Texas Plan Two before the effective date of this Act is governed by the law in effect on the date the annuity becomes payable, and that law is continued in effect for that purpose.

SECTION 45. Section 1551.004, Insurance Code, as amended by this Act, applies only to an individual claimed as a dependent for a plan year beginning on or after September 1, 2010. An individual claimed as a dependent for a plan year

that began before September 1, 2010, is governed by the law in effect when the individual was claimed as a dependent, and that law is continued in effect for that purpose.

SECTION 46. This Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2559** (Senate committee printing), in SECTION 5 of the bill, in added Section 812.205(b), Government Code (page 2, lines 32-33), by striking "in the trust fund established under Section 815.310" and substituting "as provided by Section 815.309".

HB 4433 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Rodriguez called up with senate amendments for consideration at this time,

HB 4433, A bill to be entitled An Act relating to an exemption from the severance tax for certain gas and oil produced.

Representative Rodriguez moved to concur in the senate amendments to **HB 4433**.

The motion to concur in the senate amendments to **HB 4433** prevailed by (Record 1526): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac(C); Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Burnam; Pickett.

Senate Committee Substitute

CSHB 4433, A bill to be entitled An Act relating to an exemption from oil and gas severance taxes for oil and gas produced in association with the production of geothermal energy.

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

SECTION 1. Subchapter B, Chapter 201, Tax Code, is amended by adding Section 201.060 to read as follows:

Sec. 201.060. EXEMPTION OF GAS INCIDENTALLY PRODUCED IN ASSOCIATION WITH THE PRODUCTION OF GEOTHERMAL ENERGY.
Gas incidentally produced in association with the production of geothermal energy is not subject to the tax imposed by this chapter.

SECTION 2. Subchapter B, Chapter 202, Tax Code, is amended by adding Section 202.063 to read as follows:

Sec. 202.063. EXEMPTION OF OIL INCIDENTALLY PRODUCED IN ASSOCIATION WITH THE PRODUCTION OF GEOTHERMAL ENERGY.
Oil incidentally produced in association with the production of geothermal energy is not subject to the tax imposed by this chapter.

SECTION 3. This Act takes effect September 1, 2009.

HB 2833 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Marquez called up with senate amendments for consideration at this time,

HB 2833, A bill to be entitled An Act relating to authorizing certain counties to adopt a building code in their unincorporated areas; providing a penalty.

Representative Marquez 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 2833**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2833**: Marquez, chair; Chisum, Ritter, Harless, and Deshotel.

(Speaker in the chair)

HB 1959 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS MOTION TO INSTRUCT CONFERENCE COMMITTEE

Representative Isett called up with senate amendments for consideration at this time,

HB 1959, A bill to be entitled An Act relating to the governmental entities subject to the sunset review process.

Representative Isett 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 1959**.

The motion prevailed.

HB 1959 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE LEIBOWITZ: Members, I know it's been a long day, and it's been a long session, but this is very important. Back on May 4th, May 5th, Speaker Pro Tempore Eiland made a motion in front of us asking us to include the Texas Department of Insurance in the safety net for the Sunset bill. Every single one of us who was present voted no, that we were not going to include TDI in the safety net, and the reason we did that, and the arguments that were made at the time, was because the Texas Department of Insurance, in this state, had not been properly and thoroughly evaluated by way of a Sunset process in over 16 to 17 years. Back in my home district, one of the things I hear the most about is the fact that the folks I represent cannot afford their homeowner's insurance premiums. I hear it week in and week out that they cannot meet the rising cost of their homeowner's insurance.

Now, back approximately three to four weeks ago, every single one of us who was present voted to exclude TDI from the Sunset safety net. I believe it's a defeated measure, but be that as it may—and we should not have to consider it again—the chairman of Sunset, Mr. Isett, is going to go to conference to address the many loose ends that exist with respect to what's going on, on the different agencies that were up for Sunset. After 17 years—just think about it, some of you all may have 15 year-old children or 15 year-old grandchildren—and TDI has not been properly addressed in this state since before those children were born. Our people that we represent are hurting because of it, and we've done it piecemeal, here and there. Even those of you all who have been here longer than I have, it's been a little bit here, a little bit there, but it has never been done thoroughly and properly in the manner in which an agency up for Sunset should have been done, and is supposed to be done.

Consequently, I'm before you asking and saying that I move to instruct the conferees on **HB 1959** not to include any language extending the Sunset date for the Texas Department of Insurance, and for us to emphatically tell them that every single person in this body, every single member of this body, who was present and voted here about three weeks ago, voted 131 to zero to exclude them from the safety net, and that we want this situation fixed once and for all. We're tired of being piecemealed, and we're tired of the folks that we represent suffering the consequences of it with high homeowners insurance.

REPRESENTATIVE OTTO: Mr. Leibowitz, since you have referred several times to the 131 of us, and I was one of those votes, are you aware that the only reason I voted that way was because I actually thought we were going to get to that bill?

LEIBOWITZ: I can't read your mind, John.

OTTO: I'm just telling you that the only reason I voted for that is I fully expected this chamber to be able to take up that bill. That didn't happen.

LEIBOWITZ: It hasn't been reached in 16-17 years—

OTTO: I'm just talking about this session. It did not get reached in this session. That's the only vote that I made not to put it in the safety net, was because I thought this chamber was actually going to take that bill up.

LEIBOWITZ: So, what are we supposed to go back and tell the folks we represent? That the Texas Department of Insurance is immune from the Sunset provisions and that they have an open-ended immunity where we're not going to address them? It's been almost 20 years since they've been properly reviewed—

OTTO: Do we have the authority to call this body back into special session?

LEIBOWITZ: No, but we have the authority to instruct, respectfully, the conferees on the conference committee that, because this was a defeated measure, and it was unanimous, that they are not to come back here with an agreed-to bill—agreed-to conference report—that accepts the TDI as part of that compromise.

OTTO: I respect that, but let me just say that if you were to have taken that vote today, I would not be voting that way.

LEIBOWITZ: I understand, but that begs the question. The fact remains that it's going on 20 years since we have addressed this problem. The Texas Department of Insurance should not be immune to the Sunset process. The folks that we represent deserve better from us, and they deserve the homeowner situation to be addressed and to be fixed, and we have to answer to them when we go back home. Mr. Speaker, I move to instruct the conferees on **HB 1959** not to include any language extending the Sunset date for the Texas Department of Insurance.

REPRESENTATIVE SMITHEE: Mr. Speaker and members, I think it's important to know what's at stake here, and that is, if we vote to instruct the conferees, if the conferees do in fact heed that instruction, which they're not absolutely bound by, but if they did, you have to understand what would happen. Around September 1 of this year, the Texas Department of Insurance would be forced to begin the process of basically liquidating the department. Over the next few months, they would have to start letting people go, and they would have to start making plans to do away with the agency.

Now, some of those functions could be transferred to other agencies, and some of those employees could probably be moved around by LBB or executive authority during the interim. But here's the problem we've got: first of all, we've got to have insurance regulation in this state, and we've got to have an insurance commissioner, for several reasons. One is, we can't let our market go unregulated—it's just unthinkable. The second reason is that we have a number of companies based here in Texas, and they would be irreparably damaged if they were put in a situation where we had no insurance department or insurance commissioner. They would have terrific problems operating in any other state, but here's—I think—the most compelling reason. I don't know how many of you

have ever walked through the Department of Insurance, how many of you know the employees over there, but I'm telling you, that's an agency that actually works, and if you only knew what they've been through this last year—they first went through Hurricane Ike, they were working 20-hour days, they were working weekends—not one word of complaint. Then they had the possibility of an insurance meltdown when AIG got into trouble—that could have had much more drastic ramifications than it did, but that was another crisis.

I was talking to the commissioner yesterday, and I said, "How's the morale over there, with this possibility of Sunset hanging over them?" He said, "It's unbelievably good, but you've got to understand what they've been through in the last year." We give them a number of studies to do over there. Most of those studies, we don't give them any additional people or money, so their employees do those studies on the weekends and on evenings without any additional pay. They've never complained about it. They do a good job. People are upset about the insurance rates for homeowners. Well, the commissioner—who incidentally is up there, I asked him to come by in case any members had any questions tonight, he put his kids to bed and came back up here—the commissioner has been rejecting a lot of rates; but every time he rejects a rate it gets overthrown in court or else it is put off and put off. He has got rate cases that are six years old. So, it's not the commissioner's fault. It's not the department's fault. There are some things that need to be changed, and I had a number of amendments to the Sunset bill that I wanted to do that I thought would be good for consumers. It is absolutely unthinkable to let this agency go.

The other thing about the employees is this: once we begin this liquidation process, we're going to have actuaries, we're going to have analysts, that are going to go find jobs elsewhere, and believe me, they can find a job almost anywhere in the industry, and whoever is commissioner two years from now, assuming we do something two years from now, having to reassemble that department and that team of competent individuals—and actuaries are very hard to find, you have to do a nationwide search—it will be an insurmountable task to try to put that together. So, let's don't let this get caught in the political crossfire. This is very important to every one of us, to the people we represent, and to an entire agency over there of 800 hardworking, dedicated people who work for you and me every day. They try to make us look good, and they never complain about it.

REPRESENTATIVE TAYLOR: Mr. Smithee, you're the chairman of Insurance. I've been on Insurance with you—this is our fourth term. You and I both voted for that motion earlier in the session under different circumstances—we thought we were going to get to that. Is that correct?

SMITHEE: Yes.

Representative Leibowitz moved to instruct the Conference Committee on **HB 1959** to not include the Texas Department of Insurance in the text of the conference committee report on **HB 1959**.

The motion to instruct the conferees was lost by (Record 1527): 54 Yeas, 89 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Eiland; England; Farias; Farrar; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Gutierrez; Hernandez; Herrero; Hochberg; Howard, D.; Kent; King, T.; Leibowitz; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Pierson; Quintanilla; Raymond; Rodriguez; Strama; Thibaut; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anchia; Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Dukes; Eissler; Elkins; Farabee; Fletcher; Flores; Flynn; Gattis; Geren; Guillen; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hilderbran; Homer; Hopson; Howard, C.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lucio; Madden; McCall; McClendon; McReynolds; Menendez; Merritt; Miller, D.; Miller, S.; Morrison; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Riddle; Rios Ybarra; Ritter; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Thompson; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Harper-Brown; Hodge.

STATEMENT OF VOTE

I was shown voting no on Record No. 1527. I intended to vote yes.

Anchia

HB 1959 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1959**: Isett, chair; McReynolds, Cook, Hunter, and McCall.

HB 2570 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hancock called up with senate amendments for consideration at this time,

HB 2570, A bill to be entitled An Act relating to the regulation of stipulated premium insurance companies.

Representative Hancock moved to concur in the senate amendments to **HB 2570**.

The motion to concur in the senate amendments to **HB 2570** prevailed by (Record 1528): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick;

Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Castro; King, S.; Miller, S.

STATEMENT OF VOTE

When Record No. 1528 was taken, my vote failed to register. I would have voted yes.

S. King

Senate Committee Substitute

CSHB 2570, A bill to be entitled An Act relating to the regulation of stipulated premium insurance companies.

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

SECTION 1. Subsections (a) and (c), Section 884.054, Insurance Code, are amended to read as follows:

(a) A proposed stipulated premium company's capital stock must be in an amount of at least \$200,000 [~~\$15,000~~].

(c) To be incorporated, a stipulated premium company must possess at the time of incorporation, in addition to its capital, surplus in an amount of at least \$75,000 [~~\$7,500~~]. The amount of the surplus is not required to be stated in the company's articles of incorporation.

SECTION 2. Subsection (b), Section 884.202, Insurance Code, is amended to read as follows:

(b) Capital stock may be decreased to an amount that is less than \$200,000 [~~\$100,000~~] only to avoid insolvency as provided by Section 884.205 [~~and may never be decreased to an amount that is less than the minimum amount of paid-up stock required by Section 884.054~~].

SECTION 3. Subsection (a), Section 884.205, Insurance Code, is amended to read as follows:

(a) If, when computing the liabilities of a stipulated premium company under this chapter, one-third or more of the company's capital stock becomes impaired, the company shall correct the impairment not later than the 60th day after the date the company becomes subject to this subsection by:

(1) reducing the company's capital stock [~~subject to the limitation provided by Section 884.202(b)~~];

(2) adjusting the premium rate if permitted by policy contract; or

(3) both reducing capital stock and adjusting the premium rate.

SECTION 4. Subsection (b), Section 884.303, Insurance Code, is amended to read as follows:

(b) A stipulated premium company may not insure one life under this section for more than \$25,000 [~~\$15,000~~], except as provided by Section 884.304 or Subchapter I.

SECTION 5. Section 884.304, Insurance Code, is amended to read as follows:

Sec. 884.304. LIFE INSURANCE OF MORE THAN \$25,000 [~~\$15,000~~].

(a) Except as provided by this section, a stipulated premium company may not assume liability on a life insurance risk on one life in an amount that exceeds \$25,000 [~~\$15,000~~].

(b) If a stipulated premium company assumes a life insurance risk under a life insurance policy, the initial death benefit of \$25,000 [~~\$15,000~~] or less may increase to an amount greater than \$25,000 [~~\$15,000~~] subject to this section.

(c) For each policy year of a policy for which, after issuance, the death benefit exceeds \$25,000 [~~\$15,000~~], the amount of the increase of the death benefit at the end of that policy year from the end of the preceding policy year may not exceed the greater of:

(1) the amount computed using the maximum rate of increase provided by the policy, which rate may not exceed five percent a year, compounded annually; or

(2) the amount computed using the consumer price index for all urban consumers for all items and for all regions of the United States combined, as determined by the United States Department of Labor, Bureau of Labor Statistics, on September 30 of the year preceding the year in which the policy year ends, compounded annually.

SECTION 6. Subsection (a), Section 884.404, Insurance Code, is amended to read as follows:

(a) A stipulated premium company that issues any insurance coverage under this subchapter shall maintain at all times the capital and unencumbered surplus required under Section 884.054 [~~when the stipulated premium company began writing the coverage~~].

SECTION 7. Section 4054.051, Insurance Code, is amended to read as follows:

Sec. 4054.051. LICENSE REQUIRED. Except as provided by Subchapter G, a person is required to hold a general life, accident, and health license if the person acts as:

(1) an agent who represents a health maintenance organization;

(2) an industrial life insurance agent for an insurer that writes only weekly premium life insurance on a debit basis under Chapter 1151;

(3) an agent who writes life, accident, and health insurance for a life insurance company;

(4) an agent who writes only accident and health insurance;

(5) an agent who writes fixed or variable annuity contracts or variable life contracts;

(6) an agent who writes for a stipulated premium company:

(A) only life insurance in excess of \$25,000 [~~\$15,000~~] on any one life;

(B) only accident and health insurance; or

(C) both kinds of insurance described by Paragraphs (A) and (B);

(7) an agent who writes life, accident, and health insurance for any type of authorized life insurance company that is domiciled in this state, including a legal reserve life insurance company, and who represents the company:

(A) in a foreign country or territory; and

(B) on a United States military installation or with United States military personnel;

(8) an agent who writes life, accident, and health insurance for a fraternal benefit society except as provided by Section 885.352; or

(9) an agent who writes any other kind of insurance as required by the commissioner for the protection of the insurance consumers of this state.

SECTION 8. The heading to Subchapter E, Chapter 4054, Insurance Code, is amended to read as follows:

SUBCHAPTER E. LIFE INSURANCE NOT
EXCEEDING \$25,000 [~~\$15,000~~]

SECTION 9. Subsection (a), Section 4054.201, Insurance Code, is amended to read as follows:

(a) The department shall issue a license to an individual applicant to act as an agent who writes only life insurance policies in an amount that does not exceed \$25,000 [~~\$15,000~~] on any one life on receipt of certification from a stipulated premium company, a statewide mutual assessment company, a local mutual aid association, or a local mutual burial association, that the applicant has:

(1) completed a course of study and instruction in compliance with this subchapter; and

(2) passed without aid a written examination administered by the insurer.

SECTION 10. Section 4054.206, Insurance Code, is amended to read as follows:

Sec. 4054.206. LIMIT ON AGENT'S AUTHORITY. An insurance agent licensed under this subchapter may not write any coverage or combination of coverages with an initial guaranteed death benefit that exceeds \$25,000 [~~\$15,000~~] on any life.

SECTION 11. Subsections (a) and (d), Section 4054.301, Insurance Code, are amended to read as follows:

(a) Except as provided by Subsection (b), a person is required to hold a life agent license if the person does not hold a general life, accident, and health license under Subchapter B and the person acts as:

(1) an agent who writes insurance coverage on human lives, including endowment benefits and annuities, benefits in the event of death or dismemberment by accident, and benefits for disability income;

(2) an industrial life insurance agent for an insurer that writes only weekly premium life insurance on a debit basis under Chapter 1151;

(3) an agent who writes fixed or variable annuity contracts or variable life contracts;

(4) an agent who writes for a stipulated premium company only life insurance in excess of \$25,000 [~~\$15,000~~] on any one life; or

(5) an agent who writes any other kind of insurance as required by the commissioner for the protection of the insurance consumers of this state.

(d) A person who holds a license to write life insurance not exceeding \$25,000 [~~\$15,000~~] under Subchapter E and who engages in the business of insurance only within the scope of that license is not required to hold a life agent license. A person who holds a life agent license may write the insurance described by that subchapter.

SECTION 12. A stipulated premium company shall increase its capital stock and surplus as required under Chapter 884, Insurance Code, as amended by this Act, not later than a date prescribed by rule by the commissioner of insurance in connection with a reasonable schedule of intermediate increases adopted by the commissioner to provide for a 10-year phase-in of the changes in law made by this Act.

SECTION 13. This Act applies only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2010. A policy delivered, issued for delivery, or renewed before January 1, 2010, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 14. This Act takes effect September 1, 2009.

**HB 432 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Lucio called up with senate amendments for consideration at this time,

HB 432, A bill to be entitled An Act relating to the acquisition by state agencies of low-emissions vehicles and vehicles using alternative fuels.

Representative Lucio moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 432**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 432**: Lucio, chair; Cook, Otto, Menendez, and Strama.

(Solomons in the chair)

**HB 746 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative F. Brown called up with senate amendments for consideration at this time,

HB 746, A bill to be entitled An Act relating to expanding the availability of classrooms and other facilities for use by public colleges and universities.

Representative F. Brown moved to discharge the conferees and concur in the senate amendments to **HB 746**.

The motion to discharge the conferees and concur in the senate amendments to **HB 746** prevailed by (Record 1529): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Allen.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 746** (engrossed version) as follows:

- (1) Strike SECTION 1 entirely.
- (2) In SECTION 2, on page 1, line 23, strike "shall" and substitute "may".
- (3) In SECTION 2, on page 2, line 4, strike "institution of higher education" and substitute "junior college".

(4) In SECTION 2, strike subsection (d) entirely (page 2, line 21 through page 3, line 1).

**HB 1320 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Christian called up with senate amendments for consideration at this time,

HB 1320, A bill to be entitled An Act relating to creating an offense for engaging in certain conduct relating to cockfighting and to the criminal and civil consequences of committing that offense.

Representative Christian 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 1320**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1320**: Christian, chair; Flynn, P. King, Chisum, and Berman.

**HB 2256 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hancock called up with senate amendments for consideration at this time,

HB 2256, A bill to be entitled An Act relating to mediation of out-of-network health benefit claim disputes concerning enrollees, facility-based physicians, and certain health benefit plans; imposing an administrative penalty.

Representative Hancock moved to concur in the senate amendments to **HB 2256**.

The motion to concur in the senate amendments to **HB 2256** prevailed by (Record 1530): 136 Yeas, 1 Nays, 4 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycok; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Phillips; Pickett; Pierson; Pitts; Quintanilla;

Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley.

Nays — Shelton.

Present, not voting — Mr. Speaker; Peña; Solomons(C); Zerwas.

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Burnam; Geren; Harless; King, S.; Villarreal.

Senate Committee Substitute

CSHB 2256, A bill to be entitled An Act relating to mediation of out-of-network health benefit claim disputes concerning enrollees, facility-based physicians, and certain health benefit plans; imposing an administrative penalty.

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

SECTION 1. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1467 to read as follows:

CHAPTER 1467. OUT-OF-NETWORK CLAIM DISPUTE RESOLUTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1467.001. DEFINITIONS. In this chapter:

(1) "Administrator" means:

(A) an administering firm for a health benefit plan providing coverage under Chapter 1551; and

(B) if applicable, the claims administrator for the health benefit plan.

(2) "Chief administrative law judge" means the chief administrative law judge of the State Office of Administrative Hearings.

(3) "Enrollee" means an individual who is eligible to receive benefits through a preferred provider benefit plan or a health benefit plan under Chapter 1551.

(4) "Facility-based physician" means a radiologist, an anesthesiologist, a pathologist, an emergency department physician, or a neonatologist:

(A) to whom the facility has granted clinical privileges; and

(B) who provides services to patients of the facility under those clinical privileges.

(5) "Mediation" means a process in which an impartial mediator facilitates and promotes agreement between the insurer offering a preferred provider benefit plan or the administrator and a facility-based physician or the physician's representative to settle a health benefit claim of an enrollee.

(6) "Mediator" means an impartial person who is appointed to conduct a mediation under this chapter.

(7) "Party" means an insurer offering a preferred provider benefit plan, an administrator, or a facility-based physician or the physician's representative who participates in a mediation conducted under this chapter. The enrollee is also considered a party to the mediation.

Sec. 1467.002. APPLICABILITY OF CHAPTER. This chapter applies to:

(1) a preferred provider benefit plan offered by an insurer under Chapter 1301; and

(2) an administrator of a health benefit plan, other than a health maintenance organization plan, under Chapter 1551.

Sec. 1467.003. RULES. The commissioner, the Texas Medical Board, and the chief administrative law judge shall adopt rules as necessary to implement their respective powers and duties under this chapter.

Sec. 1467.004. REMEDIES NOT EXCLUSIVE. The remedies provided by this chapter are in addition to any other defense, remedy, or procedure provided by law, including the common law.

Sec. 1467.005. REFORM. This chapter may not be construed to prohibit:

(1) an insurer offering a preferred provider benefit plan or administrator from, at any time, offering a reformed claim settlement; or

(2) a facility-based physician from, at any time, offering a reformed charge for medical services.

[Sections 1467.006-1467.050 reserved for expansion]

SUBCHAPTER B. MANDATORY MEDIATION

Sec. 1467.051. AVAILABILITY OF MANDATORY MEDIATION; EXCEPTION. (a) An enrollee may request mediation of a settlement of an out-of-network health benefit claim if:

(1) the amount for which the enrollee is responsible to a facility-based physician, after copayments, deductibles, and coinsurance, including the amount unpaid by the administrator or insurer, is greater than \$1,000; and

(2) the health benefit claim is for a medical service or supply provided by a facility-based physician in a hospital that is a preferred provider or that has a contract with the administrator.

(b) Except as provided by Subsections (c) and (d), if an enrollee requests mediation under this subchapter, the facility-based physician or the physician's representative and the insurer or the administrator, as appropriate, shall participate in the mediation.

(c) Except in the case of an emergency and if requested by the enrollee, a facility-based physician shall, before providing a medical service or supply, provide a complete disclosure to an enrollee that:

(1) explains that the facility-based physician does not have a contract with the enrollee's health benefit plan;

(2) discloses projected amounts for which the enrollee may be responsible; and

(3) discloses the circumstances under which the enrollee would be responsible for those amounts.

(d) A facility-based physician who makes a disclosure under Subsection (c) and obtains the enrollee's written acknowledgment of that disclosure may not be required to mediate a billed charge under this subchapter if the amount billed is less than or equal to the maximum amount projected in the disclosure.

Sec. 1467.052. MEDIATOR QUALIFICATIONS. (a) Except as provided by Subsection (b), to qualify for an appointment as a mediator under this chapter a person must have completed at least 40 classroom hours of training in dispute

resolution techniques in a course conducted by an alternative dispute resolution organization or other dispute resolution organization approved by the chief administrative law judge.

(b) A person not qualified under Subsection (a) may be appointed as a mediator on agreement of the parties.

(c) A person may not act as mediator for a claim settlement dispute if the person has been employed by, consulted for, or otherwise had a business relationship with an insurer offering the preferred provider benefit plan or a physician during the three years immediately preceding the request for mediation.

Sec. 1467.053. APPOINTMENT OF MEDIATOR; FEES. (a) A mediation shall be conducted by one mediator.

(b) The chief administrative law judge shall appoint the mediator through a random assignment from a list of qualified mediators maintained by the State Office of Administrative Hearings.

(c) Notwithstanding Subsection (b), a person other than a mediator appointed by the chief administrative law judge may conduct the mediation on agreement of all of the parties and notice to the chief administrative law judge.

(d) The mediator's fees shall be split evenly and paid by the insurer or administrator and the facility-based physician.

Sec. 1467.054. REQUEST AND PRELIMINARY PROCEDURES FOR MANDATORY MEDIATION. (a) An enrollee may request mandatory mediation under this chapter.

(b) A request for mandatory mediation must be provided to the department on a form prescribed by the commissioner and must include:

(1) the name of the enrollee requesting mediation;

(2) a brief description of the claim to be mediated;

(3) contact information, including a telephone number, for the requesting enrollee and the enrollee's counsel, if the enrollee retains counsel;

(4) the name of the facility-based physician and name of the insurer or administrator; and

(5) any other information the commissioner may require by rule.

(c) On receipt of a request for mediation, the department shall notify the facility-based physician and insurer or administrator of the request.

(d) In an effort to settle the claim before mediation, all parties must participate in an informal settlement teleconference not later than the 30th day after the date on which the enrollee submits a request for mediation under this section.

(e) A dispute to be mediated under this chapter that does not settle as a result of a teleconference conducted under Subsection (d) must be conducted in the county in which the medical services were rendered.

(f) The enrollee may elect to participate in the mediation. A mediation may not proceed without the consent of the enrollee. An enrollee may withdraw the request for mediation at any time before the mediation.

(g) Notwithstanding Subsection (f), mediation may proceed without the participation of the enrollee or the enrollee's representative if the enrollee or representative is not present in person or through teleconference.

Sec. 1467.055. CONDUCT OF MEDIATION; CONFIDENTIALITY. (a) A mediator may not impose the mediator's judgment on a party about an issue that is a subject of the mediation.

(b) A mediation session is under the control of the mediator.

(c) Except as provided by this chapter, the mediator must hold in strict confidence all information provided to the mediator by a party and all communications of the mediator with a party.

(d) If the enrollee is participating in the mediation in person, at the beginning of the mediation the mediator shall inform the enrollee that if the enrollee is not satisfied with the mediated agreement, the enrollee may file a complaint with:

(1) the Texas Medical Board against the facility-based physician for improper billing; and

(2) the department for unfair claim settlement practices.

(e) A party must have an opportunity during the mediation to speak and state the party's position.

(f) Except on the agreement of the participating parties, a mediation may not last more than four hours.

(g) Except at the request of an enrollee, a mediation shall be held not later than the 180th day after the date of the request for mediation.

(h) On receipt of notice from the department that an enrollee has made a request for mediation that meets the requirements of this chapter, the facility-based physician may not pursue any collection effort against the enrollee who has requested mediation for amounts other than copayments, deductibles, and coinsurance before the earlier of:

(1) the date the mediation is completed; or

(2) the date the request to mediate is withdrawn.

(i) A service provided by a facility-based physician may not be summarily disallowed. This subsection does not require an insurer or administrator to pay for an uncovered service.

(j) A mediator may not testify in a proceeding, other than a proceeding to enforce this chapter, related to the mediation agreement.

Sec. 1467.056. MATTERS CONSIDERED IN MEDIATION; AGREED RESOLUTION. (a) In a mediation under this chapter, the parties shall:

(1) evaluate whether:

(A) the amount charged by the facility-based physician for the medical service or supply is excessive; and

(B) the amount paid by the insurer or administrator represents the usual and customary rate for the medical service or supply or is unreasonably low; and

(2) as a result of the amounts described by Subdivision (1), determine the amount, after copayments, deductibles, and coinsurance are applied, for which an enrollee is responsible to the facility-based physician.

(b) The facility-based physician may present information regarding the amount charged for the medical service or supply. The insurer or administrator may present information regarding the amount paid by the insurer.

(c) Nothing in this chapter prohibits mediation of more than one claim between the parties during a mediation.

(d) The goal of the mediation is to reach an agreement among the enrollee, the facility-based physician, and the insurer or administrator, as applicable, as to the amount paid by the insurer or administrator to the facility-based physician, the amount charged by the facility-based physician, and the amount paid to the facility-based physician by the enrollee.

Sec. 1467.057. NO AGREED RESOLUTION. (a) The mediator of an unsuccessful mediation under this chapter shall report the outcome of the mediation to the department, the Texas Medical Board, and the chief administrative law judge.

(b) The chief administrative law judge shall enter an order of referral of a matter reported under Subsection (a) to a special judge under Chapter 151, Civil Practice and Remedies Code, that:

(1) names the special judge on whom the parties agreed or appoints the special judge if the parties did not agree on a judge;

(2) states the issues to be referred and the time and place on which the parties agree for the trial;

(3) requires each party to pay the party's proportionate share of the special judge's fee; and

(4) certifies that the parties have waived the right to trial by jury.

(c) A trial by the special judge selected or appointed as described by Subsection (b) must proceed under Chapter 151, Civil Practice and Remedies Code, except that the special judge's verdict is not relevant or material to any other balance bill dispute and has no precedential value.

(d) Notwithstanding any other provision of this section, Sections 151.012 and 151.013, Civil Practice and Remedies Code, do not apply to a mediation under this chapter.

Sec. 1467.058. CONTINUATION OF MEDIATION. After a referral is made under Section 1467.057, the facility-based physician and the insurer or administrator may elect to continue the mediation to further determine their responsibilities. Continuation of mediation under this section does not affect the amount of the billed charge to the enrollee.

Sec. 1467.059. MEDIATION AGREEMENT. The mediator shall prepare a confidential mediation agreement and order that states:

(1) the total amount for which the enrollee will be responsible to the facility-based physician, after copayments, deductibles, and coinsurance; and

(2) any agreement reached by the parties under Section 1467.058.

Sec. 1467.060. REPORT OF MEDIATOR. The mediator shall report to the commissioner and the Texas Medical Board:

(1) the names of the parties to the mediation; and

(2) whether the parties reached an agreement or the mediator made a referral under Section 1467.057.

[Sections 1467.061-1467.100 reserved for expansion]

SUBCHAPTER C. BAD FAITH MEDIATION

Sec. 1467.101. BAD FAITH. (a) The following conduct constitutes bad faith mediation for purposes of this chapter:

- (1) failing to participate in the mediation;
- (2) failing to provide information the mediator believes is necessary to facilitate an agreement; or
- (3) failing to designate a representative participating in the mediation with full authority to enter into any mediated agreement.

(b) Failure to reach an agreement is not conclusive proof of bad faith mediation.

(c) A mediator shall report bad faith mediation to the commissioner or the Texas Medical Board, as appropriate, following the conclusion of the mediation.

Sec. 1467.102. PENALTIES. (a) Bad faith mediation, by a party other than the enrollee, is grounds for imposition of an administrative penalty by the regulatory agency that issued a license or certificate of authority to the party who committed the violation.

(b) Except for good cause shown, on a report of a mediator and appropriate proof of bad faith mediation, the regulatory agency that issued the license or certificate of authority shall impose an administrative penalty.

[Sections 1467.103-1467.150 reserved for expansion]

SUBCHAPTER D. COMPLAINTS; CONSUMER PROTECTION

Sec. 1467.151. CONSUMER PROTECTION; RULES. (a) The commissioner and the Texas Medical Board, as appropriate, shall adopt rules regulating the investigation and review of a complaint filed that relates to the settlement of an out-of-network health benefit claim that is subject to this chapter. The rules adopted under this section must:

- (1) distinguish among complaints for out-of-network coverage or payment and give priority to investigating allegations of delayed medical care;
- (2) develop a form for filing a complaint and establish an outreach effort to inform enrollees of the availability of the claims dispute resolution process under this chapter;
- (3) ensure that a complaint is not dismissed without appropriate consideration;
- (4) ensure that enrollees are informed of the availability of mandatory mediation; and
- (5) require the administrator to include a notice of the claims dispute resolution process available under this chapter with the explanation of benefits sent to an enrollee.

(b) The department and the Texas Medical Board shall maintain information:

- (1) on each complaint filed that concerns a claim or mediation subject to this chapter; and
- (2) related to a claim that is the basis of an enrollee complaint, including:

(A) the type of services that gave rise to the dispute;

(B) the type and specialty of the facility-based physician who provided the out-of-network service;

(C) the county and metropolitan area in which the medical service or supply was provided;

(D) whether the medical service or supply was for emergency care;
and

(E) any other information about:

(i) the insurer or administrator that the commissioner by rule requires; or

(ii) the physician that the Texas Medical Board by rule requires.

(c) The information collected and maintained by the department and the Texas Medical Board under Subsection (b)(2) is public information as defined by Section 552.002, Government Code, and may not include personally identifiable information or medical information.

(d) A facility-based physician who fails to provide a disclosure under Section 1467.051 is not subject to discipline by the Texas Medical Board for that failure and a cause of action is not created by a failure to disclose as required by Section 1467.051.

SECTION 2. Subchapter A, Chapter 1301, Insurance Code, is amended by adding Section 1301.0055 to read as follows:

Sec. 1301.0055. NETWORK ADEQUACY STANDARDS. The commissioner shall by rule adopt network adequacy standards that:

(1) are adapted to local markets in which an insurer offering a preferred provider benefit plan operates;

(2) ensure availability of, and accessibility to, a full range of health care practitioners to provide health care services to insureds; and

(3) consider situations in which no provider in a field of practice in a local market agree to contract with a plan at a reasonable rate of reimbursement.

SECTION 3. Section 1456.004, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) A facility-based physician who bills a patient covered by a preferred provider benefit plan or a health benefit plan under Chapter 1551 that does not have a contract with the facility-based physician shall send a billing statement to the patient with information sufficient to notify the patient of the mandatory mediation process available under Chapter 1467 if the amount for which the enrollee is responsible, after copayments, deductibles, and coinsurance, including the amount unpaid by the administrator or insurer, is greater than \$1,000.

SECTION 4. Section 324.001, Health and Safety Code, is amended by adding subsection (8) to read as follows:

(8) "Facility-based physician" means a radiologist, an anesthesiologist, a pathologist, an emergency department physician, or a neonatologist.

SECTION 5. Section 324.101(a), Health and Safety Code, is amended to read as follows:

(a) Each facility shall develop, implement, and enforce written policies for the billing of facility health care services and supplies. The policies must address:

(1) any discounting of facility charges to an uninsured consumer, subject to Chapter 552, Insurance Code;

(2) any discounting of facility charges provided to a financially or medically indigent consumer who qualifies for indigent services based on a sliding fee scale or a written charity care policy established by the facility and the documented income and other resources of the consumer;

(3) the providing of an itemized statement required by Subsection (e);

(4) whether interest will be applied to any billed service not covered by a third-party payor and the rate of any interest charged;

(5) the procedure for handling complaints; ~~and~~

(6) the providing of a conspicuous written disclosure to a consumer at the time the consumer is first admitted to the facility or first receives services at the facility that:

(A) provides confirmation whether the facility is a participating provider under the consumer's third-party payor coverage on the date services are to be rendered based on the information received from the consumer at the time the confirmation is provided; ~~and~~

(B) informs consumers ~~[the consumer]~~ that a facility-based physician ~~[or other health care provider]~~ who may provide services to the consumer while the consumer is in the facility may not be a participating provider with the same third-party payors as the facility;

(C) informs consumers that the consumer may receive a bill for medical services from a facility-based physician for the amount unpaid by the consumer's health benefit plan;

(D) informs consumers that the consumer may request a listing of facility-based physicians who have been granted medical staff privileges to provide medical services at the facility; and

(E) informs consumers that the consumer may request information from a facility-based physician on whether the physician has a contract with the consumer's health benefit plan and under what circumstances the consumer may be responsible for payment of any amounts not paid by the consumer's health benefit plan;

(7) the requirement that a facility provide a list, on request, to a consumer to be admitted to, or who is expected to receive services from, the facility, that contains the name and contact information for each facility-based physician who has been granted medical staff privileges to provide medical services at the facility; and

(8) if the facility operates a website that includes a listing of physicians who have been granted medical staff privileges to provide medical services at the facility, the posting on the facility's website of a list that contains the name and contact information for each facility-based physician who has been granted

medical staff privileges to provide medical services at the facility and the updating of the list in any calendar quarter in which there are any changes to the list.

SECTION 6. This Act applies only to a health benefit claim filed on or after the effective date of this Act. A claim filed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7. As soon as practicable after the effective date of this Act, the commissioner of insurance, Texas Medical Board, and chief administrative law judge of the State Office of Administrative Hearings shall adopt rules as necessary to implement and enforce this Act.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 2256** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 1467.057(d), Insurance Code (page 4, line 46), strike "Sections 151.012 and 151.013, Civil Practice and Remedies Code, do", and substitute "Section 151.012, Civil Practice and Remedies Code, does".

(2) In SECTION 2 of the bill, in added Section 1301.0055(2), Insurance Code (page 6, line 10), strike "health care practitioners" and substitute "contracted physicians and health care providers".

(3) In SECTION 2 of the bill, in added Section 1301.0055, Insurance Code (page 6, lines 12-14), strike Subdivision (3) and substitute the following:

(3) on good cause shown, may allow departure from local market network adequacy standards if the commissioner posts on the department's Internet website the name of the preferred provider plan, the insurer offering the plan, and the affected local market.

(4) In SECTION 5 of the bill, in added Section 324.101(a)(7), Health and Safety Code (page 7, line 9), strike "facility-based physician who" and substitute "facility-based physician or facility-based physician group that".

(5) In SECTION 5 of the bill, in added Section 324.101(a)(8), Health and Safety Code (page 7, line 16), strike "facility-based physician who" and substitute "facility-based physician or facility-based physician group that".

(6) In SECTION 6 of the bill (page 7, line 20), strike "This Act applies" and substitute "(a) Except as provided by Subsection (b), this Act applies".

(7) In SECTION 6 of the bill (page 7, between lines 24 and 25), insert the following:

(b) Section 1467.002(2), Insurance Code, as added by this Act, applies to a health benefit claim filed under a group policy or contract executed under Chapter 1551, Insurance Code, on or after September 1, 2010. A claim filed under a group policy or contract executed under Chapter 1551, Insurance Code, before September 1, 2010, is governed by the law as it existed immediately before September 1, 2010, and that law is continued in effect for that purpose.

**HB 3389 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Harper-Brown called up with senate amendments for consideration at this time,

HB 3389, A bill to be entitled An Act relating to the continuation and functions of the Texas Commission on Law Enforcement Officer Standards and Education.

Representative Harper-Brown moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3389**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3389**: Harper-Brown, chair; Driver, P. King, Fletcher, and Frost.

**HB 4833 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hunter called up with senate amendments for consideration at this time,

HB 4833, A bill to be entitled An Act relating to the creation of district courts and statutory county courts and to the composition of the juvenile boards in certain counties.

Representative Hunter moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 4833**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4833**: Hunter, chair; Leibowitz, Craddick, Hughes, and Martinez.

**HB 770 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative D. Howard called up with senate amendments for consideration at this time,

HB 770, A bill to be entitled An Act relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage and to exempting certain houses from the Open Beaches Act.

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 770**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 770**: D. Howard, chair; Christian, Hamilton, Eiland, and Taylor.

HB 1174 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hartnett called up with senate amendments for consideration at this time,

HB 1174, A bill to be entitled An Act relating to payment by a municipality for certain damages arising from the municipality's operation of its sanitary sewer system.

Representative Hartnett moved to concur in the senate amendments to **HB 1174**.

The motion to concur in the senate amendments to **HB 1174** prevailed by (Record 1531): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Flores; McClendon.

Senate Committee Substitute

CSHB 1174, A bill to be entitled An Act relating to payment by a municipality or river authority for certain damages caused by the municipality's or river authority's operation of a sanitary sewer system.

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

SECTION 1. Subchapter Z, Chapter 552, Local Government Code, is amended by adding Section 552.912 to read as follows:

Sec. 552.912. CERTAIN DAMAGES CAUSED BY SEWAGE BACKUP.

(a) A municipality or a river authority may pay actual property damages caused by the backup of the municipality's or river authority's sanitary sewer system regardless of whether the municipality or river authority would be liable for the damages under Chapter 101, Civil Practice and Remedies Code.

(b) This section does not waive governmental immunity from suit or liability.

SECTION 2. Section 552.912, Local Government Code, as added by this Act, applies to damages caused by the backup of a sanitary sewer system on or after March 1, 2007.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1174** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 552.912(a), Local Government Code (page 1, line 17), between "a river authority" and "may pay", insert ", other than a river authority listed in Subsection (c),".

(2) In SECTION 1 of the bill, at the end of added Section 552.912, Local Government Code (page 1, between lines 23 and 24), insert the following:

(c) This section does not apply to the Trinity River Authority, the San Jacinto River Authority, the Sabine River Authority, or the Lower Neches Valley River Authority.

HB 1285 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Eiland called up with senate amendments for consideration at this time,

HB 1285, A bill to be entitled An Act relating to persons authorized to administer an oath in this state.

Representative Eiland moved to concur in the senate amendments to **HB 1285**.

The motion to concur in the senate amendments to **HB 1285** prevailed by (Record 1532): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Burnam; Turner, S.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1285**, page 2, line 3, amending subsection (9) to include the following language as follows:

(9) an employee of a personal bond office, or an employee of a county, who is employed to obtain information required to be obtained under oath if the oath is required or authorized by Article 17.04 or by Article 26.04(n) or (o), Criminal Procedure Code;

HB 1935 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Villarreal called up with senate amendments for consideration at this time,

HB 1935, A bill to be entitled An Act relating to the establishment of the Jobs and Education for Texans (JET) Grant Program to support adult and postsecondary education and workforce development.

Representative Villarreal 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 1935**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1935**: Villarreal, chair; Lucio, Eissler, Naishtat, and McReynolds.

(Bonnen in the chair)

**HB 2163 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative S. Turner called up with senate amendments for consideration at this time,

HB 2163, A bill to be entitled An Act relating to a study regarding the provision of certain medications through the Medicaid vendor drug program to children younger than 16 years of age.

Representative S. Turner 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 2163**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2163**: S. Turner, chair; Zerwas, Kolkhorst, Giddings, and Edwards.

**HB 3621 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Solomons called up with senate amendments for consideration at this time,

HB 3621, A bill to be entitled An Act relating to certain charges included in a motor vehicle installment agreement.

Representative Solomons moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3621**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3621**: Solomons, chair; Flynn, Farabee, Deshotel, and Elkins.

**HB 3094 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Harless called up with senate amendments for consideration at this time,

HB 3094, A bill to be entitled An Act relating to the regulation of massage parlors by certain counties; providing penalties.

Representative Harless moved to concur in the senate amendments to **HB 3094**.

The motion to concur in the senate amendments to **HB 3094** prevailed by (Record 1533): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Senate Committee Substitute

CSHB 3094, A bill to be entitled An Act relating to the regulation of massage parlors by counties; providing penalties.

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

SECTION 1. Chapter 234, Local Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. MASSAGE PARLORS

Sec. 234.101. DEFINITIONS. In this subchapter:

(1) "Massage parlor" means a business establishment that purports to provide massage services and that allows:

(A) a nude person to provide massage services to a customer;

(B) a person to engage in sexual contact for compensation; or

(C) a person to provide massage services in clothing intended to arouse or gratify the sexual desire of any person.

(2) "Nude" and "sexual contact" have the meanings assigned by Section 455.202, Occupations Code.

Sec. 234.102. AUTHORITY TO REGULATE. To promote public health, safety, and welfare, the commissioners court of a county by order may prohibit or otherwise regulate massage parlors located in the unincorporated area of the county.

Sec. 234.103. INJUNCTION. If a massage parlor has previously violated a prohibition or other regulation adopted under this subchapter, a district or county attorney may bring suit to enjoin the operation of a massage parlor in violation or threatened violation of a prohibition or other regulation adopted under this subchapter.

Sec. 234.104. CIVIL PENALTY. (a) A person who violates a prohibition or regulation adopted by the county under this subchapter is liable to the county for a civil penalty of not more than \$1,000 for each violation. Each day a violation continues is considered a separate violation for purposes of assessing the civil penalty.

(b) A county may bring suit in a district court to recover a civil penalty authorized by Subsection (a).

Sec. 234.105. CRIMINAL PENALTY. (a) A person commits an offense if the person intentionally or knowingly operates a massage parlor in violation of a prohibition or regulation adopted under this subchapter by the commissioners court.

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

Sec. 234.106. CUMULATIVE EFFECT. Authority under this subchapter is cumulative of other authority that a county has to regulate massage parlors and does not limit that other authority.

Sec. 234.107. EFFECT ON OTHER LAWS. (a) This subchapter does not legalize anything prohibited under the Penal Code or other state law.

(b) A person who is subject to prosecution under this section and any other law may be prosecuted under either or both laws.

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, 2009.

(Speaker in the chair)

HB 4189- HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Rose called up with senate amendments for consideration at this time,

HB 4189, A bill to be entitled An Act relating to the conduct of compliance programs by institutions of higher education.

Representative Rose moved to concur in the senate amendments to **HB 4189**.

The motion to concur in the senate amendments to **HB 4189** prevailed by (Record 1534): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 4189** (senate committee printing) by adding the appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. This Act shall be known as the Jamie Schanbaum Act.

SECTION _____. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9192 to read as follows:

Sec. 51.9192. BACTERIAL MENINGITIS VACCINATION REQUIRED FOR CERTAIN STUDENTS; EXCEPTIONS. (a) In this section:

(1) "Health practitioner" means any person authorized by law to administer an immunization.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

(b) This section applies only to a first-time student of an institution of higher education or private or independent institution of higher education, including a transfer student, who resides in, or has applied for on-campus housing and been approved to reside in, an on-campus dormitory or other on-campus student housing facility at the institution.

(c) Except as provided by Subsection (d), a student to whom this section applies or a parent or guardian of the student must provide to the institution, at the time and in the manner prescribed by rules adopted by the Texas Higher Education Coordinating Board, a certificate signed by a health practitioner evidencing that the student has been vaccinated against bacterial meningitis.

(d) A student to whom this section applies or a parent or guardian of the student is not required to comply with Subsection (c) if the student or a parent or guardian of the student submits to the institution:

(1) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States in which it is stated that, in the physician's opinion, the vaccination required would be injurious to the health and well-being of the student; or

(2) an affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including a religious belief, except that the exemption provided by this subdivision does not apply during a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency declared by an appropriate official or other authority and in effect for the location of the institution the student attends.

(e) The Texas Higher Education Coordinating Board, in consultation with institutions of higher education and private or independent institutions of higher education, shall adopt rules for the administration of this section, including rules establishing the date by which a student who is required to comply with Subsection (c) must have received the vaccination required by that subsection, which may not be later than the date the student initially moves into an on-campus dormitory or other on-campus student housing facility at an institution.

SECTION _____. Section 51.9192, Education Code, as added by this Act, applies to first-time students enrolling in public or private or independent institutions of higher education in this state on or after January 1, 2010.

HB 498 - HOUSE CONCURS IN SENATE AMENDMENTS

Representative Dukes called up with senate amendments for consideration at this time,

HB 498, A bill to be entitled An Act relating to the creation of a commission to investigate and prevent wrongful convictions.

Representative Dukes moved to concur in the senate amendments to **HB 498**.

The motion to concur in the senate amendments to **HB 498** prevailed by (Record 1535): 110 Yeas, 28 Nays, 1 Present, not voting. (The vote was reconsidered later today, the house refused to concur in senate amendments, and a conference committee was appointed.)

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, B.; Burnam; Castro; Chavez; Cohen; Coleman; Cook; Corte; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Leibowitz; Lucio; Madden;

Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Patrick; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Vaught; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Bonnen; Brown, F.; Button; Chisum; Christian; Crabb; Craddick; Creighton; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hancock; Hardcastle; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Orr; Otto; Parker; Paxton; Phillips; Riddle; Sheffield; Weber.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Callegari; England; Hodge; Martinez Fischer; Miller, S.; Turner, S.; Veasey.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1535. I intended to vote no.

Berman

I was shown voting yes on Record No. 1535. I intended to vote no.

Harper-Brown

I was shown voting no on Record No. 1535. I intended to vote yes.

Kolkhorst

I was shown voting yes on Record No. 1535. I intended to vote no.

D. Miller

When Record No. 1535 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

HB 1357 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Isett called up with senate amendments for consideration at this time,

HB 1357, A bill to be entitled An Act relating to the regulation of freestanding emergency medical care facilities; providing an administrative penalty; creating an offense.

Representative Isett 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 1357**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1357**: Isett, chair; Rios Ybarra, Laubenberg, S. King, and McReynolds.

**HB 2086 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Moody called up with senate amendments for consideration at this time,

HB 2086, A bill to be entitled An Act relating to the prosecution and punishment of the offense of engaging in organized criminal activity.

Representative Moody 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 2086**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2086**: Moody, chair; Gallego, Miklos, Riddle, and Fletcher.

REMARKS ORDERED PRINTED

Representative C. Turner moved to print remarks by Representative Leibowitz regarding **HB 1959**.

The motion prevailed.

Representative Jackson moved to print remarks by Representative Smithee regarding **HB 1959**.

The motion prevailed.

**SB 679 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Y. Davis, the house granted the request of the senate for the appointment of a Conference Committee on **SB 679**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 679**: Y. Davis, chair; Pierson, Menendez, Fletcher, and Miklos.

**HB 2093 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Driver called up with senate amendments for consideration at this time,

HB 2093, A bill to be entitled An Act relating to persons certified as peace officers.

Representative Driver moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2093**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2093**: Driver, chair; Isett, Chisum, Peña, and Hunter.

**HB 3454 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Otto called up with senate amendments for consideration at this time,

HB 3454, A bill to be entitled An Act relating to the determination of the value of property for ad valorem tax purposes.

Representative Otto 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 3454**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3454**: Otto, chair; Keffer, Hardcastle, Hefflin, and Farabee.

**HB 3872 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gattis called up with senate amendments for consideration at this time,

HB 3872, A bill to be entitled An Act relating to the qualifications to be a veterans county service officer.

Representative Gattis 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 3872**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3872**: Gattis, chair; Corte, Vaught, Sheffield, and Kleinschmidt.

**HB 3907 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Madden called up with senate amendments for consideration at this time,

HB 3907, A bill to be entitled An Act relating to the court-ordered administration of psychoactive medication to certain criminal defendants and to the release of those defendants from certain facilities.

Representative Madden moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3907**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3907**: Madden, chair; McCall, Sheffield, McReynolds, and Marquez.

HB 4031 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative McCall called up with senate amendments for consideration at this time,

HB 4031, A bill to be entitled An Act relating to the agricultural biomass and landfill diversion incentive program.

Representative McCall moved to concur in the senate amendments to **HB 4031**.

The motion to concur in the senate amendments to **HB 4031** prevailed by (Record 1536): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 4031** (engrossed version) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 22.004(c), Agriculture Code, is amended to read as follows:

(c) Money in the account may be appropriated only to the department for the purpose of implementing, ~~and~~ maintaining, and administering the agricultural biomass and landfill diversion incentive program.

SECTION _____. The heading to Section 22.005, Agriculture Code, is amended to read as follows:

Sec. 22.005. LIMITATION ON GRANT AMOUNT; SCHEDULE OF PAYMENTS.

SECTION _____. Section 22.005, Agriculture Code, is amended by adding Subsection (c) to read as follows:

(c) On a determination that money in the agricultural biomass and landfill diversion incentive account is insufficient to pay reimbursements under Section 22.003 or grants under Section 22.006, the department, in consultation with interested parties, may develop a proportionate and equitable schedule to pay the reimbursements or grants. In developing a schedule to pay reimbursements or grants under this subsection, the department may consider a facility's:

(1) effect on wages and job creation or job retention;

(2) level of capital investment; and

(3) effect on the local economy and the economy of this state.

**HB 4338 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Smithee called up with senate amendments for consideration at this time,

HB 4338, A bill to be entitled An Act relating to title insurance agents and title insurance companies.

Representative Smithee moved to concur in the senate amendments to **HB 4338**.

The motion to concur in the senate amendments to **HB 4338** prevailed by (Record 1537): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt;

Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Flores; McClendon.

Senate Committee Substitute

CSHB 4338, A bill to be entitled An Act relating to title insurance agents and title insurance companies.

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

SECTION 1. Section 2501.004(b), Insurance Code, is amended to read as follows:

(b) To provide for the safety and protection of policyholders, the department shall require that an abstract plant ~~[be]~~:

- (1) be geographically arranged;
- (2) cover a period beginning not later than January 1, 1979, and be kept current; and
- (3) be adequate for use in insuring titles, as determined by the department.

SECTION 2. Section 2602.002(a), Insurance Code, is amended to read as follows:

(a) This chapter is for:

- (1) the purposes and findings stated in Sections 441.001, 441.003, 441.005, and 441.006; ~~[and]~~
- (2) the protection of holders of covered claims; and
- (3) the protection of consumers served by agents.

SECTION 3. Sections 2602.003(5) and (6), Insurance Code, are amended to read as follows:

- (5) "Impaired agent" means a title ~~[an]~~ agent or direct operation that is ~~is:~~
 - ~~[(A) placed in:~~
 - ~~[(i) temporary or permanent receivership under a court order based on a finding of insolvency; or~~
 - ~~[(ii) conservatorship after the commissioner determines that the agent is insolvent; and~~
 - ~~[(B)]~~ designated by the commissioner as an impaired agent and is:
 - (A) placed by a court in this state or another state under an order of supervision, conservatorship, rehabilitation, or liquidation;
 - (B) placed under an order of supervision or conservatorship under Chapter 441;

(C) placed under an order of rehabilitation or liquidation under Chapter 443; or

(D) otherwise found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due.

(6) "Impaired title insurance company" means a title insurance company that is[~~;~~

~~(A) placed in:~~

~~[(i) temporary or permanent receivership under a court order based on a finding of insolvency; or~~

~~[(ii) conservatorship after the commissioner determines that the company is insolvent; and~~

~~[(B)] designated by the commissioner as an impaired title insurance company and is:~~

(A) placed by a court in this state or another state under an order of supervision, conservatorship, rehabilitation, or liquidation;

(B) placed under an order of supervision or conservatorship under Chapter 441;

(C) placed under an order of rehabilitation or liquidation under Chapter 443; or

(D) otherwise found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due.

SECTION 4. Section 2602.011(a), Insurance Code, is amended to read as follows:

(a) The commissioner shall notify the association of the existence of an impaired title insurance company or impaired agent not later than the third day after the date on which the commissioner gives notice of the designation of impairment to the impaired title agent or direct operation. The association is entitled to a copy of any complaint seeking an order of receivership with a finding of insolvency against a title insurance company at the time the complaint is filed with a court.

SECTION 5. Section 2602.107, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) The association shall pay from the guaranty fee account fees and reasonable and necessary expenses that the department incurs in an examination or audit of a title agent or direct operation under this chapter and Chapter 2651.

SECTION 6. Section 2602.110, Insurance Code, is amended to read as follows:

Sec. 2602.110. EXPENSES OF ADMINISTERING IMPAIRED INSURER OR IMPAIRED AGENT ~~[RECEIVERSHIP OR CONSERVATORSHIP]~~. The association may advance money necessary to pay the expenses of administering the supervision, rehabilitation, receivership, [or] conservatorship, or, as determined by a court, other insolvency [estate] of an impaired title insurance company or impaired agent, on terms the association negotiates, if the company's or agent's assets are insufficient to pay those expenses.

SECTION 7. Section 2602.152, Insurance Code, is amended to read as follows:

Sec. 2602.152. AMOUNT OF FEE. Annually or more frequently, the board shall determine the amount of the guaranty fee [~~not to exceed \$5~~], considering the amount of money to be maintained in the guaranty fee account that is reasonably necessary for efficient future operation under this chapter.

SECTION 8. Sections 2602.153(b) and (d), Insurance Code, are amended to read as follows:

(b) The following [~~covered~~] claims shall be paid from guaranty fees only and may not be paid from assessments:

- (1) covered claims against trust funds or an escrow account of an impaired agent under Section 2602.252; [~~and~~]
- (2) expenses incurred in complying with Subchapter J;
- (3) conservator and receiver expenses under Section 2602.254; and
- (4) administrative expenses with respect to the estate of an impaired agent under Section 2602.110.

(d) Guaranty fees may be used only for payment of:

- (1) [~~covered~~] claims described by Subsection (b) [~~or (e)~~]; and
- (2) expenses related to:
 - (A) an audit or an examination conducted by the department or the association under this chapter;
 - (B) the supervision and coordination of such an audit; and
 - (C) an action required under Section 2602.452 [~~and review expenses under Section 2602.103(b)~~].

SECTION 9. Sections 2602.401(a) and (b), Insurance Code, are amended to read as follows:

(a) If an assessment has been made under this chapter for an impaired title insurance company or association funds have been provided for the company, the company, on release from the supervision, rehabilitation, conservatorship, [~~or~~] receivership, or other proceeding in which the company was found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due, may not issue a new or renewal insurance policy until the company:

- (1) has repaid pro rata in full to each holder of a participation receipt the assessment amount paid by the receipt holder or its assignee; and
- (2) has repaid in full the amount of guaranty fees paid by the association.

(b) If an assessment has been made under this chapter for an impaired agent or guaranty fees have been provided for the agent, the agent, on release from the supervision, conservatorship, rehabilitation, [~~or~~] receivership, or other proceeding in which the agent was found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due, subject to dischargeability, may not act as an agent [~~issue a new or renewal insurance policy~~] until the agent has repaid in full the amount of guaranty fees paid by the association.

SECTION 10. Chapter 2602, Insurance Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ADDITIONAL DUTIES OF ASSOCIATION

Sec. 2602.451. APPLICABILITY. This subchapter applies, at the commissioner's discretion and regardless of whether there are covered claims against an agent, to any agent that is designated by the commissioner as an impaired agent.

Sec. 2602.452. ACTIONS FOR CERTAIN AGENTS. (a) The commissioner may require the association, at the association's expense and on behalf of an impaired agent, to:

- (1) close real estate transactions;
- (2) disburse escrow funds;
- (3) record documents; and
- (4) issue final title insurance policies.

(b) The association may employ or retain a person in accordance with Section 2602.103(a) to take the actions required by the commissioner under this section.

Sec. 2602.453. AUTHORITY OF ASSOCIATION; COOPERATION OF OFFICERS, OWNERS, AND EMPLOYEES. (a) On the direction of the commissioner under Section 2602.452, the association may implement any direction made by the commissioner and may access all books, records, accounts, networks, and electronic document storage and management systems as necessary to implement the commissioner's direction.

(b) Any present or former officer, manager, director, trustee, owner, employee, or agent of the agent, or any other person with authority over or in charge of any segment of the agent's affairs, shall cooperate with the association. For purposes of this subsection:

(1) "Person" includes a person who exercises control directly or indirectly over activities of the agent through a holding company or other affiliate of the agent.

(2) "Cooperate" means:

(A) replying promptly in writing to any request from the association within the period established in the request for the reply; and

(B) making available to the association any books, accounts, documents, or other records or information of, or relating to, the agent within the period set in the request for reply.

(c) A person who fails to cooperate as required under Subsection (b) is subject to sanctions under Chapter 82, in addition to all other sanctions available under law.

SECTION 11. Section 2651.002, Insurance Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The completed application must state that:

(1) the proposed agent is:

(A) an individual who is a bona fide resident of this state;

(B) an association or firm composed only of Texas residents; or

(C) a Texas corporation or a foreign corporation authorized to engage in business in this state;

(2) the proposed agent has unencumbered assets in excess of liabilities, exclusive of the value of abstract plants, as required by Section 2651.012;

(3) [~~2~~] the proposed agent, including a corporation's managerial personnel, if applicable, has reasonable experience or instruction in the field of title insurance;

(4) [~~3~~] the title insurance company:

(A) knows that the proposed agent has a good business reputation and is worthy of the public trust; and

(B) is unaware of any fact or condition that disqualifies the proposed agent from receiving a license; and

(5) [~~4~~] the proposed agent qualifies as a title insurance agent under this chapter.

(d) Except as provided by Section 2651.0021(e), an agent applying for an initial license under this subchapter must provide evidence that the agent and its management personnel have successfully completed a professional training program that complies with Section 2651.0021. The program must have been completed within one year preceding the date of application.

SECTION 12. Subchapter A, Chapter 2651, Insurance Code, is amended by adding Section 2651.0021 to read as follows:

Sec. 2651.0021. PROFESSIONAL TRAINING PROGRAM. (a) The commissioner shall adopt by rule a professional training program for a title insurance agent and the management personnel of the title insurance agent.

(b) The professional training program must be designed to provide information regarding:

(1) the basic principles and coverages related to title insurance;

(2) recent and prospective changes in those principles and coverages;

(3) applicable rules and laws;

(4) proper conduct of the license holder's title insurance business;

(5) accounting principles and practices and financial responsibilities and practices relevant to title insurance; and

(6) the duties and responsibilities of a title insurance agent.

(c) Professional training program hours may be used to satisfy the continuing education requirements established under Section 2651.204.

(d) A professional training program course must be offered by:

(1) a statewide title insurance association, statewide title agents' association or professional association, or local chapter of a statewide title insurance or title agents' association or professional association;

(2) an accredited college or university;

(3) a career school or college as defined by Section 132.001, Education

Code;

(4) the State Bar of Texas;

(5) an educational publisher;

(6) a title insurance company authorized to engage in business in this state;

(7) a company that owns one or more title insurance companies authorized to engage in business in this state;

(8) a public school system in this state; or

(9) an individual accredited as an instructor by an entity described by Subdivisions (1)-(8).

(e) An individual is exempt from the professional training requirement of this section if the individual has held in this state for at least five years a position as management personnel with a title insurance agent, or a comparable position, as determined under rules adopted by the commissioner.

SECTION 13. Section 2651.011, Insurance Code, is amended to read as follows:

Sec. 2651.011. PRIVILEGED COMMUNICATIONS; FINANCIAL INFORMATION. (a) Any information, including a document, record, or statement, and including information provided to or received from the commissioner under Subsection (b) or (c), or any other information required or permitted to be made or disclosed to or by the department under this subchapter, other than Section 2651.001, is not public information subject to Chapter 552, Government Code, except to the extent described by Subsection (b) [:

~~(1) a privileged communication; and~~

~~(2) not admissible in evidence in a court action or proceeding except under a subpoena issued by a court of record].~~

(b) A title insurance company may provide information to the commissioner about a financial matter that would reasonably call into question the solvency of a title agent that the title insurance company appointed. Each title insurance company shall provide annually to the department a list of officers authorized to provide to the department the information under this subsection. Information provided under this subsection is not subject to Chapter 552, Government Code, except that the commissioner may release information that the commissioner received under this subsection to a title insurance company that has appointed, or that is considering appointing, the title agent. The commissioner may also release information that the commissioner received under this subsection to a title agent under Section 2651.206, Insurance Code, if the information is evidence on which an audit report or examination report relies. A title insurance company that receives information under this subsection may not release the information except under a subpoena issued by a court of competent jurisdiction.

(c) Each title insurance agent shall provide the department, on a quarterly basis, with a copy of the agent's quarterly withholding tax report furnished by the agent to the United States Internal Revenue Service. The title insurance agent must also provide to the department proof of the payment of the tax. An agent that does not have employees shall certify to the department on a quarterly basis that there has not been a material change in the agent's financial condition.

(d) The commissioner by rule may prescribe the types of information under Subsections (b) and (c) that are privileged under Subsection (a).

SECTION 14. Subchapter A, Chapter 2651, Insurance Code, is amended by adding Sections 2651.012 and 2651.013 to read as follows:

Sec. 2651.012. UNENCUMBERED ASSETS. (a) In this section:

(1) "Principal office" means a principal office of the corporation, unincorporated association, or partnership in this state in which the decision makers for the organization conduct the daily affairs of the organization. The presence of an agency or representative does not establish a principal office.

(2) "Unencumbered assets" means:

(A) cash or cash equivalents;

(B) assets that do not have any lien against them;

(C) real estate, in excess of any encumbrances;

(D) investments, such as mutual funds, certificates of deposit, and stocks and bonds;

(E) a surety bond, the form and content of which shall be prescribed by the commissioner in accordance with this code;

(F) a deposit made in accordance with Section 2651.102; and

(G) a letter of credit that meets the requirements of Section 493.104(b)(2)(C).

(b) The unencumbered assets required under this section are reserves for contingencies. The reserves must be deducted from premiums for purposes of proceedings conducted under Subchapter D, Chapter 2703. The reserves may only be spent or released:

(1) as permitted by the commissioner if the agent is declared impaired;

(2) if the agent merges or consolidates with another agent who maintains the amount of unencumbered assets that would be required for the survivor of the merger or consolidation;

(3) if the agent surrenders the agent's license under Section 2651.201 and the rules adopted under that section; or

(4) if the agent is liquidated.

(c) Except as provided by Subsection (d), an agent must maintain unencumbered assets with a market value in excess of liabilities, exclusive of the value of abstract plants, in the following amounts unless the commissioner establishes lesser amounts by rule:

(1) if the agent maintains its principal office in a county with a population of 10,000 or more but less than 50,000: \$25,000;

(2) if the agent maintains its principal office in a county with a population of 50,000 or more but less than 200,000: \$50,000;

(3) if the agent maintains its principal office in a county with a population of 200,000 or more but less than one million: \$100,000; and

(4) if the agent maintains its principal office in a county with a population of one million or more: \$150,000.

(d) Except as provided by the commissioner by rule, an agent that maintains its principal office in a county with a population of less than 10,000 is exempt from this section.

(e) An agent that maintains a principal office in more than one county must meet the asset standards for the largest county for which the agent will hold a license.

(f) An agent may elect to:

(1) maintain unencumbered assets as required by this section; or

(2) place a deposit with the department as authorized by Section 2652.102.

(g) An agent that holds a license on September 1, 2009, and that has held the license for at least three years as of that date is not required to comply with Subsection (c) on September 1, 2009, but shall increase the unencumbered assets held by the agent, or make and increase the required deposit, until the agent is in compliance with the required capitalization amounts in accordance with the schedule established under this subsection. The agent must hold unencumbered assets, or make a deposit in an amount, such that:

(1) if the agent has been licensed at least three years but less than four years:

(A) the agent has at least 33 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 66 percent of the required capitalization amount on September 1, 2011; and

(C) the agent has at least 100 percent of the required capitalization amount on September 1, 2012;

(2) if the agent has been licensed at least four years but less than five years:

(A) the agent has at least 25 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 50 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 75 percent of the required capitalization amount on September 1, 2012; and

(D) the agent has at least 100 percent of the required capitalization amount on September 1, 2013;

(3) if the agent has been licensed at least five years but less than six years:

(A) the agent has at least 20 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 40 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 60 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 80 percent of the required capitalization amount on September 1, 2013; and

(E) the agent has at least 100 percent of the required capitalization amount on September 1, 2014;

(4) if the agent has been licensed at least six years but less than seven years:

(A) the agent has at least 16.66 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 33.32 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 49.98 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 66.64 percent of the required capitalization amount on September 1, 2013;

(E) the agent has at least 83.3 percent of the required capitalization amount on September 1, 2014; and

(F) the agent has at least 100 percent of the required capitalization amount on September 1, 2015;

(5) if the agent has been licensed at least seven years but less than eight years:

(A) the agent has at least 14.29 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 28.58 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 42.87 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 57.16 percent of the required capitalization amount on September 1, 2013;

(E) the agent has at least 71.45 percent of the required capitalization amount on September 1, 2014;

(F) the agent has at least 85.74 percent of the required capitalization amount on September 1, 2015; and

(G) the agent has at least 100 percent of the required capitalization amount on September 1, 2016;

(6) if the agent has been licensed at least eight years but less than nine years:

(A) the agent has at least 12.5 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 25 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 37.5 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 50 percent of the required capitalization amount on September 1, 2013;

(E) the agent has at least 62.5 percent of the required capitalization amount on September 1, 2014;

(F) the agent has at least 75 percent of the required capitalization amount on September 1, 2015;

(G) the agent has at least 87.5 percent of the required capitalization amount on September 1, 2016; and

(H) the agent has at least 100 percent of the required capitalization amount on September 1, 2017; and

(7) if the agent has been licensed at least nine years:

(A) the agent has at least 11.11 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 22.22 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 33.33 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 44.44 percent of the required capitalization amount on September 1, 2013;

(E) the agent has at least 55.55 percent of the required capitalization amount on September 1, 2014;

(F) the agent has at least 66.66 percent of the required capitalization amount on September 1, 2015;

(G) the agent has at least 77.77 percent of the required capitalization amount on September 1, 2016;

(H) the agent has at least 88.88 percent of the required capitalization amount on September 1, 2017; and

(I) the agent has at least 100 percent of the required capitalization amount on September 1, 2018.

(h) If the agent has been licensed less than three years as of September 1, 2009, the agent must have:

(1) at least 50 percent of the required capitalization amount required under Subsection (c) on September 1, 2010; and

(2) 100 percent of that required capitalization amount on September 1, 2011.

(i) This subsection and Subsection (g) expire September 2, 2018.

(j) Notwithstanding any other provision of this section, this section takes effect only after the commissioner adopts the form, content, and procedures for use of the surety bond authorized under Subsection (a). The commissioner by rule shall establish the procedures for making, filing, using, and paying for the surety bond. Notwithstanding Subsections (g) and (h), the commissioner by rule may extend the dates established under those subsections as necessary to comply with this subsection.

Sec. 2651.013. DIVISION OF PREMIUM HELD IN TRUST; RULES. (a) The funds held by a title insurance agent that are owed to a title insurance company, another title insurance agent, or a direct operation arising from a division of premium, whether as determined under rules adopted by the commissioner or by agreement among the parties, are considered to be held in trust for the title insurance company, other title insurance agent, or direct operation.

(b) This section does not require, and the commissioner may not require by rule, that funds described by Subsection (a) be held in a separate account subject to an external audit. This section does not affect the department's or association's authority to examine or audit a title agent or direct operation.

SECTION 15. Subchapter D, Chapter 2651, Insurance Code, is amended by adding Section 2651.158 to read as follows:

Sec. 2651.158. CERTIFICATION OF UNENCUMBERED ASSETS. (a) Unless the agent has elected to make a deposit with the department under Section 2651.012(f), the annual audit of escrow accounts must be accompanied by a

certification by a certified public accountant that the title insurance agent has the appropriate unencumbered assets in excess of liabilities, exclusive of the value of its abstract plants, as required by Section 2651.012.

(b) The commissioner by rule shall establish:

(1) a procedure to be used to determine the value of categories of assets; and

(2) the method by which the certification required by this section must be made which shall not include an audit of operating accounts.

SECTION 16. Subchapter E, Chapter 2651, Insurance Code, is amended by adding Sections 2651.205 and 2651.206 to read as follows:

Sec. 2651.205. TITLE AGENT RECORDS. (a) A landlord or storage facility, including an electronic storage facility, that accepts possession of an agent's guaranty file or other records takes possession subject to:

(1) the right of access of the title insurance company involved in the transaction that the file documents, during customary business hours, for the purpose of copying the guaranty file; and

(2) the obligation to maintain the confidentiality of nonpublic information in the title insurance agent's records according to state and federal laws that govern the title insurance agent.

(b) If the title insurance agent is impaired, the Texas Title Insurance Guaranty Association has the right to access the guaranty files and other records of the title insurance agent, including electronic records, for 60 days from the date of impairment, during customary business hours, for purposes of copying those records.

(c) Except for the right of access granted under Subsections (a) and (b), a lien created in favor of the landlord by contract or otherwise is not impaired.

(d) For purposes of this section, "title insurance agent" includes an agent owned wholly or partly by a title insurance company and a direct operation.

Sec. 2651.206. EXAMINATION REPORTS. (a) An audit, review, or examination conducted under this chapter or Chapter 2602 must be conducted in accordance with rules adopted by the commissioner. The rules must provide:

(1) that before a report from an examination, review, or audit becomes final, the department will furnish to the title agent or direct operation a copy of the report and any evidence on which the report relies;

(2) a reasonable period of not less than 10 days after the title agent or direct operation receives the report and evidence from the department for the title agent or direct operation to respond;

(3) an opportunity for an appeal of the examination report under a process similar to the process under Title 28, Part 1, Chapter 7, Subchapter A, Texas Administrative Code; and

(4) procedures to ensure that the report and any evidence regarding the report remain confidential and are transmitted only to designated representatives of the title agent or direct operation.

(b) The commissioner shall furnish the title agent or direct operation with a draft of the examination report and a copy of any evidence not later than the 10th day before the scheduled date of a meeting requested by the department regarding a report.

(c) This section does not require the department to turn over work papers. For purposes of this subsection, work papers are the records of an auditor or examiner of the procedures followed, the tests performed, the information obtained, and the conclusions reached that are pertinent to the audit or examination. Work papers include work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules, and commentaries prepared or obtained by the auditor or examiner that support the opinions of the auditor or examiner.

SECTION 17. Section 2703.202, Insurance Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

(c) Except as provided by Subsection (d), a public hearing held under Subsection (a) or under Section 2703.206 shall be conducted by the commissioner as a rulemaking hearing under Subchapter B, Chapter 2001, Government Code.

(d) Notwithstanding Subsection (c), at the request of a title insurance company or the public insurance counsel, a public hearing held under Subsection (a) or under Section 2703.206 must be conducted by the commissioner as a contested case hearing under Subchapters C through H and Subchapter Z, Chapter 2001, Government Code. Nothing in this section prohibits a party from conducting discovery in a ratemaking or other proceeding or producing other information requested by the department.

(e) Information received or requested by the commissioner as part of an audit or examination under Chapters 2602 and 2651 may not be used for rate setting under Subchapter D, Chapter 2703.

(f) Subsections (c) through (e) apply only to a public hearing held on or after January 1, 2009.

SECTION 18. Section 2602.056 and Section 2602.153(c), Insurance Code, are repealed.

SECTION 19. An abstract plant that exists on September 1, 2009, but that does not, on that date, cover a period beginning not later than January 1, 1979, as required by Section 2501.004, Insurance Code, as amended by this Act, is not required to comply with that section before January 1, 2014.

SECTION 20. Section 2651.158, Insurance Code, as added by this Act, applies beginning with annual audits conducted under Subchapter D, Chapter 2651, Insurance Code, for the 2011 calendar year.

SECTION 21. The commissioner of insurance shall hold a hearing not later than the 120th day after the effective date of this Act. Not later than the 90th day after the date of that hearing, the commissioner shall issue an order prescribing the rules and forms to be used in connection with Section 2651.206, Insurance Code, as added by this Act.

SECTION 22. This Act takes effect September 1, 2009.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 4338** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 2501.004(b), Insurance Code, is amended to read as follows:

(b) To provide for the safety and protection of policyholders, the department shall require that an abstract plant ~~[be]~~:

- (1) be geographically arranged;
- (2) cover a period beginning not later than January 1, 1979, and be kept current; and
- (3) be adequate for use in insuring titles, as determined by the department.

SECTION 2. Section 2602.002(a), Insurance Code, is amended to read as follows:

- (a) This chapter is for:
 - (1) the purposes and findings stated in Sections 441.001, 441.003, 441.005, and 441.006; ~~[and]~~
 - (2) the protection of holders of covered claims; and
 - (3) the protection of consumers served by impaired agents.

SECTION 3. Sections 2602.003(5) and (6), Insurance Code, are amended to read as follows:

- (5) "Impaired agent" means a title ~~[an]~~ agent or direct operation that is ~~is~~:
 - ~~[(A) placed in:~~
 - ~~[(i) temporary or permanent receivership under a court order based on a finding of insolvency; or~~
 - ~~[(ii) conservatorship after the commissioner determines that the agent is insolvent; and~~
 - ~~[(B)]~~ designated by the commissioner as an impaired agent and is:
 - (A) placed by a court in this state or another state under an order of supervision, conservatorship, rehabilitation, or liquidation;
 - (B) placed under an order of supervision or conservatorship under Chapter 441;
 - (C) placed under an order of rehabilitation or liquidation under Chapter 443; or
 - (D) otherwise found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due.

- (6) "Impaired title insurance company" means a title insurance company that is ~~is~~:
 - ~~[(A) placed in:~~
 - ~~[(i) temporary or permanent receivership under a court order based on a finding of insolvency; or~~
 - ~~[(ii) conservatorship after the commissioner determines that the company is insolvent; and~~
 - ~~[(B)]~~ designated by the commissioner as an impaired title insurance company and is:

(A) placed by a court in this state or another state under an order of supervision, conservatorship, rehabilitation, or liquidation;

(B) placed under an order of supervision or conservatorship under Chapter 441;

(C) placed under an order of rehabilitation or liquidation under Chapter 443; or

(D) otherwise found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due.

SECTION 4. Section 2602.011(a), Insurance Code, is amended to read as follows:

(a) The commissioner shall notify the association of the existence of an impaired title insurance company or impaired agent not later than the third day after the date on which the commissioner gives notice of the designation of impairment to the impaired agent or impaired title insurance company. The association is entitled to a copy of any complaint seeking an order of receivership with a finding of insolvency against a title insurance company at the time the complaint is filed with a court.

SECTION 5. Section 2602.107, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) The association shall pay from the guaranty fee account fees and reasonable and necessary expenses that the department incurs in an examination or audit of a title agent or direct operation under this chapter and Chapter 2651.

SECTION 6. Section 2602.110, Insurance Code, is amended to read as follows:

Sec. 2602.110. EXPENSES OF ADMINISTERING IMPAIRED INSURER OR IMPAIRED AGENT [RECEIVERSHIP OR CONSERVATORSHIP]. The association may advance money necessary to pay the expenses of administering the supervision, rehabilitation, receivership, ~~or~~ conservatorship, or, as determined by a court of competent jurisdiction, other insolvency ~~[estate]~~ of an impaired title insurance company or impaired agent, on terms the association negotiates, if the company's or agent's assets are insufficient to pay those expenses.

SECTION 7. Section 2602.152, Insurance Code, is amended to read as follows:

Sec. 2602.152. AMOUNT OF FEE. Annually or more frequently, the board shall determine the amount of the guaranty fee [, not to exceed \$5], considering the amount of money to be maintained in the guaranty fee account that is reasonably necessary for efficient future operation under this chapter.

SECTION 8. Sections 2602.153(b) and (d), Insurance Code, are amended to read as follows:

(b) The following [covered] claims shall be paid from guaranty fees only and may not be paid from assessments:

(1) covered claims against trust funds or an escrow account of an impaired agent under Section 2602.252; [and]

(2) expenses incurred in complying with Subchapter J;

(3) conservator and receiver expenses under Section 2602.254; and

(4) administrative expenses with respect to the estate of an impaired agent under Section 2602.110.

(d) Guaranty fees may be used only for payment of:

(1) ~~[covered]~~ claims described by Subsection (b) ~~[or (c)]~~; and

(2) expenses related to:

(A) an audit or an examination conducted by the department or the association under this chapter;

(B) the supervision and coordination of such an audit or examination; and

(C) an action under Section 2602.452 ~~[and review expenses under Section 2602.103(b)].~~

SECTION 9. Sections 2602.401(a) and (b), Insurance Code, are amended to read as follows:

(a) If an assessment has been made under this chapter for an impaired title insurance company or association funds have been provided for the company, the company, on release from the supervision, rehabilitation, conservatorship, ~~[or]~~ receivership, or other proceeding in which the company was found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due, may not issue a new or renewal insurance policy until the company:

(1) has repaid pro rata in full to each holder of a participation receipt the assessment amount paid by the receipt holder or its assignee; and

(2) has repaid in full the amount of guaranty fees paid by the association.

(b) If an assessment has been made under this chapter for an impaired agent or guaranty fees have been provided for the impaired agent, the agent, on release from the supervision, conservatorship, rehabilitation, ~~[or]~~ receivership, or other proceeding in which the agent was found by a court of competent jurisdiction to be insolvent or otherwise unable to pay obligations as they come due, subject to dischargeability, may not act as an agent ~~[issue a new or renewal insurance policy]~~ until the agent has repaid in full the amount of guaranty fees paid by the association.

SECTION 10. Chapter 2602, Insurance Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ADDITIONAL DUTIES OF ASSOCIATION

Sec. 2602.451. APPLICABILITY. This subchapter applies, at the commissioner's discretion and regardless of whether there are covered claims against an agent, to any agent that is designated by the commissioner as an impaired agent.

Sec. 2602.452. ACTIONS FOR CERTAIN AGENTS. (a) The commissioner may direct the association, at the association's expense and on behalf of an impaired agent, to:

(1) close real estate transactions;

(2) disburse escrow funds;

(3) record documents; and

(4) issue final title insurance policies.

(b) The association may employ or retain a person in accordance with Section 2602.103(a).

Sec. 2602.453. AUTHORITY OF ASSOCIATION; COOPERATION OF OFFICERS, OWNERS, AND EMPLOYEES. (a) On the direction of the commissioner under Section 2602.452, the association may implement any direction made by the commissioner and may access all books, records, accounts, networks, and electronic document storage and management systems as necessary to implement the commissioner's direction.

(b) Any present or former officer, manager, director, trustee, owner, employee, or agent of the agent, or any other person with authority over or in charge of any segment of the agent's affairs, shall cooperate with the association. For purposes of this subsection:

(1) "Person" includes a person who exercised or exercises control directly or indirectly over activities of the agent through a holding company or other affiliate of the agent.

(2) "Cooperate" means:

(A) replying promptly in writing to any request for information from the association within the period established in the request; and

(B) making available to the association any books, accounts, documents, or other records or information of, or relating to, the agent within the period set in the request.

(c) A person who fails to cooperate as required under Subsection (b) is subject to sanctions under Chapter 82, in addition to all other sanctions available under law.

SECTION 11. Section 2651.002, Insurance Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The completed application must state that:

(1) the proposed agent is:

(A) an individual who is a bona fide resident of this state;

(B) an association or firm composed only of Texas residents; or

(C) a Texas corporation or a foreign corporation authorized to engage in business in this state;

(2) the proposed agent has unencumbered assets in excess of liabilities, exclusive of the value of abstract plants, as required by Section 2651.012;

(3) ~~(2)~~ the proposed agent, including a corporation's managerial personnel, if applicable, has reasonable experience or instruction in the field of title insurance;

(4) ~~(3)~~ the title insurance company:

(A) knows that the proposed agent has a good business reputation and is worthy of the public trust; and

(B) is unaware of any fact or condition that disqualifies the proposed agent from receiving a license; and

(5) ~~(4)~~ the proposed agent qualifies as a title insurance agent under this chapter.

(d) Except as provided by Section 2651.0021(e), an agent applying for an initial license under this subchapter must provide evidence that the agent and its management personnel have successfully completed a professional training program that complies with Section 2651.0021. The program must have been completed within one year preceding the date of application.

SECTION 12. Subchapter A, Chapter 2651, Insurance Code, is amended by adding Section 2651.0021 to read as follows:

Sec. 2651.0021. PROFESSIONAL TRAINING PROGRAM. (a) The commissioner shall adopt by rule a professional training program for a title insurance agent and the management personnel of the title insurance agent.

(b) The professional training program must be designed to provide information regarding:

- (1) the basic principles and coverages related to title insurance;
- (2) recent and prospective changes in those principles and coverages;
- (3) applicable rules and laws;
- (4) proper conduct of the license holder's title insurance business;
- (5) accounting principles and practices and financial responsibilities and practices relevant to title insurance; and
- (6) the duties and responsibilities of a title insurance agent.

(c) Professional training program hours may be used to satisfy the continuing education requirements established under Section 2651.204.

(d) A professional training program course must be offered by:

(1) a statewide title insurance association, statewide title agents' association or professional association, or local chapter of a statewide title insurance or title agents' association or professional association;

(2) an accredited college or university;

(3) a career school or college as defined by Section 132.001, Education

Code;

(4) the State Bar of Texas;

(5) an educational publisher;

(6) a title insurance company authorized to engage in business in this

state;

(7) a company that owns one or more title insurance companies authorized to engage in business in this state;

(8) a public school system in this state; or

(9) an individual accredited as an instructor by an entity described by

Subdivisions (1)-(8).

(e) An individual is exempt from the professional training requirement of this section if the individual has held in this state for at least five years a position as management personnel with a title insurance agent, or a comparable position, as determined under rules adopted by the commissioner.

SECTION 13. Section 2651.011, Insurance Code, is amended to read as follows:

Sec. 2651.011. PRIVILEGED COMMUNICATIONS; FINANCIAL INFORMATION. (a) Any information, including a document, record, or statement, and including information provided to or received from the

commissioner under Subsection (b) or (c), or any other information required or permitted to be made or disclosed to or by the department under this subchapter, other than Section 2651.001, is not public information subject to Chapter 552, Government Code, except to the extent described by Subsection (b), and is a privileged communication and may not be disclosed to the public except as evidence in an administrative hearing or proceeding. This subsection does not apply to a document, record, or statement required to be made or disclosed to the department under Chapter 36[±

[~~(1) a privileged communication; and~~

[~~(2) not admissible in evidence in a court action or proceeding except under a subpoena issued by a court of record].~~

(b) A title insurance company may provide information to the commissioner about a financial matter that would reasonably call into question the solvency of a title agent that the title insurance company appointed. Each title insurance company shall provide annually to the department a list of officers authorized to provide to the department the information under this subsection. Information provided under this subsection is not subject to Chapter 552, Government Code, except that the commissioner may release information that the commissioner received under this subsection to a title insurance company that has appointed, or that is considering appointing, the title agent. The commissioner may also release information that the commissioner received under this subsection to a title agent under Section 2651.206, Insurance Code, if the information is evidence on which an audit report or examination report relies. A title insurance company that receives information under this subsection may not release the information except under a subpoena issued by a court of competent jurisdiction.

(c) Each title insurance agent shall provide the department, on a quarterly basis, with a copy of the agent's quarterly withholding tax report furnished by the agent to the United States Internal Revenue Service. The title insurance agent must also provide to the department proof of the payment of the tax. An agent that does not have employees shall certify to the department on a quarterly basis that there has not been a material change in the agent's financial condition.

(d) The commissioner by rule may prescribe the types of information under Subsections (b) and (c) that are privileged under Subsection (a).

SECTION 14. Subchapter A, Chapter 2651, Insurance Code, is amended by adding Sections 2651.012 and 2651.013 to read as follows:

Sec. 2651.012. UNENCUMBERED ASSETS. (a) In this section:

(1) "Principal office" means a principal office of the business organization, unincorporated association, sole proprietorship, or partnership in this state in which the decision makers for the organization conduct the daily affairs of the organization. The presence of an agency or representative does not establish a principal office.

(2) "Unencumbered assets" means:

(A) cash or cash equivalents;

(B) liquid assets that have a readily determinable market value and that do not have any lien against them;

(C) real estate, in excess of any encumbrances;

(D) investments, such as mutual funds, certificates of deposit, and stocks and bonds;

(E) a surety bond, the form and content of which shall be prescribed by the commissioner in accordance with this code;

(F) a deposit made in accordance with Section 2651.102; and

(G) a letter of credit that meets the requirements of Section 493.104(b)(2)(C).

(b) The unencumbered assets required under this section are reserves for contingencies. The reserves must be deducted from premiums for purposes of proceedings conducted under Subchapter D, Chapter 2703. The reserves may only be spent or released:

(1) as permitted by the commissioner if the agent is declared impaired;

(2) if the agent merges or consolidates with another agent who maintains the amount of unencumbered assets that would be required for the survivor of the merger or consolidation;

(3) if the agent surrenders the agent's license under Section 2651.201 and the rules adopted under that section; or

(4) if the agent is liquidated.

(c) Except as provided by Subsection (d), an agent must maintain unencumbered assets with a market value in excess of liabilities, exclusive of the value of abstract plants, in the following amounts unless the commissioner establishes lesser amounts by rule:

(1) if the agent maintains its principal office in a county with a population of 10,000 or more but less than 50,000: \$25,000;

(2) if the agent maintains its principal office in a county with a population of 50,000 or more but less than 200,000: \$50,000;

(3) if the agent maintains its principal office in a county with a population of 200,000 or more but less than one million: \$100,000; and

(4) if the agent maintains its principal office in a county with a population of one million or more: \$150,000.

(d) Except as provided by the commissioner by rule, an agent that maintains its principal office in a county with a population of less than 10,000 is exempt from this section.

(e) An agent that maintains a principal office in more than one county must meet the asset standards for the largest county for which the agent will hold a license.

(f) An agent may elect to:

(1) maintain unencumbered assets as required by this section; or

(2) place a deposit with the department as authorized by Section 2652.102.

(g) An agent that holds a license on September 1, 2009, and that has held the license for at least three years as of that date is not required to comply with Subsection (c) on September 1, 2009, but shall increase the unencumbered assets held by the agent, or make and increase the required deposit, until the agent is in

compliance with the required capitalization amounts in accordance with the schedule established under this subsection. The agent must hold unencumbered assets, or make a deposit in an amount, such that:

(1) if the agent has been licensed at least three years but less than four years:

(A) the agent has at least 33 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 66 percent of the required capitalization amount on September 1, 2011; and

(C) the agent has at least 100 percent of the required capitalization amount on September 1, 2012;

(2) if the agent has been licensed at least four years but less than five years:

(A) the agent has at least 25 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 50 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 75 percent of the required capitalization amount on September 1, 2012; and

(D) the agent has at least 100 percent of the required capitalization amount on September 1, 2013;

(3) if the agent has been licensed at least five years but less than six years:

(A) the agent has at least 20 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 40 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 60 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 80 percent of the required capitalization amount on September 1, 2013; and

(E) the agent has at least 100 percent of the required capitalization amount on September 1, 2014;

(4) if the agent has been licensed at least six years but less than seven years:

(A) the agent has at least 16.66 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 33.32 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 49.98 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 66.64 percent of the required capitalization amount on September 1, 2013;

(E) the agent has at least 83.3 percent of the required capitalization amount on September 1, 2014; and

(F) the agent has at least 100 percent of the required capitalization amount on September 1, 2015;

(5) if the agent has been licensed at least seven years but less than eight years:

(A) the agent has at least 14.29 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 28.58 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 42.87 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 57.16 percent of the required capitalization amount on September 1, 2013;

(E) the agent has at least 71.45 percent of the required capitalization amount on September 1, 2014;

(F) the agent has at least 85.74 percent of the required capitalization amount on September 1, 2015; and

(G) the agent has at least 100 percent of the required capitalization amount on September 1, 2016;

(6) if the agent has been licensed at least eight years but less than nine years:

(A) the agent has at least 12.5 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 25 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 37.5 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 50 percent of the required capitalization amount on September 1, 2013;

(E) the agent has at least 62.5 percent of the required capitalization amount on September 1, 2014;

(F) the agent has at least 75 percent of the required capitalization amount on September 1, 2015;

(G) the agent has at least 87.5 percent of the required capitalization amount on September 1, 2016; and

(H) the agent has at least 100 percent of the required capitalization amount on September 1, 2017; and

(7) if the agent has been licensed at least nine years:

(A) the agent has at least 11.11 percent of the required capitalization amount on September 1, 2010;

(B) the agent has at least 22.22 percent of the required capitalization amount on September 1, 2011;

(C) the agent has at least 33.33 percent of the required capitalization amount on September 1, 2012;

(D) the agent has at least 44.44 percent of the required capitalization amount on September 1, 2013;

(E) the agent has at least 55.55 percent of the required capitalization amount on September 1, 2014;

(F) the agent has at least 66.66 percent of the required capitalization amount on September 1, 2015;

(G) the agent has at least 77.77 percent of the required capitalization amount on September 1, 2016;

(H) the agent has at least 88.88 percent of the required capitalization amount on September 1, 2017; and

(I) the agent has at least 100 percent of the required capitalization amount on September 1, 2018.

(h) If the agent has been licensed less than three years as of September 1, 2009, the agent must have:

(1) at least 50 percent of the required capitalization amount required under Subsection (c) on September 1, 2010; and

(2) 100 percent of that required capitalization amount on September 1, 2011.

(i) This subsection and Subsection (g) expire September 2, 2018.

(j) Notwithstanding any other provision of this section, this section takes effect only after the commissioner adopts the form, content, and procedures for use of the surety bond authorized under Subsection (a). The commissioner by rule shall establish the procedures for making, filing, using, and paying for the surety bond. Notwithstanding Subsections (g) and (h), the commissioner by rule may extend the dates established under those subsections as necessary to comply with this subsection.

Sec. 2651.013. DIVISION OF PREMIUM HELD IN TRUST; RULES. (a) The funds held by a title insurance agent that are owed to a title insurance company, another title insurance agent, or a direct operation arising from a division of premium, whether as determined under rules adopted by the commissioner or by agreement among the parties, are considered to be held in trust for the title insurance company, other title insurance agent, or direct operation.

(b) This section does not require, and the commissioner may not require by rule, that funds described by Subsection (a) be held in a separate account subject to an external audit. This section does not affect the department's or association's authority to examine or audit a title agent or direct operation.

SECTION 15. Subchapter D, Chapter 2651, Insurance Code, is amended by adding Section 2651.158 to read as follows:

Sec. 2651.158. CERTIFICATION OF UNENCUMBERED ASSETS. (a) Unless the agent has elected to make a deposit with the department under Section 2651.012(f), the annual audit of escrow accounts must be accompanied by a certification by a certified public accountant that the title insurance agent has the appropriate unencumbered assets in excess of liabilities, exclusive of the value of its abstract plants, as required by Section 2651.012.

(b) The commissioner by rule shall establish:

(1) a procedure to be used to determine the value of categories of assets; and

(2) the method by which the certification required by this section must be made which shall not include an audit of operating accounts.

SECTION 16. Subchapter E, Chapter 2651, Insurance Code, is amended by adding Sections 2651.205 and 2651.206 to read as follows:

Sec. 2651.205. TITLE AGENT RECORDS. (a) A landlord or storage facility, including electronic storage, that accepts possession of an agent's guaranty file or other records takes possession subject to:

(1) the right of access of the title insurance company involved in the transaction that the file documents, during customary business hours, for the purpose of copying the guaranty file; and

(2) the obligation to maintain the confidentiality of nonpublic information in the title insurance agent's records according to state and federal laws that govern the title insurance agent.

(b) If the title insurance agent has been designated impaired, the Texas Title Insurance Guaranty Association has the right to access the guaranty files and other records of the title insurance agent, including electronic records, for 60 days from the date of impairment, during customary business hours, for purposes of copying those records.

(c) Except for the right of access granted under Subsections (a) and (b), a lien created in favor of the landlord by contract or otherwise is not impaired.

(d) For purposes of this section, "title insurance agent" includes an agent owned wholly or partly by a title insurance company and includes a direct operation.

Sec. 2651.206. EXAMINATION REPORTS. (a) An audit, review, or examination conducted under this chapter or Chapter 2602 must be conducted in accordance with rules adopted by the commissioner. The rules must provide:

(1) that before a report from an examination, review, or audit becomes final, the department will furnish to the title agent or direct operation a copy of the report and any evidence on which the report relies;

(2) a reasonable period of not less than 10 days after the title agent or direct operation receives the report and evidence from the department for the title agent or direct operation to respond;

(3) an opportunity for an appeal under a process similar to the process under Title 28, Part 1, Chapter 7, Subchapter A, Texas Administrative Code; and

(4) procedures to ensure that the report and any evidence regarding the report remain confidential and are transmitted only to designated representatives of the title agent or direct operation.

(b) The commissioner shall furnish the title agent or direct operation with a draft of the report and a copy of any evidence not later than the 10th day before the scheduled date of a meeting requested by the department regarding a report.

(c) This section does not require the department to turn over work papers. For purposes of this subsection, work papers are the records of an auditor or examiner of the procedures followed, the tests performed, the information obtained, and the conclusions reached that are pertinent to the audit or examination. Work papers include work programs, analyses, memoranda, letters

of confirmation and representation, abstracts of company documents and schedules, and commentaries prepared or obtained by the auditor or examiner that support the opinions of the auditor or examiner.

SECTION 17. Section 2703.202, Insurance Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

(c) Except as provided by Subsection (d), a public hearing held under Subsection (a) or under Section 2703.206 shall be conducted by the commissioner as a rulemaking hearing under Subchapter B, Chapter 2001, Government Code.

(d) Notwithstanding Subsection (c), at the request of a title insurance company or the public insurance counsel, a public hearing held under Subsection (a) or under Section 2703.206 must be conducted by the commissioner as a contested case hearing under Subchapters C through H and Subchapter Z, Chapter 2001, Government Code.

(e) Information received or requested by the commissioner as part of an individual audit or examination under Chapters 2602 and 2651 may not be used for rate setting under Subchapter D, Chapter 2703. Nothing in this section prohibits a party from conducting discovery in a ratemaking or other proceeding or producing other information requested by the department, or verifying the data reported under a statistical plan or report promulgated by the commissioner.

(f) Subsections (c) through (e) apply only to a public hearing held on or after January 1, 2009.

SECTION 18. Section 2602.056 and Section 2602.153(c), Insurance Code, are repealed.

SECTION 19. An abstract plant that exists on September 1, 2009, but that does not, on that date, cover a period beginning not later than January 1, 1979, as required by Section 2501.004, Insurance Code, as amended by this Act, is not required to comply with that section before January 1, 2014.

SECTION 20. Section 2651.158, Insurance Code, as added by this Act, applies beginning with annual audits conducted under Subchapter D, Chapter 2651, Insurance Code, for the 2011 calendar year.

SECTION 21. The commissioner of insurance shall hold a hearing not later than the 120th day after the effective date of this Act. Not later than the 90th day after the date of that hearing, the commissioner shall issue an order prescribing the rules to be used in connection with Section 2651.206, Insurance Code, as added by this Act.

SECTION 22. This Act takes effect September 1, 2009.

HB 498 - VOTE RECONSIDERED

Representative Isett moved to reconsider the vote by which the house concurred in senate amendments to **HB 498**.

The motion to reconsider prevailed.

**HB 498 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

HB 498, A bill to be entitled An Act relating to the creation of a commission to investigate and prevent wrongful convictions.

Representative McClendon 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 498**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 498**: McClendon, chair; Pierson, Moody, Hodge, and Thompson.

**HB 3669 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hopson called up with senate amendments for consideration at this time,

HB 3669, A bill to be entitled An Act relating to the authority of certain counties to impose a hotel occupancy tax.

Representative Hopson moved to concur in the senate amendments to **HB 3669**.

The motion to concur in the senate amendments to **HB 3669** prevailed by (Record 1538): 139 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley.

Nays — Sheffield.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Flores; Geren; McClendon; Moody; Zerwas.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3669** (Senate committee printing) in SECTION 2 of the bill, in added Section 352.003(m), Tax Code (page 1, line 20), by striking "three" and substituting "two".

Senate Amendment No. 2 (Senate Floor Amendment No. 1 - Third Reading)

Amend **HB 3669** (senate committee printing) by adding appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 352.002(f), Tax Code, as added by Chapter 749 (**HB 3132**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(f) The commissioners court of a county that has a population of 150,000 or more and that is bordered by the Brazos and Navasota Rivers may impose a tax as provided by Subsection (a). [~~This subsection expires September 1, 2015.~~]

SECTION _____. Section 352.003(h), Tax Code, as added by Chapter 749 (**HB 3132**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(h) The tax rate in a county authorized to impose the tax under Section 352.002(f) may not exceed two percent of the price paid for a room in a hotel. [~~This subsection expires September 1, 2015.~~]

**HB 3461 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Orr called up with senate amendments for consideration at this time,

HB 3461, A bill to be entitled An Act relating to the powers and duties of the School Land Board and the commissioner of the General Land Office.

Representative Orr moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3461**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3461**: Orr, chair; Chisum, Bonnen, Gattis, and Gonzalez Toureilles.

**HB 2917 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative McReynolds called up with senate amendments for consideration at this time,

HB 2917, A bill to be entitled An Act relating to authorizing the Department of State Health Services to obtain criminal history record information for certain applicants for employment.

Representative McReynolds 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 2917**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2917**: McReynolds, chair; Kolkhorst, Truitt, Frost, and Hopson.

**HB 3287 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative McReynolds called up with senate amendments for consideration at this time,

HB 3287, A bill to be entitled An Act relating to the amendment of restrictions affecting real property in certain subdivisions.

Representative McReynolds 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 3287**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3287**: McReynolds, chair; Darby, Bonnen, Homer, and Hardcastle.

**HB 1801 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Bohac called up with senate amendments for consideration at this time,

HB 1801, A bill to be entitled An Act relating to exemptions from the sales tax for a limited period for certain backpacks and school supplies specified by the Streamlined Sales and Use Tax Agreement.

Representative Bohac 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 1801**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1801**: Bohac, chair; Martinez Fischer, Castro, Patrick, and Oliveira.

**SB 2314 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Callegari, the house granted the request of the senate for the appointment of a Conference Committee on **SB 2314**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 2314**: Callegari, chair; Ritter, T. King, Creighton, and Lucio.

HB 1795 - RULES SUSPENDED

Representative Pierson moved to suspend all necessary rules to consider **HB 1795** with senate amendments at this time.

The motion prevailed.

**HB 1795 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Pierson called up with senate amendments for consideration at this time,

HB 1795, A bill to be entitled An Act relating to newborn screening and the creation of the Newborn Screening Advisory Committee.

Representative Pierson 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 1795**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1795**: Pierson, chair; Eiland, Gonzales, Zerwas, and McCall.

(Solomons in the chair)

HB 1243 - MOTION TO CONCUR IN SENATE AMENDMENTS

Representative Gallego called up with senate amendments for consideration at this time,

HB 1243, A bill to be entitled An Act relating to net metering for retail electric service customers and compensation for excess electricity generated by a retail electric customer's on-site generator.

HB 1243 - POINT OF ORDER

Representative S. Turner raised a point of order against further consideration of **HB 1243** under Rule 11, Section 2 of the House Rules on the grounds that Senate Amendment Nos. 1, 2, and 3 are not germane to the bill.

The chair overruled the point of order.

Representative Gallego moved that the house concur in the senate amendments to **HB 1243**.

Representative S. Turner offered a substitute motion 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 the bill.

The substitute motion that the house not concur in the senate amendments and that a conference committee be requested was lost by (Record 1539): 49 Yeas, 90 Nays, 3 Present, not voting.

Yeas — Allen; Anderson; Bonnen; Brown, B.; Brown, F.; Callegari; Corte; Crabb; Creighton; Davis, J.; Davis, Y.; Dukes; Dutton; Edwards; Elkins; Fletcher; Flores; Flynn; Giddings; Guillen; Hancock; Harper-Brown; Hilderbran; Hochberg; Hodge; Hughes; Isett; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Madden; Mallory Caraway; Marquez; McClendon; Miller, S.; Morrison; Parker; Paxton; Raymond; Riddle; Shelton; Taylor; Thibaut; Thompson; Truitt; Turner, S.; Woolley.

Nays — Alonzo; Anchia; Aycock; Berman; Bohac; Bolton; Branch; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Craddick; Darby; Driver; Dunnam; Eiland; Eissler; England; Farabee; Farias; Farrar; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Gutierrez; Hamilton; Hardcastle; Harless; Hartnett; Hernandez; Herrero; Homer; Hopson; Howard, C.; Howard, D.; Jackson; Jones; Kent; Legler; Leibowitz; Lucio; Maldonado; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Smith, T.; Smith, W.; Smithee; Strama; Swinford; Turner, C.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Zerwas.

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

Absent, Excused — Alvarado; Heflin; Kuempel; Lewis.

Absent — Crownover; Deshotel; Keffer; King, S.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1539. I intended to vote no.

Hilderbran

When Record No. 1539 was taken, my vote failed to register. I would have voted no.

S. King

I was shown voting yes on Record No. 1539. I intended to vote no.

Parker

HB 1243 - MOTION TO REFUSE TO CONCUR IN SENATE AMENDMENTS

Representative Gallego moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1243**.

HB 1243 - POINT OF ORDER

Representative S. Turner raised a point of order against further consideration of **HB 1243** under Rule 8, Section 13 of the House Rules on the grounds that the deadline for consideration of senate amendments had passed.

The chair sustained the point of order.

HB 1243 - STATEMENT OF LEGISLATIVE INTENT

This bill amends Section 161.075 of the Utilities Code, which is the section dealing with co-op board meetings. New Subsection (k) requires each cooperative to hold an election every five years on whether to make Subsections (d) through (i) (dealing with access to meetings, executive sessions, minutes, and records of executive sessions), applicable to electric cooperatives. Later in the bill, there is a new section saying that not later than December 31, 2010, each electric cooperative with not more than 170,000 members shall hold an election as required by Subsection (k).

I read these two provisions together to say that a cooperative under 170,000 members is not required to comply with Subsections (d) through (i) until they each hold their election to consider whether to make those subsections applicable under Subsection (k), and that they must hold their election by December 31, 2010.

It is also my intent that if a cooperative does not hold the election by December 31, 2010, that the provisions of Subsections (d) through (i) will automatically apply to them beginning on January 1, 2011.

Rose

SB 362 - STATEMENT BY REPRESENTATIVE HOPSON

The vote reflects each citizen's share in the sovereignty of this state and should be tirelessly guarded from fraud and manipulation. Had **SB 362**, regarding voter identification, reached the house floor for a vote, I would have voted for it to pass without hesitation. Moreover, I would have introduced an amendment that would allow the voter's photo to be placed directly on his or her voter registration card.

PROVIDING FOR ADJOURNMENT

Representative Dutton moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 9:30 a.m. today, May 30.

The motion prevailed.

RESOLUTIONS REFERRED TO COMMITTEES

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Speaker in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 12:45 a.m. May 30, adjourned until 9:30 a.m. today.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HCR 272 (By Homer), In memory of Charlene Champion of Paris, Texas.
To Rules and Resolutions.

HCR 273 (By Homer), In memory of David Charles Buster of Caviness.
To Rules and Resolutions.

HCR 274 (By D. Miller), Granting Katherine Riley permission to sue the State of Texas and the State Preservation Board.
To Judiciary and Civil Jurisprudence.

HR 2782 (By Edwards), Honoring the Houston chapter of Hadassah for its contributions to the community.
To Rules and Resolutions.

HR 2783 (By Edwards), Honoring Reverend Keefe Cropper of Westbury United Methodist Church in Houston for his contributions to the community.
To Rules and Resolutions.

HR 2784 (By Edwards), Recognizing the Jewish Herald-Voice for its contributions to the Houston community.
To Rules and Resolutions.

HR 2785 (By Edwards), Honoring Jewish Family Service for its contributions to the Houston community.
To Rules and Resolutions.

HR 2786 (By Castro), Honoring Cine Las Americas in Austin.
To Rules and Resolutions.

HR 2787 (By Peña), Honoring the Texas Association of Addiction Professionals for its advocacy efforts regarding the prevention and treatment of addiction.

To Rules and Resolutions.

HR 2788 (By Peña), Honoring Dr. Ernie Joe Chaney of Rancho Viejo on his outstanding achievements.

To Rules and Resolutions.

HR 2789 (By Peña), Commending James Stuart Chaney of Brownsville for his service as a legislative assistant in the office of State Representative Aaron Peña.

To Rules and Resolutions.

HR 2790 (By Gallego), Honoring Dr. Avinash K. Rangra for his service as a member of the Alpine City Council.

To Rules and Resolutions.

HR 2791 (By Gallego), Honoring Vanessa Cardwell for her service as a member of the Fort Stockton City Council.

To Rules and Resolutions.

HR 2792 (By Gallego), Honoring Evaristo R. Rendon, Jr., for his service to the Rocksprings City Council.

To Rules and Resolutions.

HR 2793 (By Menendez), Congratulating Dr. Kaparaboyna Ashok Kumar on his induction as president of the Texas Academy of Family Physicians.

To Rules and Resolutions.

HR 2794 (By Craddick), Commemorating the inaugural Midland Habitat for Humanity Women's Build event.

To Rules and Resolutions.

HR 2795 (By Craddick), Congratulating Midland County justice of the peace David Cobos on being named the 2009 Judge of the Year by the West Texas Justices of the Peace and Constables Association.

To Rules and Resolutions.

HR 2796 (By Craddick), Congratulating Charles "Choc" Harris of Midland County on being named the 2009 Constable of the Year by the West Texas Justices of the Peace and Constables Association.

To Rules and Resolutions.

HR 2797 (By Edwards), Honoring Marsha Lister for her service as the recreation and facility manager of Sunnyside Park in Houston.

To Rules and Resolutions.

HR 2798 (By Gallego), Congratulating Clay and Jody Miller of Valentine on their 60th wedding anniversary.

To Rules and Resolutions.

HR 2799 (By Veasey), In memory of Fort Worth firefighter Gregory L. Cocke.

To Rules and Resolutions.

HR 2800 (By Veasey), Congratulating the Reverend James C. Brown on his 14th anniversary as pastor of Sweet Home Baptist Church in Fort Worth.

To Rules and Resolutions.

HR 2801 (By Veasey), Honoring Tom Plumlee on his retirement as director of the Community Supervision and Corrections Department in Tarrant County.

To Rules and Resolutions.

HR 2802 (By Edwards), Honoring Rabbi Gidon Moskovitz and his wife, Rebbitzin Malka Moskovitz, of Meyerland Minyan in Houston for their service to the community.

To Rules and Resolutions.

HR 2803 (By Edwards), Honoring Dr. Edith Clark for her many years of service to the Sunnyside community in Houston.

To Rules and Resolutions.

HR 2804 (By Edwards), Honoring KCOH general manager Mike Petrizzo of Houston for his contributions to the community.

To Rules and Resolutions.

HR 2806 (By Kuempel), In memory of the Honorable Richard F. "Ric" Williamson.

To Rules and Resolutions.

HR 2807 (By Kolkhorst), Congratulating Joe Clements of Huntsville on receiving the Mance Park Lifetime Achievement Award from the Huntsville-Walker County Chamber of Commerce.

To Rules and Resolutions.

HR 2808 (By Kolkhorst), Congratulating Johnnie and Joyce Shupak of Frelsburg on being named the 2008 Citizens of the Year by the New Ulm Chamber of Commerce.

To Rules and Resolutions.

HR 2809 (By Frost), Honoring Becky Watson on her reelection as president of the Tax Assessor-Collectors Association of Texas.

To Rules and Resolutions.

HR 2810 (By Eissler), In memory of Maura de Souza of Spring.

To Rules and Resolutions.

HR 2811 (By Flynn), Commemorating the 75th anniversary of the Texas Credit Union League.

To Rules and Resolutions.

HR 2812 (By Flynn), Congratulating Doyle and Verda Arnold of Quinlan on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2813 (By Flynn), Congratulating Mark and Rita Greer of Greenville on their 25th anniversary.

To Rules and Resolutions.

HR 2814 (By Flynn), Congratulating Wayne and Wanda McWilliams on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2815 (By Flynn), Honoring Judge Ronnie L. Daniell of Van Zandt County on the occasion of his 62nd birthday.

To Rules and Resolutions.

HR 2816 (By Paxton), Honoring Dario Jackson of McKinney High School for his achievements as a track athlete.

To Rules and Resolutions.

HR 2817 (By Paxton), Commemorating the first annual Frisco Arts Festival.

To Rules and Resolutions.

HR 2818 (By Zerwas), Recognizing May 2009 as American Stroke Month.

To Rules and Resolutions.

HR 2819 (By Gattis), Honoring Patrick Steck for his work as a legislative aide during the 81st Legislative Session.

To Rules and Resolutions.

HR 2820 (By Gattis), Paying tribute to the life of the Honorable Jack Kemp and his service to this nation.

To Rules and Resolutions.

HR 2821 (By P. King), Congratulating Judy A. Hill of Aledo High School on her receipt of the 2009 Marva Collins Teaching Excellence Award.

To Rules and Resolutions.

HR 2822 (By Christian), Commending Tyler Norris for his service as a legislative intern in the office of State Representative Wayne Christian.

To Rules and Resolutions.

HR 2823 (By Legler), Honoring Juanita Newman Williams of Houston on the occasion of her 101st birthday.

To Rules and Resolutions.

HR 2825 (By Peña), Congratulating Sarah Viranda, Erika Reyna, and Rosario Adriana Wilson for earning their Master of Public Administration degrees from The University of Texas–Pan American.

To Rules and Resolutions.

HR 2826 (By Peña), Congratulating Robert Schmalzried on his election as mayor of Edcouch.

To Rules and Resolutions.

HR 2827 (By Peña), Commending Maricela De León on her five years of service as a legislative assistant in the office of State Representative Aaron Peña.

To Rules and Resolutions.

HR 2828 (By Peña), Honoring Lionel Aron Peña of Edinburg on his achievements and community service.

To Rules and Resolutions.

HR 2829 (By Dutton), Commemorating the 50th reunion of the Class of 1959 of Phillis Wheatley High School in Houston.

To Rules and Resolutions.

HR 2830 (By Anderson), In memory of Jack Thomas Garrison of Elm Mott.

To Rules and Resolutions.

HR 2831 (By Anderson), Congratulating Erbie and Shirley Lewis of Woodway on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2832 (By D. Howard), Congratulating the Red Dragon Players of Stephen F. Austin High School on winning the 2009 UIL Conference 5A State One-Act Play Competition.

To Rules and Resolutions.

HR 2833 (By D. Howard), Honoring the participants in the Speak Up! Speak Out! program at Akins High School, Garza High School, and LBJ High School in Austin.

To Rules and Resolutions.

HR 2834 (By Merritt), Congratulating Bette and Jerrell Huffman of Longview on their 60th wedding anniversary.

To Rules and Resolutions.

HR 2835 (By Merritt), Congratulating Tony and Peggy DuVall of Longview on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2836 (By Merritt), Congratulating Jerry and Janice Howell on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2837 (By Merritt), Congratulating Marion and Sidney Boyce on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2838 (By Merritt), Congratulating Roy and Charlene Harris on their 60th wedding anniversary.

To Rules and Resolutions.

HR 2839 (By Merritt), Congratulating Mary Helen Bair on her receipt of the Longview Rotary Club 2009 Citizen of the Year award.

To Rules and Resolutions.

HR 2840 (By Merritt), Honoring Mary Catherine Love for her service as an intern in the office of State Representative Tommy Merritt.

To Rules and Resolutions.

HR 2841 (By Merritt), Congratulating John and Joann Harrod of Longview on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2842 (By Merritt), Congratulating Roger and Mary Ruth Walters on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2843 (By Hughes), In memory of William Richard Hirt of Yantis.

To Rules and Resolutions.

HR 2844 (By Merritt), Honoring the Northeast Texas Consortium of Colleges and Universities on its selection as the 2009 Outstanding Institution for Commitment to Excellence and Innovation in Distance Education.

To Rules and Resolutions.

HR 2845 (By Merritt), Congratulating Bill and Judy Staubs of Longview on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2846 (By Merritt), Commemorating the 75th anniversary of Kilgore College.

To Rules and Resolutions.

HR 2847 (By Merritt), Commemorating the 2009 Great Texas Balloon Race in Longview.

To Rules and Resolutions.

HR 2848 (By Merritt), Congratulating Chris Sims on being named the 2009 Firefighter of the Year by the Longview Fire Department.

To Rules and Resolutions.

HR 2849 (By Moody), Congratulating Edward Joseph Casanova of El Paso on his 100th birthday.

To Rules and Resolutions.

HR 2851 (By Anderson), Honoring Austin Epps and Hannah Hammack for their service as legislative interns in the office of State Representative Charles Anderson.

To Rules and Resolutions.

HR 2852 (By Chavez), Expressing support for efforts by the federal government to amend The Restoration Act, relating to certain Indian gaming prohibitions.

To Border and Intergovernmental Affairs.

HR 2853 (By Branch), Commending the Real Estate Councils of Texas for its service to the real estate industry and its contributions to the state's economy.

To Rules and Resolutions.

HR 2854 (By Branch), Recognizing June 2009 as Scottish Heritage Month and commemorating the 23rd annual Texas Scottish Festival & Highland Games in Arlington.

To Rules and Resolutions.

HR 2855 (By Martinez), Honoring the Valley Building Officials Association on the 50th anniversary of its founding.

To Rules and Resolutions.

HR 2856 (By S. King), In memory of Judge Raleigh Holden Brown, former Justice of the 11th Court of Appeals and state representative from Abilene.

To Rules and Resolutions.

HR 2857 (By W. Smith), In memory of Robert L. Gillette of Baytown.

To Rules and Resolutions.

HR 2858 (By W. Smith), In memory of Thomas Oliver of Baytown.

To Rules and Resolutions.

HR 2859 (By W. Smith), Congratulating Department of Public Safety Trooper Cody L. Mitchell on his receipt of the 2008 Law Enforcement Achievement Award for Valor.

To Rules and Resolutions.

HR 2860 (By Hunter), Honoring Judge Michael J. Pfeifer for his service to Calhoun County.

To Rules and Resolutions.

HR 2861 (By Guillen), Honoring Victor M. Ramirez for his service with the Roma Independent School District.

To Rules and Resolutions.

HR 2862 (By Guillen), Honoring Minerva Rodriguez for her service to the Roma Independent School District.

To Rules and Resolutions.

HR 2863 (By Guillen), Honoring Virginia Mayers on her retirement from the South Texas Workforce Development Board in 2007.

To Rules and Resolutions.

HR 2864 (By Guillen), Congratulating Maria del Carmen S. Sandoval on her retirement from the Laredo Independent School District in 2008.

To Rules and Resolutions.

HR 2865 (By Guillen), Congratulating the Honorable Aaron Peña, Jr., on his 50th birthday.

To Rules and Resolutions.

HR 2866 (By Guillen), Honoring Maria Eva H. Riojas for her contributions to the students of the Roma Independent School District.

To Rules and Resolutions.

HR 2867 (By Edwards), Honoring Rabbi Shimon Lazaroff of Houston for his contributions through Chabad Lubavitch of Texas.

To Rules and Resolutions.

HR 2868 (By Gattis), Congratulating Dr. William Farney on his retirement as executive director of the University Interscholastic League.

To Rules and Resolutions.

HR 2869 (By Anderson), In memory of Frances Sturgis of Waco.

To Rules and Resolutions.

HR 2871 (By Phillips), In memory of Richard Earle Deweese of Bonham.

To Rules and Resolutions.

HR 2872 (By Dunnam), In memory of Alexander Christian Reed of China Spring.

To Rules and Resolutions.

HR 2873 (By Woolley), Honoring Heather Crosby on her graduation from The University of Texas at Austin.

To Rules and Resolutions.

HR 2874 (By B. Brown), In memory of William C. "Dub" McCarty of Athens.

To Rules and Resolutions.

HR 2876 (By Isett), Congratulating Iylana Nassiri of Texas Tech University in Lubbock on winning the 2009 Texas Hospitality Association poster contest in the university and college student division.

To Rules and Resolutions.

HR 2877 (By McCall), Honoring Texas Army National Guard Specialist Roy D. Donaldson, Jr., for his service in Iraq.

To Rules and Resolutions.

HR 2881 (By Gonzalez Toureilles), Congratulating Officer Daniel X. Elizondo of the Alice Police Department on his receipt of the 2008 State of Texas Law Enforcement Achievement Award for Valor.

To Rules and Resolutions.

HR 2882 (By Gonzalez Toureilles), Recognizing the Reverend Eric Rendell Tarver of Beeville as Pastor of the Day for May 30, 2009.

To Rules and Resolutions.

HR 2883 (By Mallory Caraway), Congratulating Jeb Noel Bates on his graduation from Chaparral High School in Parker, Colorado, in May 2009.

To Rules and Resolutions.

SCR 54 to Border and Intergovernmental Affairs.

SCR 77 to Human Services.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 45

HB 118, HB 144, HB 176, HB 221, HB 233, HB 400, HB 434, HB 534, HB 585, HB 610, HB 646, HB 732, HB 765, HB 780, HB 781, HB 796, HB 821, HB 874, HB 878, HB 960, HB 965, HB 1003, HB 1056, HB 1063, HB 1083, HB 1145, HB 1146, HB 1177, HB 1193, HB 1230, HB 1233, HB 1256, HB 1265, HB 1286, HB 1295, HB 1321, HB 1360, HB 1372, HB 1448, HB 1457, HB 1460, HB 1461, HB 1470, HB 1473, HB 1474, HB 1518, HB 1551, HB 1600, HB 1686, HB 1688, HB 1691, HB 1730, HB 1739, HB 1750, HB 1757, HB 1783, HB 1843, HB 1850, HB 1884, HB 1925, HB 1960, HB 1972, HB 1973, HB 1995, HB 2002, HB 2022, HB 2031, HB 2035, HB 2052, HB 2082, HB 2102, HB 2168, HB 2228, HB 2232, HB 2236, HB 2237, HB 2242, HB 2276, HB 2385, HB 2435, HB 2449, HB 2456, HB 2465, HB 2502, HB 2846, HB 2847, HB 2916, HB 3001, HB 3003, HB 3069, HB 3070, HB 3075, HB 3080, HB 3098, HB 3112, HB 3128, HB 3136, HB 3140, HB 3147, HB 3206, HB 3316, HB 3450, HB 3464, HB 3468, HB 3496, HB 3593, HB 3597, HB 3599, HB 3601, HB 3602, HB 3623, HB 3638, HB 3649, HB 3666, HB 3671, HB 3767, HB 3802, HB 3829, HB 3844, HB 3857, HB 3918, HB 3945, HB 4002, HB 4136, HB 4257, HB 4281, HB 4343, HB 4353, HB 4359, HB 4360, HB 4376, HB 4402, HB 4685, HB 4698, HB 4710, HB 4712, HB 4713, HB 4719, HB 4790, HB 4793, HB 4798

Senate List No. 40

SB 835, SB 873, SB 892, SB 909, SB 926, SB 1033, SB 1053, SB 1057, SB 1058, SB 1080, SB 1081, SB 1082, SB 1207, SB 1208, SB 1218, SB 1223, SB 1325, SB 1328, SB 1332, SB 1344, SB 1359, SB 1403, SB 1474, SB 1485, SB 1514, SB 1522, SB 1574, SB 1575, SB 1617, SB 1652, SB 1670, SB 1676, SB 1699

Senate List No. 41

SB 252, SB 281, SB 291, SB 413, SB 414, SB 576, SB 798, SB 801, SB 927, SB 940, SB 1055, SB 1107, SB 1134, SB 1142, SB 1354, SB 1367, SB 1377, SB 1701, SB 1712, SB 1771, SB 1795, SB 1807, SB 1826, SB 1876, SB 1930, SB 1941, SB 1992, SB 1997, SB 2048, SB 2058, SB 2072, SB 2093, SB 2182, SB 2217, SB 2312, SB 2412, SB 2438, SB 2445, SB 2462, SB 2465, SB 2519, SB 2534

Senate List No. 42

SB 504, SB 1209, SB 1299, SB 1478, SB 1633, SB 1777, SB 1782, SB 1813, SB 1903, SB 1982, SB 2028, SB 2041, SB 2067, SB 2073, SB 2178, SB 2244, SB 2344, SB 2454, SB 2467, SB 2485, SB 2495, SB 2501, SB 2510, SB 2511, SB 2518, SB 2522, SB 2552, SB 2558, SB 2580

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Thursday, May 28, 2009 - 6

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 228 Davis, John SPONSOR: Jackson, M.
Honoring Ralph Parr for his service to the Clear Creek Independent School District on the occasion of his retirement from the Clear Creek ISD Board of Trustees.

HCR 233 Davis, John SPONSOR: Jackson, M.

Congratulating Elizabeth Radicioni on being named Clear Creek ISD Secondary Teacher of the Year.

HCR 234 Davis, John SPONSOR: Jackson, M.
Congratulating Julie Ballew on being nominated as Clear Creek ISD Elementary Teacher of the Year.

HCR 235 Davis, John SPONSOR: Jackson, M.
Congratulating Margaret Berti on being nominated as Clear Creek ISD Teacher of the Year.

HCR 236 Davis, John SPONSOR: Jackson, M.
Congratulating Samantha Youts on being nominated as Clear Creek ISD Secondary Teacher of the Year.

HCR 240 Davis, John SPONSOR: Jackson, M.
Congratulating Edna Meeks on being nominated as Clear Creek ISD Secondary Teacher of the Year.

HCR 241 Davis, John SPONSOR: Jackson, M.
Congratulating Dawn Gibler on being named the Clear Creek ISD Elementary Teacher of the Year.

HCR 242 Davis, John SPONSOR: Jackson, M.
Congratulating John Kennedy on his retirement as city manager of Nassau Bay.

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 328

Senate Conferees: Carona - Chair/Nichols/Shapleigh/Watson/Zaffirini

SB 333

Senate Conferees: Carona - Chair/Nichols/Shapleigh/Watson/Zaffirini

SB 408

Senate Conferees: Carona - Chair/Hinojosa/Lucio/Watson/Wentworth

SB 1009

Senate Conferees: Deuell - Chair/Eltife/Estes/Hegar/Whitmire

SB 1219

Senate Conferees: Averitt - Chair/Shapiro/Van de Putte/West/Williams

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 300

Senate Conferees: Hegar - Chair/Carona/Hinojosa/Nichols/Watson

HB 987

Senate Conferees: West - Chair/Duncan/Ellis/Nichols/Wentworth

HB 2925

Senate Conferees: Whitmire - Chair/Averitt/Eltife/Gallegos/Hegar
HB 4498

Senate Conferees: Nichols - Chair/Eltife/Jackson, M./Patrick, Dan/Shapleigh

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE
COMMITTEE REPORTS:

SB 1 (29 Yeas, 2 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 28, 2009 - 7

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the
following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 4244 Hochberg SPONSOR: Zaffirini
Relating to certain competitive scholarship recipients at public institutions of
higher education.
(Committee Substitute/Amended)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 29, 2009

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 184 Cortez SPONSOR: Van de Putte
 Convening a joint memorial session to honor all Texans killed during the Global War on Terrorism.

HCR 254 Homer SPONSOR: Williams
 Honoring the 2009 and 2010 State Artist appointees.

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 28 (31 Yeas, 0 Nays)

SB 68 (31 Yeas, 0 Nays)

SB 223 (31 Yeas, 0 Nays)

SB 279 (31 Yeas, 0 Nays)

SB 359 (31 Yeas, 0 Nays)

SB 395 (31 Yeas, 0 Nays)

SB 451 (31 Yeas, 0 Nays)

SB 470 (31 Yeas, 0 Nays)

SB 532 (31 Yeas, 0 Nays)

SB 572 (31 Yeas, 0 Nays)

SB 575 (31 Yeas, 0 Nays)

SB 698 (31 Yeas, 0 Nays)

SB 743 (31 Yeas, 0 Nays)

SB 865 (31 Yeas, 0 Nays)

SB 882 (31 Yeas, 0 Nays)

SB 904 (31 Yeas, 0 Nays)

SB 963 (31 Yeas, 0 Nays)

SB 1225 (31 Yeas, 0 Nays)

SB 1515 (28 Yeas, 3 Nays)

SB 1672 (31 Yeas, 0 Nays)

SB 1715 (31 Yeas, 0 Nays)

SB 1774 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 726

SB 283	(31 Yeas, 0 Nays)
SB 476	(31 Yeas, 0 Nays)
SB 627	(31 Yeas, 0 Nays)
SB 643	(31 Yeas, 0 Nays)
SB 654	(31 Yeas, 0 Nays)
SB 660	(30 Yeas, 0 Nays)
SB 703	(31 Yeas, 0 Nays)
SB 705	(30 Yeas, 0 Nays)
SB 768	(31 Yeas, 0 Nays)
SB 839	(30 Yeas, 1 Nay)
SB 860	(31 Yeas, 0 Nays)
SB 866	(31 Yeas, 0 Nays)
SB 891	(31 Yeas, 0 Nays)
SB 911	(31 Yeas, 0 Nays)
SB 1034	(31 Yeas, 0 Nays)
SB 1091	(31 Yeas, 0 Nays)
SB 1235	(30 Yeas, 0 Nays)
SB 1259	(30 Yeas, 0 Nays)
SB 1290	(31 Yeas, 0 Nays)
SB 1334	(30 Yeas, 0 Nays)
SB 1368	(31 Yeas, 0 Nays)
SB 1374	(31 Yeas, 0 Nays)
SB 1402	(31 Yeas, 0 Nays)
SB 1410	(25 Yeas, 6 Nays)
SB 1526	(31 Yeas, 0 Nays)
SB 1592	(31 Yeas, 0 Nays)
SB 1646	(31 Yeas, 0 Nays)
SB 1717	(28 Yeas, 3 Nays)
SB 1827	(31 Yeas, 0 Nays)
SB 1878	(31 Yeas, 0 Nays)
SB 1940	(31 Yeas, 0 Nays)
SB 1945	(31 Yeas, 0 Nays)
SB 2169	(31 Yeas, 0 Nays)
SB 2197	(31 Yeas, 0 Nays)
SB 2456	(31 Yeas, 0 Nays)
SB 2526	(30 Yeas, 0 Nays)
SB 2570	(31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 29, 2009 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 203	(31 Yeas, 0 Nays)
SB 531	(31 Yeas, 0 Nays)
SB 589	(31 Yeas, 0 Nays)
SB 666	(22 Yeas, 9 Nays)
SB 702	(31 Yeas, 0 Nays)
SB 759	(31 Yeas, 0 Nays)
SB 833	(31 Yeas, 0 Nays)
SB 1056	(31 Yeas, 0 Nays)
SB 1093	(31 Yeas, 0 Nays)
SB 1095	(31 Yeas, 0 Nays)
SB 1201	(31 Yeas, 0 Nays)
SB 1586	(31 Yeas, 0 Nays)
SB 1612	(31 Yeas, 0 Nays)
SB 1760	(31 Yeas, 0 Nays)
SB 1804	(31 Yeas, 0 Nays)
SB 1812	(31 Yeas, 0 Nays)
SB 1967	(31 Yeas, 0 Nays)
SB 2279	(31 Yeas, 0 Nays)
SB 2478	(31 Yeas, 0 Nays)
SB 2505	(31 Yeas, 0 Nays)

SB 2569 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 52

Senate Conferees: Zaffirini - Chair/Carona/Eltife/Uresti/Wentworth

SB 78

Senate Conferees: Nelson - Chair/Deuell/Duncan/Lucio/Van de Putte

SB 537

Senate Conferees: Carona - Chair/Hinojosa/Patrick, Dan/Seliger/Whitmire

SB 546

Senate Conferees: Fraser - Chair/Ellis/Estes/Harris/Whitmire

SB 679

Senate Conferees: Lucio - Chair/Duncan/Estes/West/Williams

SB 968

Senate Conferees: West - Chair/Carona/Nichols/Patrick, Dan/Van de Putte

SB 1273

Senate Conferees: Carona - Chair/Averitt/Duncan/Seliger/West

SB 1620

Senate Conferees: Wentworth - Chair/Averitt/Eltife/Watson/Whitmire

SB 2314

Senate Conferees: Averitt - Chair/Duncan/Eltife/Uresti/Watson

SB 2468

Senate Conferees: Gallegos - Chair/Duncan/Eltife/Jackson, M./Whitmire

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 72

Senate Conferees: Zaffirini - Chair/Carona/Eltife/Hinojosa/Wentworth

HB 216

Senate Conferees: Shapleigh - Chair/Nelson/Nichols/Uresti/Wentworth

HB 2330

Senate Conferees: Zaffirini - Chair/Deuell/Nichols/Shapleigh/Van de Putte

HB 2591

Senate Conferees: Hegar - Chair/Deuell/Eltife/Harris/West

HB 3983

Senate Conferees: Watson - Chair/Carona/Eltife/Harris/Shapleigh

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 1237 (30 Yeas, 1 Nay)

Respectfully,

Patsy Spaw
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, May 29, 2009 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 806 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 497

Senate Conferees: Wentworth - Chair/Carona/Duncan/Gallegos/Watson

SB 1068

Senate Conferees: Wentworth - Chair/Carona/Ellis/Eltife/Williams

SB 1742

Senate Conferees: Shapiro - Chair/Deuell/Nelson/Nichols/West

SB 1757

Senate Conferees: Watson - Chair/Averitt/Deuell/Ellis/Seliger

SB 1759

Senate Conferees: Watson - Chair/Averitt/Huffman/Uresti/Williams

SB 2440

Senate Conferees: Uresti - Chair/Averitt/Hegar/Van de Putte/Wentworth

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 1659

Senate Conferees: Patrick, Dan - Chair/Ellis/Hegar/Huffman/Williams

HB 2328

Senate Conferees: Carona - Chair/Averitt/Patrick, Dan/Van de Putte/Whitmire

HB 2374

Senate Conferees: Lucio - Chair/Duncan/Estes/Seliger/Zaffirini
HB 2888

Senate Conferees: West - Chair/Duncan/Ellis/Gallegos/Wentworth
HB 3218

Senate Conferees: Zaffirini - Chair/Carona/Deuell/Duncan/Van de Putte
HB 3347

Senate Conferees: Duncan - Chair/Ogden/Van de Putte/West/Williams
HB 3637

Senate Conferees: Wentworth - Chair/Duncan/Hinojosa/Watson/Williams
HB 4102

Senate Conferees: Carona - Chair/Ellis/Patrick, Dan/Shapiro/Williams

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 28

House Administration - **HR 1934, HR 2385, HR 2386, SCR 67**

Judiciary and Civil Jurisprudence - **SCR 72**

ENROLLED

May 28 - HB 101, HB 108, HB 389, HB 453, HB 527, HB 533, HB 583, HB 586, HB 598, HB 978, HB 1055, HB 1326, HB 1596, HB 1597, HB 1598, HB 1599, HB 1601, HB 1664, HB 2128, HB 2142, HB 2181, HB 2208, HB 2547, HB 2585, HB 2664, HB 2690, HB 2692, HB 2728, HB 2748, HB 2799, HB 2804, HB 2806, HB 2813, HB 2814, HB 2820, HB 2906, HB 2994, HB 3005, HB 3385, HB 3611, HB 3625, HB 3922, HB 4007, HB 4064, HB 4068, HB 4103, HB 4464, HB 4465, HB 4492, HB 4493, HB 4519, HB 4560, HB 4594, HB 4607, HB 4611, HB 4700, HB 4723, HB 4737, HB 4741, HB 4748, HB 4750, HB 4752, HB 4754, HB 4771, HB 4772, HB 4777, HB 4803, HB 4811, HB 4815, HCR 5, HCR 16, HCR 53, HCR 71, HCR 79, HCR 81, HCR 119, HCR 120, HCR 182

SENT TO THE GOVERNOR

May 28 - HB 1293, HB 1861, HB 1969, HB 2066, HB 2225, HB 2763, HB 3004, HB 3148, HB 3346, HB 3515, HB 3544, HB 4781

RETURNED TO THE SENATE

May 28 - Pursuant to Rule 13, Section 5A of the House Rules, 81st Legislature, the house returned **HB 1070** to the senate for further consideration due to nongermane amendments.

