

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

THIRTY-NINTH DAY — WEDNESDAY, MARCH 26, 2003

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 95).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent — Flores; McReynolds.

The invocation was offered by Pastor A. W. Mays, Mt. Sinai Missionary Baptist Church, Austin, as follows:

O Lord, our Lord, how excellent is your name in all the earth. Humbly we enter into your presence in the name of our savior Jesus Christ the Lord. We honor you as the only true and living Lord, the creator of all things visible and invisible. We honor you with our lips and cherish you in our hearts.

In this assembly of leaders of this wonderful and unique State of Texas, we pray your forgiveness of all our trespasses and sins. We pray that you will turn a listening ear to our petitions. We pray you will draw all your people, of every description and sort, closer to you. O Lord, you know the war that continues in a distant land, where our soldiers are fighting. You know some have been wounded, and some have even died, paying the ultimate price for freedom and

justice. We pray your comfort and consolation for those families and those loved ones who must continue beyond their losses. Grant victory swiftly we pray. We pray for the leader of this nation, President George W. Bush.

For this body of leaders assembled in this room, we pray your wisdom. We pray for them courage. We pray for our governor and even all those who lead in our government. We pray justice for all people. We pray unto you for righteousness. We pray unto you for your peace. For Christ's sake, and in his name we ask it all. Amen.

CAPITOL PHYSICIAN

The speaker recognized Representative Hupp who presented Dr. Ernesto Malave of Lampasas as the "Doctor for the Day."

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

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 18).

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Hill in the chair)

(McReynolds now present)

HCR 148 - ADOPTED (by Coleman)

Representative Coleman moved to suspend all necessary rules to take up and consider at this time **HCR 148**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 148, Designating March 26, 2003, as ACT Now! Day at the Capitol.

HCR 148 was adopted without objection.

INTRODUCTION OF GUESTS

The chair recognized Representative Wohlgemuth who introduced a delegation from Johnson County.

**HR 317 - ADOPTED
(by Wohlgemuth)**

Representative Wohlgemuth moved to suspend all necessary rules to take up and consider at this time **HR 317**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 317, Congratulating Carrie and George Walls of Houston on the birth of their daughter, Caroline Rachel Walls.

HR 317 was adopted without objection.

**HR 318 - ADOPTED
(by Wohlgemuth)**

Representative Wohlgemuth moved to suspend all necessary rules to take up and consider at this time **HR 318**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 318, Honoring the marriage of Emily Walls and Cliff Insall of Oglesby.

HR 318 was adopted without objection.

INTRODUCTION OF GUESTS

The chair recognized Representative Wohlgemuth who introduced the Walls family.

**HR 580 - ADOPTED
(by Luna, Seaman, and Capelo)**

Representative Luna moved to suspend all necessary rules to take up and consider at this time **HR 580**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 580, In honor of the exceptional contributions of the late Dr. Hector P. Garcia of Corpus Christi.

HR 580 was unanimously adopted by a rising vote.

On motion of Representative Raymond, the names of all the members of the house were added to **HR 580** as signers thereof.

**HR 540 - ADOPTED
(by Olivo)**

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HR 540**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 540, Recognizing the A. Philip Randolph Institute.

HR 540 was adopted without objection.

On motion of Representative Y. Davis, the names of all the members of the house were added to **HR 540** as signers thereof.

HR 539 - ADOPTED

(by Olivo)

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HR 539**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 539, Honoring Clara Caldwell, president of the A. Philip Randolph Institute.

HR 539 was adopted without objection.

On motion of Representative Hodge, the names of all the members of the house were added to **HR 539** as signers thereof.

HR 593 - ADOPTED

(by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 593**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 593, Requesting TxDOT to designate the pedestrian walkway that crosses IH-635 and connects the city of Farmers Branch to the city of Dallas as the Joe Ratcliff Walkway.

HR 593 was adopted without objection.

(Speaker in the chair)

UNFINISHED BUSINESS

The following bill was laid before the house as unfinished business:

CSHB 4 ON SECOND READING

(by Nixon, Allen, Capelo, Woolley, R. Cook, et al.)

CSHB 4, A bill to be entitled An Act relating to reform of certain procedures and remedies in civil actions.

Amendment No. 25 was pending at the time of yesterday's adjournment.

(Truitt in the chair)

Amendment No. 27

Representative Geren offered the following amendment to Amendment No. 25:

On page 1 of Floor Amendment 25, strike lines 3-24.

On page 8, line 6, after "insured", add provided that the rate was adequate and not artificially inflated prior to or after the determination of constitutionality.

On page 8, line 11, insert new subsection (A) that reads:

If the commissioner makes no determination as to a rate reduction in accordance with Article 5.163, Section 1, then an insurer may not charge an insured for professional liability insurance for physicians and health care providers issued or renewed on or after the second anniversary of the 30th day after the effective date of the constitutional amendment containing a \$250,000 cap on noneconomic damages in all health care liability claims or the date the cap was determined to be constitutional and before the third anniversary of the 30th day after the effective date of the constitutional amendment or the date the cap was determined to be constitutional an amount that exceeds 80 percent of the amount the insurer charged or would have charged the insured for the same coverage.

On page 8, after new subsection (A), insert new subsection (B) that reads:

If the commissioner makes no determination as to a rate reduction in accordance with Article 5.163, Section 1, then an insurer may not charge an insured for professional liability insurance for physicians and health care providers issued or renewed on or after the third anniversary of the 30th day after the effective date of the constitutional amendment containing a \$250,000 cap on noneconomic damages in all health care liability claims or the date the cap was determined to be constitutional and before the fourth anniversary of the 30th day after the effective date of the constitutional amendment or the date the cap was determined to be constitutional an amount that exceeds 75 percent of the amount the insurer charged or would have charged the insured for the same coverage.

Amendment No. 28

Representative Wolens offered the following substitute amendment for Amendment No. 27:

Substitute the following for the Geren amendment:

Floor Amendment No. 25 to **CSHB 4** by Rose as follows:

(1) On page 6 of the amendment, strike line 1, and substitute the following: "a preponderance of the evidence presented by an insurer that:".

(2) On page 6 of the amendment, line 12, strike "unreasonable or".

(3) On page 7 of the amendment, line 25, strike "85" and substitute "81".

(4) On page 8 of the amendment, strike lines 2 through 6 and substitute the following: "coverage on January 1, 2003, or, if the insurer did not insure that insured on January 1, 2003, 81 percent of the amount the insurer would have charged that insured on January 1, 2003. An insurer may".

(5) On page 8 of the amendment, strike lines 8 through 10 and substitute the following: "A proceeding under this article is a contested case under Chapter 2001, Government Code. The commissioner shall not grant the exception unless the insurer proves by a preponderance of the evidence that the rate reduction is confiscatory. If the insurer meets this evidentiary burden, the commissioner may grant the exception only to the extent that the reduction is confiscatory."

Amendment No. 28 was withdrawn.

Amendment No. 29

Representative Wolens offered the following substitute amendment for Amendment No. 27:

Substitute the following for the Geren amendment:

Floor Amendment No. 25 to **CSHB 4** by Rose as follows:

(1) On page 6 of the amendment, strike line 1, and substitute the following: "a preponderance of the evidence presented by an insurer that:".

(2) On page 6 of the amendment, line 12, strike "unreasonable or".

(4) On page 8 of the amendment, strike lines 2 through 6 and substitute the following: "coverage on January 1, 2003, or, if the insurer did not insure that insured on January 1, 2003, 85 percent of the amount the insurer would have charged that insured on January 1, 2003. An insurer may".

(5) On page 8 of the amendment, strike lines 8 through 10 and substitute the following: "A proceeding under this article is a contested case under Chapter 2001, Government Code. The commissioner shall not grant the exception unless the insurer proves by a preponderance of the evidence that the rate reduction is confiscatory. If the insurer meets this evidentiary burden, the commissioner may grant the exception only to the extent that the reduction is confiscatory."

(Flores now present)

(Hegar in the chair)

Representative Geren moved to table Amendment No. 29.

A record vote was requested.

The motion to table prevailed by (Record 96): 90 Yeas, 53 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Farabee; Flynn; Garza; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Coleman; Cook, R.; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Eiland; Ellis; Farrar; Gallego; Giddings; Guillen; Gutierrez; Hochberg; Hodge; Hughes; Jones, J.; Lewis; Luna; Mabry; Martinez Fischer; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smithee; Solis; Talton; Telford; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

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

Absent — Chavez; Dukes; Flores; McClendon.

STATEMENT OF VOTE

I was shown voting no on Record No. 96. I intended to vote present, not voting.

Gallego

HR 555 - ADOPTED (by Krusee)

Representative Krusee moved to suspend all necessary rules to take up and consider at this time **HR 555**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 555, Congratulating Farmers Insurance on its 75th anniversary.

HR 555 was adopted without objection.

HR 419 - ADOPTED (by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 419**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 419, Honoring Truman O'Kelly "Kelly" Hildebrand of Kerrville on the occasion of his retirement from Schreiner University.

HR 419 was adopted without objection.

CSHB 4 - (consideration continued)

Amendment No. 30

Representatives Wolens and Geren offered the following substitute amendment for Amendment No. 27:

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet) as follows:

(1) On page 6 of the amendment, strike line 1, and substitute the following: "a preponderance of the evidence presented by an insurer that:".

(3) On page 8, line 6, after "insured", add provided that the rate was adequate and not artificially inflated prior to or after the determination of constitutionality.

(4) On page 8 of the amendment, strike lines 8 through 10 and substitute the following: "A proceeding under this article is a contested case under Chapter 2001, Government Code. The commissioner shall not grant the exception unless the insurer proves by a preponderance of the evidence that the rate reduction is confiscatory. If the insurer meets this evidentiary burden, the commissioner may grant the exception only to the extent that the reduction is confiscatory."

(A) If the commissioner makes no determination as to a rate reduction in accordance with Article 5.163, Section 1, then an insurer may not charge an insured for professional liability insurance for physicians and health care providers issued or renewed on or after the second anniversary of the 30th day after the effective date of the constitutional amendment containing a \$250,000 cap on noneconomic damages in all health care liability claims or the date the cap was determined to be constitutional and before the third anniversary of the 30th day after the effective date of the constitutional amendment or the date the cap was determined to be constitutional an amount that exceeds 80 percent of the amount the insurer charged or would have charged the insured for the same coverage.

(B) If the commissioner makes no determination as to a rate reduction in accordance with Article 5.163, Section 1, then an insurer may not charge an insured for professional liability insurance for physicians and health care providers issued or renewed on or after the third anniversary of the 30th day after the effective date of the constitutional amendment containing a \$250,000 cap on noneconomic damages in all health care liability claims or the date the cap was determined to be constitutional and before the fourth anniversary of the 30th day after the effective date of the constitutional amendment or the date the cap was determined to be constitutional an amount that exceeds 75 percent of the amount the insurer charged or would have charged the insured for the same coverage.

Amendment No. 30 was adopted without objection.

Amendment No. 27, as substituted, was adopted without objection.

Amendment No. 31

Representative Eiland offered the following amendment to Amendment No. 25:

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet) on page 8 of the amendment, between lines 10 and 11, by inserting the following:

Art. 5.165. ALLOCATED LOSS ADJUSTMENT EXPENSE. Not later than October 1 of each year, the commissioner by rule shall establish the maximum annual amount of allocated loss expense that each insurer may incur as a percentage of its annual premiums for professional liability insurance for physicians and health care providers. The maximum annual amount of allocated

loss expense established under this article may not exceed the applicable maximum annual amount of allocated loss expense for the insurer on September 1, 2003.

Representative Rose moved to table Amendment No. 31.

A record vote was requested.

The motion to table prevailed by (Record 97): 84 Yeas, 62 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Gutierrez; Hilderbran; Hochberg; Hodge; Homer; Hopson; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smithee; Solis; Talton; Telford; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

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

Absent — Mowery.

STATEMENT OF VOTE

I was shown voting no on Record No. 97. I intended to vote present, not voting.

Gallego

Amendment No. 32

Representative Garza offered the following amendment to Amendment No. 25:

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet) as follows:

(1) On page 7 of the amendment, line 9, strike "CONTINGENT ROLLBACK." and substitute the "CONTINGENT ROLLBACK AND CAP. (a)".

(2) On page 7 of the amendment, between lines 24 and 25, insert the following:

(b) An insurer may not charge a rate that is higher than the rate authorized under Subsection (a) of this article before the third anniversary of the effective date of the constitutional amendment that makes the cap described by Subsection (a) of this article constitutional or the third anniversary of the date the cap is determined to be constitutional. This subsection expires on the third anniversary of the effective date of the constitutional amendment that makes the cap constitutional or the third anniversary of the date the cap is determined to be constitutional.

Representative McCall moved to table Amendment No. 32.

A record vote was requested.

The motion to table prevailed by (Record 98): 96 Yeas, 48 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Eissler; Elkins; Ellis; Farabee; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Hochberg; Homer; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Nixon; Paxton; Peña; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgenuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Eiland; Farrar; Flores; Garza; Giddings; Guillen; Gutierrez; Hodge; Hopson; Jones, J.; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Solis; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

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

Absent — Gallego; Mowery; Telford.

STATEMENT OF VOTE

When Record No. 98 was taken, I was temporarily out of the house chamber on important business. I would have voted present, not voting.

Gallego

Amendment No. 33

Representative Rose offered the following amendment to Amendment No. 25:

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet) on page 8 of the amendment, by striking lines 11 through 15 and substituting the following:

SECTION _____.02. The commissioner of insurance shall commence a hearing under Section 1, Article 5.163, Insurance Code, as added by this article, on September 1, 2003, and shall issue rules mandating any appropriate rate reductions under Section 1, Article 5.163, Insurance Code, not later than October 1, 2003.

Amendment No. 33 was adopted without objection.

Amendment No. 34

Representative Taylor offered the following amendment to Amendment No. 25:

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet) on page 8 of the amendment, line 10, after the period by inserting the following:

The contingent rate rollback required by the article does not apply to a policy or coverage delivered, issued for delivery, or renewed for a public hospital in this state.

Amendment No. 34 was adopted without objection.

Amendment No. 35

Representative Eiland offered the following amendment to Amendment No. 25:

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet) as follows:

(1) Beginning on page 2, strike from line 13 through page 3, line 4, and substitute:

Art. 5.162. SCOPE OF SUBCHAPTER. This subchapter applies to any insurer that is authorized to engage in business in this state and that is authorized to write professional liability insurance for physicians and health care providers, including:

(1) a Lloyd's plan;

(2) a reciprocal or interinsurance exchange;

(3) the joint underwriting association established under Article 21.49-3 of this code; and

(4) a self-insurance trust established under Article 21.49-4 of this code.

(2) On page 3, strike lines 5 and 6 and substitute:

(b) It is the intent of the legislature that all insurers, as defined by Article 5.162 of this code, pass through

(3) On page 4, strike lines 21 and 22, and substitute: adopted under this section. An insurer, as defined by Article 5.162 of this code, shall apply

(4) On page 7, line 20, between "insurer" and "that", insert ", as defined by Article 5.162 of this code,".

Amendment No. 35 was adopted without objection.

Amendment No. 36

Representative Capelo offered the following amendment to Amendment No. 25:

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet), on page 8 of the amendment, between lines 10 and 11, by inserting the following:

Art. 5.166. FILING OF RATE INFORMATION WITH DEPARTMENT;
REPORT TO LEGISLATURE

Sec. 1. PURPOSE. The purpose of this article is to require insurers writing professional liability insurance for physicians and health care providers in this state to annually file with the commissioner of insurance rates and supporting data, including current rates and estimated rates to be charged in the year following the filing date for the purpose of the preparation of a summary report for submission to each legislature and the determination by the commissioner of equitable rate reductions under Article 5.163 of this code. Information submitted under this article must be sufficient for the commissioner to determine the extent of equitable rate reductions under Article 5.163 of this code. The commissioner's report shall contain a review of the rates, presented in a manner that protects the identity of individual insurers:

(1) to inform the legislature as to whether the rates are just, adequate, and reasonable and not excessive or unfairly discriminatory; and

(2) to assist in the determination of the most effective and efficient regulatory system for professional liability insurance for physicians and health care providers in Texas.

Sec. 2. DEFINITIONS. In this article:

(1) "Insurer" means an insurer described by Article 5.162 of this code.

(2) "Supplementary rating information" means any manual, rating schedule, plan of rules, rating rules, classification systems, territory codes and descriptions, rating plans, and other similar information used by the insurer to determine the applicable premium for an insured. The term includes factors and relativities, such as increased limits factors, classification relativities, deductible relativities, premium discount, and other similar factors and rating plans such as experience, schedule, and retrospective rating.

(3) "Security" or "securities" has the meaning assigned by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes).

Sec. 3. RATE INFORMATION. (a) Insurers must file rates for professional liability insurance for physicians and health care providers and supporting information with the commissioner in accordance with the requirements determined by the commissioner under this article.

(b) Filings made by each insurer must be sufficient to respond to the commissioner's request for information under this article and must provide both current rates and estimated rates for the year following the required filing date of this article based on information reasonably known to the insurer at the time of filing.

(c) The insurer shall file, in a format specified by the commissioner, including an electronic format:

(1) all rates for professional liability insurance for physicians and health care providers, supplementary rating information, underwriting guidelines, reasonable and pertinent supporting information for risks written in the state, and all applicable rating manuals;

(2) actuarial support, including all statistics, data, or other information to support the rates, supplementary rating information, and underwriting guidelines used by the insurer;

(3) the policy fees, service fees, and other fees that are charged under Article 21.35B of this code;

(4) information on the insurer's losses from investments in securities, whether publicly or privately traded, including investments in the securities of companies required by any oversight agency to restate earnings within the 24 months preceding the filing date, possessed and used by the insurer to determine premiums or underwriting for professional liability insurance for physicians and health care providers, as this information relates to the rates described by Section 1 of this article;

(5) information on the insurer's costs of reinsurance possessed and used by the insurer to determine premiums or underwriting for professional liability insurance for physicians and health care providers, as this information relates to the rates described by Section 1 of this article;

(6) a complete explanation, and an electronic copy, of all computer models used by the insurer not protected by a contract with a third party; and

(7) a complete explanation of any changes to underwriting guidelines, rates, and supplementary rating information since the last filing under this article.

(d) The commissioner shall determine the date on which the filing is due.

(e) The commissioner may require additional information as provided by Section 4 of this article.

(f) The commissioner shall issue an order specifying the information that insurers must file to comply with this article and the date on which the filing is due.

(g) The commissioner is not required to hold a hearing before issuing the order required under Subsection (f) of this section.

(h) The commissioner shall notify an affected insurer of the order requiring the rate filing information under this section on the day the order is issued.

Sec. 4. ADDITIONAL INFORMATION. After the initial rate submission under Section 3 of this article, the commissioner may require an insurer to provide additional, reasonable information for purposes of the clarification or completeness of the initial rate submission.

Sec. 5. USE OF FILED RATE INFORMATION. (a) Information filed by an insurer with the department under this article that is confidential under a law that applied to the insurer before the effective date of this article remains confidential and is not subject to disclosure under Chapter 552, Government Code, except that the information may be disclosed as provided by Section 552.008, Government Code, relating to information for legislative purposes. Information disclosed pursuant to Section 552.008, Government Code, shall be provided in a commonly used electronic format, including in spreadsheet or

comma-delimited format, if so requested. The information may not be released to the public except in summary form in the report required under Section 6 of this article.

(b) Subsection (a) of this section does not preclude the use of information filed under this article as evidence in prosecuting a violation of this code. Confidential information described by Subsection (a) of this section that is used in prosecuting a violation is subject to a protective order until all appeals of the case have been exhausted. If an insurer is found, after the exhaustion of all appeals, to have violated this code, a copy of the confidential information used as evidence of the violation is no longer presumed to be confidential.

Sec. 6. REPORT. (a) The commissioner shall, on a date determined by the commissioner, submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature on the information collected from the filings required under this article. The report may be created based on a sample of the information provided under Section 3 of this article.

(b) The report required under this section shall provide a summary review of the rates currently charged and estimated to be charged over the year following the date of the report, presented in a manner that protects the identity of individual insurers:

(1) to inform the legislature as to whether the rates are just, adequate, and reasonable and not excessive or unfairly discriminatory; and

(2) to assist the legislature in the determination of the most effective and efficient regulatory system for professional liability insurance for physicians and health care providers in this state.

Sec. 7. NOTIFICATION; NONCOMPLIANCE. The commissioner shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature of the names of the insurers whom the commissioner requested to make the rate filings under this article and the names of the insurers who did not respond in whole or in part to the commissioner's request. This notification shall be made by separate letter on the fourth day following the date on which the commissioner determines the filing is due under Section 3(f) of this article.

Sec. 8. APPLICATION OF CERTAIN LAW. Chapter 40 of this code does not apply to an action of the commissioner under Section 3(f) of this article.

Sec. 9. FAILURE TO COMPLY. An insurer that fails to comply with any request for information issued by the commissioner under this article is subject, after notice and opportunity for hearing, to sanctions as provided by Chapters 82 and 84 of this code.

Amendment No. 36 was adopted without objection.

Amendment No. 37

Representative Nixon offered the following amendment to Amendment No. 25:

Amend Amendment No. 25, **CSHB 4** as follows:

(1) Strike from page 2, line 5 through line 6.

(2) Insert new paragraph (39) on page 6, line 14, as follows:

- "Strike from page 11, line 5 through line 6.
- Strike from page 18, line 15 through line 21.
- Strike from page 26, line 21 through page 27, line 12.
- Strike from page 37, line 11 through line 18.
- Strike from page 42, line 20 through page 43, line 8.
- Strike from page 44, line 1 through line 4.
- Strike from page 46, line 7 through line 12.
- Strike from page 45, line 27 through page 46, line 3.
- Strike from page 86, line 7 through line 22.
- Strike from page 87, line 10 through page 88, line 17.
- Strike from page 90, line 19 through line 20.
- Strike from page 91, line 17 through line 24.
- Strike from page 93, line 18 through line 25.
- Strike from page 95, line 5 through line 12.
- Strike from page 96, line 21 through line 22 and substitute:

(c) Except as otherwise provided in Articles 6, 7, 10 and 15, this act applies only to a civil action commenced on or after the effective date of this act. An action commenced before the effective date of this act is governed by the law in effect immediately before the change in law made by this act, and that law is continued in effect for that purpose."

Amendment No. 37 was withdrawn.

LEAVE OF ABSENCE GRANTED

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

Telford on motion of Martinez Fischer.

CSHB 4 - (consideration continued)

Amendment No. 38

Representative Wolens offered the following amendment to Amendment No. 25:

Amend Floor Amendment No. 25 to **CSHB 4** by Rose by adding a new SECTION ____ .01 on page 1 between lines 5 and 6 to read as follows and remove subsequent SECTIONS accordingly:

"SECTION ____ .01. Section 3, Article 5.15-1, Insurance Code, is amended by amending Subsection (d) and adding Subsections (e) - (g) to read as follows:

(d) Rates shall be reasonable and promote the continued availability of professional liability coverage for physicians and health care providers through stability from year to year. Rates may ~~[and shall]~~ not be excessive or inadequate, as defined in this subsection, or ~~[nor shall they be]~~ unfairly discriminatory. No rate shall be held to be excessive unless the rate is unreasonably high for the insurance coverage provided ~~[and a reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable].~~

No rate shall be held to be inadequate unless the rate is unreasonably low for the insurance coverage provided and is insufficient to sustain projected losses and expenses; or unless the rate is unreasonably low for the insurance coverage provided and the use of the rate has or, if continued, will have the effect of destroying competition or creating a monopoly.

(e) After notice and hearing, the commissioner shall establish a system of rate classifications for professional liability insurance for physicians and health care providers, based on risk factors, and require an insurer, a self-insurance trust authorized under Article 21.49-4 of this code, and the joint underwriting association established under Article 21.49-3 of this code to use those classifications. The commissioner shall classify rates based on the following factors and prescribe and respective weight to be given each factor:

(1) the impact of risk management courses taken by physicians and health care providers in this state;

(2) the insured's medical or health care specialization;

(3) the insured's certification by any certification entity approved by the American Board of Medical Specialties;

(4) the number of years of medical experience the insured has had after graduating from an approved medical school or residency program, if applicable;

(5) the frequency and amount of indemnity payments made by or on behalf of the insured for any death, injury, or medical or health care incident in which the insured was determined to be primarily at fault;

(6) the medical disciplinary history of the insured as recorded by the Texas State Board of Medical Examiners or a similar licensing body in another state, if applicable; and

(7) any other factor substantially related to the risk of loss adopted by the commissioner by rule.

(f) The commissioner by rule shall establish a good doctor discount program for physicians who have few indemnity payments relative to others in their specialty. The commissioner may establish other eligibility factors directly related to the risk of loss and quality of patient care.

(g) The rate charged for a good doctor discount policy must:

(1) comply with Subsection (e) of this section; and

(2) be an appropriate reduction, as determined by the commissioner."

Representative Capelo moved to table Amendment No. 38.

(Krusee in the chair)

A record vote was requested.

The motion to table prevailed by (Record 99): 88 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar;

Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Kuempel; Laubenberg; Lewis; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Gutierrez; Hochberg; Hodge; Homer; Hopson; Laney; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smithee; Solis; Talton; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

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

Absent, Excused — Telford.

Absent — Haggerty.

STATEMENT OF VOTE

I was shown voting no on Record No. 99. I intended to vote present, not voting.

Gallego

Amendment No. 25 - Point of Order

Representative Dunnam raised a point of order against further consideration of Amendment No. 25 under Rule 11, Section 7 of the House Rules on the grounds that it violates the Order of Offering Rule.

(Speaker in the chair)

The speaker overruled the point of order, speaking as follows:

Mr. Dunnam raises a point of order under Rule 11, Section 7, and the adopted prefiling rule for amendments, in that it was not proper for the Rose amendment to be considered as an author's amendment in that Mr. Nixon added his name after the amendment was prefiled.

The chair believes that the prefiling rule did not change the practice of the house to allow an author to perfect the bill by being the first to offer original amendments.

Accordingly, the point of order is respectfully overruled.

PARLIAMENTARY INQUIRY

REPRESENTATIVE DUNNAM: Mr. Speaker?

SPEAKER CRADDICK: Mr. Dunnam, for what purpose?

DUNNAM: Parliamentary inquiry.

MR. SPEAKER: State your inquiry.

DUNNAM: Just so that it is clear for future precedence, when the calendars adopts a rule on prefiling by any member, does this ruling mean, that any member can sign on to that amendment after the prefiling deadline and be considered an author of that amendment?

MR. SPEAKER: That is correct.

DUNNAM: And also, Speaker, parliamentary inquiry.

MR. SPEAKER: State your inquiry.

DUNNAM: Under Rule 11, Section 7(2) that gives preference to the main author of a bill, that applies when the main author of a bill is not the main author of the amendment. Is that correct?

MR. SPEAKER: That is correct.

DUNNAM: One more parliamentary inquiry, Mr. Speaker.

MR. SPEAKER: State your inquiry.

DUNNAM: If the main author of a bill signs on at any time prior to the speaker laying out the amendment before the full house, that amendment can be given preference under Rule 11, Section 7(2).

MR. SPEAKER: That is correct.

REMARKS ORDERED PRINTED

Representative Dunnam moved to print the parliamentary inquiry between Speaker Craddick and Representative Dunnam.

The motion prevailed without objection.

CSHB 4 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **CSHB 4** under Rule 4, Section 32(b)(5) of the House Rules on the grounds that the committee report does not indicate whether the bill was forwarded to the appropriate authority for preparation of the applicable impact statement.

The speaker overruled the point of order, speaking as follows:

Mr. Dunnam raises a point of order against further consideration of **CSHB 4** in that Chapter 319 of the Government Code requires a Judicial System Impact Statement. The chair finds that impact statements are required only as found in Rule 4, Section 34, which does not include the required statement. The law cited was enacted in 1991, and has not been enforced for several sessions in deference to the rules.

Accordingly, the point of order is respectfully overruled.

PARLIAMENTARY INQUIRY

DUNNAM: Mr. Speaker?

MR. SPEAKER: Mr. Dunnam.

DUNNAM: Parliamentary inquiry.

MR. SPEAKER: State your inquiry.

DUNNAM: As I understand the ruling, it is that we do not have to follow Chapter 319 of the Government Code because that specific provision is not within our House Rules, and so we can ignore that part of the government code that was cited in the point of order?

MR. SPEAKER: That is correct.

DUNNAM: Mr. Speaker, the Government Code contains other rules in regard to the operation of the Texas House of Representatives. Chapter 301 has to do with the election of the speaker. There are rules in regard to the formation of the house to things that we do on opening day. There are rules that affect Mr. Bailey's committee on how the General Investigating Committee works and all of those are contained within the 300 chapters of the Texas Government Code. Is the effect of this ruling that none of those laws apply to the legislature, if they are not contained in our House Rules?

MR. SPEAKER: The effect of this ruling is limited to Chapter 319 of the Government Code.

DUNNAM: And the effect of this ruling that Chapter 319 of the Government Code does not apply to the Texas House of Representatives?

MR. SPEAKER: That is correct.

DUNNAM: Thank you.

MEMORANDUM BY REPRESENTATIVE DUNNAM

The bill does not contain a Judicial System Impact Note as required by law.

"All committee reports must be in writing and shall...indicate whether a copy of a bill...was forwarded to the Legislative Budget Board for preparation of a fiscal note or other impact statement, if applicable." House Rule 4, § 32(b)(5) (78th Leg. 2003). The Legislative Budget Board is required to establish a system of Judicial System Impact Notes to detail "the probable costs and effects of each bill...that has an identifiable and measurable effect" on the Texas court system. Section 319.001, Government Code. If required, the Judicial System Impact Note "must be attached to the bill...before a committee hearing on the bill...may be conducted." Section 319.003(a), Government Code. The note must also be printed on the committee report's first page, must appear on the first page of all subsequent printings, and must remain with the bill through final passage by both chambers and action by the governor. Section 319.003(b) - (c), Government Code.

The house may enact statutes governing legislative procedure. See Mason's Manual § 20 (2000) and those statutes are enacted as an exercise of the house's constitutional power to provide for its own rules of procedure; and to the extent that these statutes do not conflict with the rules or the Texas Constitution, the statutes are deemed part of the Rules of the House. See Deschler's Precedents ch. 5 § 3; Mason's Manual § 2.3. Statutes governing legislative procedure take precedence over any parliamentary authority or general parliamentary law. Mason's Manual § 4.2.

The house has exercised its rulemaking power through statute to provide for the organization of the house on opening day. See Chapter 301, Government Code. For example, the secretary of state is designated by statute to preside at the opening session until a speaker is elected. Section 301.003(a). If the statute had no force or effect, the chief clerk—under congressional precedent—could preside until the election of a speaker. See Deschler's Precedents ch. 5 § 3 (noting that before a new house adopts its rules, it is "governed by general parliamentary law"); Id. at ch. 1, § 5 (showing the sources of the clerk's authority to preside at the organization of the U. S. House). In the alternative, a member could preside or the devices used by any of the house's counterparts in sister states could be used in lieu of the prescribed statutory procedure. See Deschler's Precedents ch. 1, § 5 (explaining that a member-elect was chosen as chairman because the clerk refused to rule on organizational matters); Mason's Manual § 38 (2000) (stating that general parliamentary law is derived from court decisions and customs and precedents of deliberative bodies.)

It is the public policy of this state that the legislature, in enacting a statute such as Chapter 319, Government Code, intended for the entire statute to have effect. Section 311.021, Government Code. The courts employ a similar rule. *Meritor Automotive, Inc. v. Ruan Leasing Co.*, 44 S.W.3d 86, 90 (Tex. 2001) (observing that the court's jurisprudence of statutory construction included the canon that the entire statute is intended to be effective.)

REMARKS ORDERED PRINTED

Representative Dunnam moved to print the parliamentary inquiry between Speaker Craddick and Representative Dunnam and his memorandum in support of the previous point of order.

The motion prevailed without objection.

CSHB 4 - POINT OF ORDER

Representative Wise raised a point of order against further consideration of **CSHB 4** under Rule 4, Section 32(c) of the House Rules on the grounds that it does not contain a proper bill analysis.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

HR 581 - ADOPTED (by Seaman)

Representative Seaman moved to suspend all necessary rules to take up and consider at this time **HR 581**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 581, Recognizing March 26, 2003, as Trucking Day at the State Capitol.

HR 581 was read and was adopted without objection.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Wilson and by unanimous consent, the reading and referral of bills was taken up at this time.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 2.)

CSHB 4 - (consideration continued)**CSHB 4 - POINT OF ORDER DISPOSITION**

The speaker overruled the point of order, speaking as follows:

Mr. Wise raises a point of order under Rule 4, Section 32(c), in that the bill analysis fails to adequately detail the elements of the bill, omitting references to several sections and articles of the bill. The chair finds that, in accordance with the rules, the committee chair directed a summary analysis. A summary analysis does not need to reference each element of the bill, and the chair believes the analysis in the committee report on **CSHB 4** satisfies the requirements of the rule.

Accordingly, the point of order is respectfully overruled.

Amendment No. 39

Representative Nixon offered the following amendment to Amendment No. 25:

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet) by adding the following appropriately numbered items:

- () "Strike from page 11, line 5 through line 6.
- () Strike from page 18, line 15 through line 21.
- () Strike from page 26, line 21 through page 27, line 12.
- () Strike from page 37, line 11 through line 18.
- () Strike from page 42, line 20 through page 43, line 8.
- () Strike from page 44, line 1 through line 4.
- () Strike from page 46, line 7 through line 12.
- () Strike from page 45, line 27 through page 46, line 3.
- () Strike from page 86, line 14 through line 22.
- () Strike from page 87, line 10 through page 88, line 17.
- () Strike from page 90, line 19 through line 20.
- () Strike from page 91, line 17 through line 24.
- () Strike from page 93, line 18 through line 25.
- () Strike from page 95, line 5 through line 12.
- () Strike from page 96, line 21 through line 22 and substitute:

(c) Except as otherwise provided in Articles 10 and 15, this act applies only to a civil action commenced on or after the effective date of this act. An action commenced before the effective date of this act is governed by the law in effect immediately before the change in law made by this act, and that law is continued in effect for that purpose.

Amendment No. 39 was adopted without objection.

(Krusee in the chair)

A record vote was requested.

Amendment No. 25, as amended, was adopted by (Record 100): 139 Yeas, 0 Nays, 6 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flores; Flynn; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Gallego; Hodge; Krusee(C); Moreno, P.; Noriega.

Absent, Excused — Telford.

Absent — Davis, J.; Oliveira; Wolens.

Amendment No. 40

Representative Puente offered the following amendment to **CSHB 4**:
Floor Packet Page No. 11

Substitute the following for **CSHB 4**.

A BILL TO BE ENTITLED AN ACT

relating to health care liability claims.

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

SECTION 1. Section 1.03(a), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by amending Subdivisions (3), (4), and (8) and adding Subdivisions (10)-(22) to read as follows:

(3)(A) "Health care provider" means any person, partnership, professional association, corporation, facility, or institution duly licensed, certified, registered, or chartered by the State of Texas to provide health care, including:

(i) ~~as~~ a registered nurse;

(ii) a ~~7~~ hospital;

(iii) a nonprofit hospital system;

(iv) a ~~7~~ dentist;

(v) a hospice;

(vi) a ~~7~~ podiatrist;

(vii) a ~~7~~ pharmacist;

(viii) an emergency medical services provider;

(ix) an assisted living facility;

(x) a home and community support services agency;

(xi) an intermediate care facility for the mentally retarded or a home and community-based services waiver program for persons with mental retardation adopted in accordance with Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)), as amended; ~~7~~ or

(xii) a nursing home.

(B) The term includes:

(i) ~~7-07~~ an officer, director, shareholder, member, partner, manager, owner, or affiliate of a health care provider or physician; and

(ii) an employee, independent contractor, or agent of a health care provider or physician ~~thereof~~ acting in the course and scope of the ~~his~~ employment or contractual relationship.

(4) "Health care liability claim" means a cause of action against a health care provider or physician arising out of or related to ~~for~~ treatment, lack of treatment, or other claimed departure from accepted standards of medical care, ~~or~~ health care, or safety or professional or administrative services practice or procedure which proximately results in injury to or death of a claimant ~~the patient~~, whether the claimant's ~~patient's~~ claim or cause of action sounds in tort or contract.

(8) "Physician" means:

(A) an individual ~~a person~~ licensed to practice medicine in this state;

(B) a professional association organized under the Texas Professional Association Act (Article 1528f, Vernon's Texas Civil Statutes) by an individual physician or group of physicians;

(C) a partnership or limited liability partnership formed by a group of physicians;

(D) a nonprofit health corporation certified under Section 162.001, Occupations Code; or

(E) a company formed by a group of physicians under the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes).

(10) "Affiliate" means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with a specified person, including any direct or indirect parent or subsidiary.

(11) "Claimant" means a person, including a decedent's estate, seeking or who has sought recovery of damages in a health care liability claim. All persons claiming to have sustained damages as the result of the bodily injury or death of a single person are considered a single claimant.

(12) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the person, whether through ownership of equity or securities, by contract, or otherwise.

(13) "Economic damages" means compensatory damages for any pecuniary loss or damage. The term does not include noneconomic damages.

(14) "Emergency medical care" means bona fide emergency services provided after the sudden onset of a medical or traumatic condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(A) placing the patient's health in serious jeopardy;

(B) serious impairment to bodily functions; or

(C) serious dysfunction of any bodily organ or part.

(15) "Emergency medical services provider" means a licensed public or private provider to which Chapter 773, Health and Safety Code, applies.

(16) "Home and community support services agency" means a licensed public or provider agency to which Chapter 142, Health and Safety Code, applies.

(17) "Intermediate care facility for the mentally retarded" means a licensed public or private institution to which Chapter 252, Health and Safety Code, applies.

(18) "Noneconomic damages" means any loss or damage, however characterized, for past, present, and future physical pain and suffering, mental anguish and suffering, loss of consortium, loss of companionship and society, disfigurement, physical impairment, and any other nonpecuniary loss or damage or element of loss or damage.

(19) "Nursing home" means a licensed public or private institution to which Chapter 242, Health and Safety Code, applies.

(20) "Professional or administrative services" means those duties or services that a physician or health care provider is required to provide as a condition of maintaining the physician's or health care provider's license, accreditation status, or certification to participate in state or federal health care programs.

(21) "Hospice" means a hospice facility or activity to which Chapter 142, Health and Safety Code, applies.

(22) "Hospital system" means a system of local nonprofit hospitals and nonprofit entities created by the hospital or its parent entity to further the charitable purposes of the hospital under the common governance of a single corporate parent that are located within a radius of not more than 125 linear miles from the corporate parent.

SECTION 2. Subchapter A, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by adding Section 1.04 to read as follows:

Sec. 1.04. CONFLICT WITH OTHER LAW AND RULES OF CIVIL PROCEDURE. (a) In the event of a conflict between this Act and another law, including a rule of procedure or evidence or court rule, this Act controls to the extent of the conflict.

(b) Notwithstanding Section 22.004, Government Code, and except as otherwise provided by this Act, the supreme court may not amend or adopt rules in conflict with this Act.

(c) The district courts and statutory county courts in a county may not adopt local rules in conflict with this Act.

SECTION 3. Section 4.01, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding the provisions of Rule 202, Texas Rules of Civil Procedure, a deposition may not be taken of a physician or health care provider for the purpose of investigating a health care liability claim before the filing of a lawsuit.

SECTION 4. The heading to Subchapter G, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

SUBCHAPTER G. EVIDENTIARY MATTERS [~~RES IPSA LOQUITUR~~]

SECTION 5. Subchapter G, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by adding Sections 7.03 and 7.04 to read as follows:

Sec. 7.03. FEDERAL OR STATE INCOME TAXES. (a) Notwithstanding any other law, in a health care liability claim, if any claimant seeks recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value, or loss of inheritance, evidence to prove the loss must be presented in the form of a net after-tax loss that either was or should have been paid by the injured party or decedent through which the alleged loss has occurred.

(b) In a health care liability claim, if any claimant seeks recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value, or loss of inheritance, the court shall instruct the jury whether any recovery for compensatory damages sought by the claimant is subject to federal or state income taxes.

Sec. 7.04. JURY INSTRUCTIONS IN CASES INVOLVING EMERGENCY MEDICAL CARE. (a) In a health care liability claim that involves a claim of negligence arising from the provision of emergency medical care, the court shall instruct the jury to consider, together with all other relevant matters:

(1) whether the person providing care did not have the patient's medical history or was unable to obtain a full medical history, including the knowledge of preexisting medical conditions, allergies, and medications;

(2) the lack of a preexisting physician-patient relationship or health care provider-patient relationship;

(3) the circumstances constituting the emergency; and

(4) the circumstances surrounding the delivery of the emergency medical care.

(b) The provisions of Subsection (a) of this section do not apply to medical care or treatment:

(1) that occurs after the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient; or

(2) that is unrelated to the original medical emergency.

SECTION 6. The heading to Subchapter I, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

SUBCHAPTER I. PAYMENT OF MEDICAL OR HEALTH CARE EXPENSES [ADVANCE PAYMENTS]

SECTION 7. Subchapter I, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by adding Section 9.01 to read as follows:

Sec. 9.01. RECOVERY OF MEDICAL OR HEALTH CARE EXPENSES. Recovery of medical or health care expenses in a health care liability claim shall be limited to the amount actually paid or incurred by or on behalf of the claimant.

SECTION 8. Section 10.01, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10.01. LIMITATION ON HEALTH CARE LIABILITY CLAIMS. (a) Notwithstanding any other law and subject to Subsection (b) of this section, no health care liability claim may be commenced unless the action is filed within two years from the occurrence of the breach or tort or from the date the medical or health care treatment that is the subject of the claim or the hospitalization for which the claim is made is completed; provided that, minors under the age of 12 years shall have until their 14th birthday in which to file, or have filed on their behalf, the claim. Except as herein provided, this subchapter applies to all persons regardless of minority or other legal disability.

(b) A claimant must bring a health care liability claim not later than 10 years after the date of the act or omission that gives rise to the claim. This subsection is intended as a statute of repose so that all claims must be brought within 10 years or they are time barred.

SECTION 9. Section 11.02, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by adding Subsections (e) and (f) to read as follows:

(e) The limitation on health care liability claims contained in Subsection (a) of this section includes punitive damages.

(f) The limitation on health care liability claims contained in Subsection (a) of this section shall be applied on a per-claimant basis.

SECTION 10. Section 11.03, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11.03. LIMITATION ON NONECONOMIC DAMAGES [~~ALTERNATIVE PARTIAL LIMIT ON CIVIL LIABILITY~~]. [~~In the event that Section 11.02(a) of this subchapter is stricken from this subchapter or is otherwise invalidated by a method other than through legislative means, the following shall become effective:~~]

In an action on a health care liability claim where final judgment is rendered against a physician or health care provider, the limit of civil liability for noneconomic damages of the physician or health care provider shall be limited to an amount not to exceed \$250,000 for each claimant, regardless of the number of defendant physicians or health care providers against whom the claim is asserted or the number of separate causes of action on which the claim is based [~~of the physician or health care provider for all past and future noneconomic losses recoverable by or on behalf of any injured person and/or the estate of such person, including without limitation as applicable past and future physical pain and suffering, mental anguish and suffering, consortium, disfigurement, and any other nonpecuniary damage, shall be limited to an amount not to exceed \$150,000~~].

SECTION 11. Subchapter K, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by adding Section 11.031 to read as follows:

Sec. 11.031. ALTERNATIVE LIMITATION ON NONECONOMIC DAMAGES.

(a) In the event that Section 11.03 of this subchapter is stricken from this subchapter or is otherwise to any extent invalidated by a method other than through legislative means, the following, subject to the provisions of this section, shall become effective:

In an action on a health care liability claim where final judgment is rendered against a physician or health care provider, the limit of civil liability for all damages and losses, other than economic damages, shall be limited to an amount not to exceed \$250,000 for each claimant, regardless of the number of defendant physicians or health care providers against whom the claim is asserted or the number of separate causes of action on which the claim is based.

(b) Effective before September 1, 2005, Subsection (a) of this section applies to any physician or health care provider that provides evidence of financial responsibility in the following amounts in effect for any act or omission to which this subchapter applies:

(1) at least \$100,000 for each health care liability claim and at least \$300,000 in aggregate for all health care liability claims occurring in an insurance policy year, calendar year, or fiscal year for a physician participating in an approved residency program;

(2) at least \$200,000 for each health care liability claim and at least \$600,000 in aggregate for all health care liability claims occurring in an insurance policy year, calendar year, or fiscal year for a physician or health care provider, other than a hospital; and

(3) at least \$500,000 for each health care liability claim and at least \$1.5 million in aggregate for all health care liability claims occurring in an insurance policy year, calendar year, or fiscal year for a hospital.

(c) Effective September 1, 2005, Subsection (a) of this section applies to any physician or health care provider that provides evidence of financial responsibility in the following amounts in effect for any act or omission to which this subchapter applies:

(1) at least \$100,000 for each health care liability claim and at least \$300,000 in aggregate for all health care liability claims occurring in an insurance policy year, calendar year, or fiscal year for a physician participating in an approved residency program;

(2) at least \$300,000 for each health care liability claim and at least \$900,000 in aggregate for all health care liability claims occurring in an insurance policy year, calendar year, or fiscal year for a physician or health care provider, other than a hospital; and

(3) at least \$750,000 for each health care liability claim and at least \$2.25 million in aggregate for all health care liability claims occurring in an insurance policy year, calendar year, or fiscal year for a hospital.

(d) Effective September 1, 2007, Subsection (a) of this section applies to any physician or health care provider that provides evidence of financial responsibility in the following amounts in effect for any act or omission to which this subchapter applies:

(1) at least \$100,000 for each health care liability claim and at least \$300,000 in aggregate for all health care liability claims occurring in an insurance policy year, calendar year, or fiscal year for a physician participating in an approved residency program;

(2) at least \$500,000 for each health care liability claim and at least \$1 million in aggregate for all health care liability claims occurring in an insurance policy year, calendar year, or fiscal year for a physician or health care provider, other than a hospital; and

(3) at least \$1 million for each health care liability claim and at least \$3 million in aggregate for all health care liability claims occurring in an insurance policy year, calendar year, or fiscal year for a hospital.

(e) Evidence of financial responsibility may be established at the time of judgment by providing proof of:

(1) the purchase of a contract of insurance or other plan of insurance authorized by this state;

(2) the purchase of coverage from a trust organized and operating under Article 21.49-4, Insurance Code;

(3) the purchase of coverage or another plan of insurance provided by or through a risk retention group or purchasing group authorized under applicable laws of this state or under the Product Liability Risk Retention Act of 1981 (15

U.S.C. Section 3901 et seq.), as amended, or the Liability Risk Retention Act of 1986 (15 U.S.C. Section 3901 et seq.), as amended, or any other contract or arrangement for transferring and distributing risk relating to legal liability for damages, including cost or defense, legal costs, fees, and other claims expenses; or

(4) the maintenance of financial reserves in or an irrevocable letter of credit from a federally insured financial institution that has its main office or a branch office in this state.

SECTION 12. Section 11.04, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11.04. ADJUSTMENT OF LIABILITY LIMIT [~~LIMITS~~]. When there is an increase or decrease in the consumer price index with respect to the amount of that index on the effective date of this subchapter, [~~each of~~] the liability limit [~~limits~~] prescribed in Section 11.02(a) [~~or in Section 11.03~~] of this subchapter[, ~~as applicable,~~] shall be increased or decreased, as applicable, by a sum equal to the amount of such limit multiplied by the percentage increase or decrease in the consumer price index between the effective date of this subchapter and the time at which damages subject to such limit [~~limits~~] are awarded by final judgment or settlement.

SECTION 13. Subchapter L, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by adding Section 12.02 to read as follows:

Sec. 12.02. STANDARD OF PROOF IN CASES INVOLVING EMERGENCY MEDICAL CARE. In a suit involving a health care liability claim against a physician or health care provider for injury to or death of a patient arising out of the provision of emergency medical care, the person bringing the suit may prove that the treatment or lack of treatment by the physician or health care provider departed from accepted standards of medical care or health care only if the person shows by clear and convincing evidence that the physician or health care provider did not use the degree of care and skill that is reasonably expected of an ordinarily prudent physician or health care provider in the same or similar circumstances.

SECTION 14. The heading to Section 13.01, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13.01. [~~COST BOND, DEPOSIT, AND~~] EXPERT REPORT.

SECTION 15. Section 13.01, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (b), (i), (j), (k), and (l) and adding Subsections (s) and (t) to read as follows:

(a) In a health care liability claim, a claimant shall, not later than the 180th [~~90th~~] day after the date the claim is filed, serve on each party or the party's attorney one or more expert reports, with a curriculum vitae of each expert listed in the[-

~~[(1) file a separate cost bond in the amount of \$5,000 for each physician or health care provider named by the claimant in the action;~~

~~[(2) place cash in an escrow account in the amount of \$5,000 for each physician or health care provider named in the action; or~~

~~[(3) file an expert] report for each physician or health care provider against whom a liability claim is asserted [with respect to whom a cost bond has not been filed and cash in lieu of the bond has not been deposited under Subdivision (1) or (2) of this subsection].~~

(b) If, as to a defendant physician or health care provider, an expert report~~;~~ ~~cost bond, or cash in lieu of bond] has not been served [filed or deposited] within the period specified by Subsection (a) [or (b)] of this section, the court, on the motion of the affected physician or health care provider, shall enter an order that:~~

(1) awards to the affected physician or health care provider reasonable attorney's fees and costs of court incurred by the physician or health care provider ~~[requires the filing of a \$7,500 cost bond with respect to the physician or health care provider not later than the 21st day after the date of the order];~~ and

(2) dismisses the claim ~~[provides that if the claimant fails to comply with the order, the action shall be dismissed for want of prosecution] with respect to the physician or health care provider, with prejudice to the refiling of the claim [subject to reinstatement in accordance with the applicable rules of civil procedure and Subsection (c) of this section].~~

(i) Notwithstanding any other provision of this section, a claimant may satisfy any requirement of this section for servicing ~~[filing]~~ an expert report by servicing ~~[filing]~~ reports of separate experts regarding different physicians or health care providers or regarding different issues arising from the conduct of a physician or health care provider, such as issues of liability and causation. Nothing in this section shall be construed to mean that a single expert must address all liability and causation issues with respect to all physicians or health care providers or with respect to both liability and causation issues for a physician or health care provider.

(j) Nothing in this section shall be construed to require the servicing ~~[filing]~~ of an expert report regarding any issue other than an issue relating to liability or causation.

(k) An ~~[Notwithstanding any other law, an]~~ expert report served ~~[filed]~~ under this section:

(1) is not admissible in evidence by any party ~~[a defendant];~~

(2) shall not be used in a deposition, trial, or other proceeding; and

(3) shall not be referred to by any party ~~[a defendant]~~ during the course of the action for any purpose.

(l) A court shall grant a motion challenging the adequacy of an expert report only if it appears to the court, after hearing, that the report does not represent an objective ~~[a]~~ good faith effort to comply with the definition of an expert report in Subsection (r)(6) of this section.

(s) Until a claimant has served the expert report and curriculum vitae, as required by Subsection (a) of this section, all discovery in a health care liability claim is stayed except for the acquisition of the patient's medical records, medical or psychological studies, or tissue samples through:

(1) written discovery as defined in Rule 192.7, Texas Rules of Civil Procedure;

(2) depositions on written questions under Rule 200, Texas Rules of Civil Procedure; and

(3) discovery from nonparties under Rule 205, Texas Rules of Civil Procedure.

(t) If an expert report is used by the claimant in the course of the action for any purpose other than to meet the service requirement of Subsection (a) of this section, the restrictions imposed by Subsection (k) of this section on use of the expert report by any party are waived.

SECTION 16. Section 13.01(r)(5), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

(5) "Expert" means:

(A) with respect to a person giving opinion testimony regarding whether a physician departed from accepted standards of medical care, an expert qualified to testify under the requirements of Section 14.01(a) of this Act; ~~or~~

(B) with respect to a person giving opinion testimony regarding whether ~~about~~ a ~~nonphysician~~ health care provider departed from accepted standards of health care, an expert qualified to testify under the requirements of Section 14.02 of this Act;

(C) with respect to a person giving opinion testimony about the causal relationship between the injury, harm, or damages claimed and the alleged departure from the applicable standard of care in any health care liability claim, a physician who is otherwise qualified to render opinions on that causal relationship under the Texas Rules of Evidence;

(D) with respect to a person giving opinion testimony about the causal relationship between the injury, harm, or damages claimed and the alleged departure from the applicable standard of care for a dentist, a dentist who is otherwise qualified to render opinions on that causal relationship under the Texas Rules of Evidence; or

(E) with respect to a person giving opinion testimony about the causal relationship between the injury, harm, or damages claimed and the alleged departure from the applicable standard of care for a podiatrist, a podiatrist who is otherwise qualified to render opinions on that causal relationship under the Texas Rules of Evidence ~~[who has knowledge of accepted standards of care for the diagnosis, care, or treatment of the illness, injury, or condition involved in the claim].~~

SECTION 17. Sections 14.01(e) and (g), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), are amended to read as follows:

(e) A pretrial objection to the qualifications of a witness under this section must be made not later than the later of the 21st day after the date the objecting party receives a copy of the witness's curriculum vitae or the 21st day after the date of the witness's deposition. If circumstances arise after the date on which the objection must be made that could not have been reasonably anticipated by a party before that date and that the party believes in good faith provide a basis for an objection to a witness's qualifications, and if an objection was not made previously, this subsection does not prevent the party from making an objection as soon as practicable under the circumstances. The court shall conduct a hearing to determine whether the witness is qualified as soon as practicable after the filing of an objection and, if possible, before trial. If the objecting party is unable to object in time for the hearing to be conducted before the trial, the hearing shall be conducted outside the presence of the jury. This subsection does not prevent a party from examining or cross-examining a witness at trial about the witness's qualifications.

(g) In this subchapter [~~section~~], "physician" means a person who is:

(1) licensed to practice medicine in one or more states in the United States; or

(2) a graduate of a medical school accredited by the Liaison Committee on Medical Education or the American Osteopathic Association only if testifying as a defendant and that testimony relates to that defendant's standard of care, the alleged departure from that standard of care, or the causal relationship between the alleged departure from that standard of care and the injury, harm, or damages claimed.

SECTION 18. Subchapter N, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended by adding Sections 14.02 and 14.03 to read as follows:

Sec. 14.02. QUALIFICATIONS OF EXPERT WITNESS IN SUIT AGAINST HEALTH CARE PROVIDER. (a) For purposes of this section, "practicing health care" includes:

(1) training health care providers in the same field as the defendant health care provider at an accredited educational institution; or

(2) serving as a consulting health care provider and being licensed, certified, or registered in the same field as the defendant health care provider.

(b) In a suit involving a health care liability claim against a health care provider, a person may qualify as an expert witness on the issue of whether the health care provider departed from accepted standards of care only if the person:

(1) is practicing health care in the same field of practice as the defendant health care provider at the time the testimony is given or was practicing that type of health care at the time the claim arose;

(2) has knowledge of accepted standards of care for health care providers for the diagnosis, care, or treatment of the illness, injury, or condition involved in the claim; and

(3) is qualified on the basis of training or experience to offer an expert opinion regarding those accepted standards of health care.

(c) In determining whether a witness is qualified on the basis of training or experience, the court shall consider whether, at the time the claim arose or at the time the testimony is given, the witness:

(1) is certified by a Texas licensing agency or a national professional certifying agency, or has other substantial training or experience, in the area of health care relevant to the claim; and

(2) is actively practicing health care in rendering health care services relevant to the claim.

(d) The court shall apply the criteria specified in Subsections (a), (b), and (c) of this section in determining whether an expert is qualified to offer expert testimony on the issue of whether the defendant health care provider departed from accepted standards of health care but may depart from those criteria if, under the circumstances, the court determines that there is good reason to admit the expert's testimony. The court shall state on the record the reason for admitting the testimony if the court departs from the criteria.

(e) This section does not prevent a health care provider who is a defendant, or an employee of the defendant health care provider, from qualifying as an expert.

(f) A pretrial objection to the qualifications of a witness under this section must be made not later than the later of the 21st day after the date the objecting party receives a copy of the witness's curriculum vitae or the 21st day after the date of the witness's deposition. If circumstances arise after the date on which the objection must be made that could not have been reasonably anticipated by a party before that date and that the party believes in good faith provide a basis for an objection to a witness's qualifications, and if an objection was not made previously, this subsection does not prevent the party from making an objection as soon as practicable under the circumstances. The court shall conduct a hearing to determine whether the witness is qualified as soon as practicable after the filing of an objection and, if possible, before trial. If the objecting party is unable to object in time for the hearing to be conducted before the trial, the hearing shall be conducted outside the presence of the jury. This subsection does not prevent a party from examining or cross-examining a witness at trial about the witness's qualifications.

Sec. 14.03. QUALIFICATIONS OF EXPERT WITNESS ON CAUSATION IN HEALTH CARE LIABILITY CLAIM. (a) Except as provided by Subsections (b) and (c) of this section, in a suit involving a health care liability claim against a physician or health care provider, a person may qualify as an expert witness on the issue of the causal relationship between the alleged departure from accepted standards of care and the injury, harm, or damages claimed only if the person is a physician and is otherwise qualified to render opinions on that causal relationship under the Texas Rules of Evidence.

(b) In a suit involving a health care liability claim against a dentist, a person may qualify as an expert witness on the issue of the causal relationship between the alleged departure from accepted standards of care and the injury, harm, or damages claimed if the person is a dentist and is otherwise qualified to render opinions on that causal relationship under the Texas Rules of Evidence.

(c) In a suit involving a health care liability claim against a podiatrist, a person may qualify as an expert witness on the issue of the causal relationship between the alleged departure from accepted standards of care and the injury, harm, or damages claimed if the person is a podiatrist and is otherwise qualified to render opinions on that causal relationship under the Texas Rules of Evidence.

(d) A pretrial objection to the qualifications of a witness under this section must be made not later than the later of the 21st day after the date the objecting party receives a copy of the witness's curriculum vitae or the 21st day after the date of the witness's deposition. If circumstances arise after the date on which the objection must be made that could not have been reasonably anticipated by a party before that date and that the party believes in good faith provide a basis for an objection to a witness's qualifications, and if an objection was not made previously, this subsection does not prevent the party from making an objection as soon as practicable under the circumstances. The court shall conduct a hearing to determine whether the witness is qualified as soon as practicable after the filing of an objection and, if possible, before trial. If the objecting party is unable to object in time for the hearing to be conducted before the trial, the hearing shall be conducted outside the presence of the jury. This subsection does not prevent a party from examining or cross-examining a witness at trial about the witness's qualifications.

SECTION 19. Section 16.01, Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16.01. APPLICATION OF OTHER LAW. Notwithstanding Chapter 304, Finance Code [~~Articles 1E.101, 1E.102, and 1E.104 1E.108, Title 79, Revised Statutes~~], prejudgment interest in a judgment on a health care liability claim shall be awarded in accordance with this subchapter.

SECTION 20. Sections 16.02(b) and (c), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Subject to Subchapter K of this Act [~~In a health care liability claim that is not settled within the period specified by Subsection (a) of this section~~], the judgment must include prejudgment interest on past damages awarded in the judgment [~~found by the trier of fact~~], but shall not include prejudgment interest on future damages awarded in the judgment [~~found by the trier of fact~~].

(c) Prejudgment interest allowed under this subchapter shall be computed in accordance with Section 304.003(c)(1), Finance Code [~~Article 1E.103, Title 79, Revised Statutes~~], for a period beginning on the date of injury and ending on the date before the date the judgment is signed.

SECTION 21. The Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes) is amended by adding Subchapters Q, R, S, and T to read as follows:

SUBCHAPTER Q. COLLATERAL SOURCE BENEFITS

Sec. 17.01. DEFINITION. In this subchapter, "collateral source benefit" means a benefit paid or payable to or on behalf of a claimant under:

(1) the Social Security Act (42 U.S.C. Section 301 et seq.), and its subsequent amendments;

(2) a state or federal income replacement, disability, workers' compensation, or other law that provides partial or full income replacement; or

(3) any insurance policy, other than a life insurance policy, including:

(A) an accident, health, or sickness insurance policy; and

(B) a disability insurance policy.

Sec. 17.02. ADMISSIBILITY OF EVIDENCE OF COLLATERAL SOURCE BENEFITS. A defendant physician or health care provider may introduce evidence in a health care liability claim of any amount payable to the claimant as a collateral benefit. If a defendant physician or health care provider introduces evidence of a collateral source benefit, the claimant may introduce evidence of any amount the claimant has paid to secure the right to the benefit.

Sec. 17.03. MAINTENANCE OF COVERAGE DURING CLAIM. (a) During the pendency of a health care liability claim, if the claimant has a policy of insurance that provides health benefits or income disability coverage and the claimant is unwilling or unable to pay the costs of renewing or continuing that policy of insurance in force, the defendant physician or health care provider may tender to the claimant the cost of maintaining the insurance coverage.

(b) On receipt of the tender, the claimant shall continue the policy in force.

Sec. 17.04. SUBROGATION. The payer of collateral benefits introduced under this subchapter may not recover any amount against the claimant and is not subrogated to any rights or claims of the claimant, unless authorized by a federal law.

SUBCHAPTER R. PAYMENT FOR FUTURE LOSSES

Sec. 18.01. DEFINITIONS. In this subchapter:

(1) "Future damages" means damages that are incurred after the date of judgment for:

(A) medical, health care, or custodial care services;

(B) physical pain and mental anguish, disfigurement, or physical impairment;

(C) loss of consortium, companionship, or society; or

(D) loss of earnings.

(2) "Future loss of earnings" means the following losses incurred after the date of the judgment:

(A) loss of income, wages, or earning capacity and other pecuniary losses; and

(B) loss of inheritance.

(3) "Periodic payments" means the payment of money or its equivalent to the recipient of future damages at defined intervals.

Sec. 18.02. SCOPE OF SUBCHAPTER. This subchapter applies only to an action on a health care liability claim against a physician or healthcare provider in which the present value of the award of future damages, as determined by the court, equals or exceeds \$100,000.

Sec. 18.03. COURT ORDER FOR PERIODIC PAYMENTS. (a) At the request of a defendant physician or health care provider or claimant, the court shall order that future damages awarded in a health care liability claim be paid in whole or in part in periodic payments rather than by a lump-sum payment.

(b) The court shall make a specific finding of the dollar amount of periodic payments that will compensate the claimant for the future damages.

(c) The court shall specify in its judgment ordering the payment of future damages by periodic payments the:

(1) recipient of the payments;

(2) dollar amount of the payments;

(3) interval between payments; and

(4) number of payments or the period of time over which payments must be made.

Sec. 18.04. RELEASE. The entry of an order for the payment of future damages by periodic payments constitutes a release of the health care liability claim filed by the claimant.

Sec. 18.05. FINANCIAL RESPONSIBILITY. (a) As a condition to authorizing periodic payments of future damages, the court shall require a defendant who is not adequately insured to provide evidence of financial responsibility in an amount adequate to assure full payment of damages awarded by the judgment.

(b) The judgment must provide for payments to be funded by:

(1) an annuity contract issued by a company licensed to do business as an insurance company;

(2) an obligation of the United States;

(3) applicable and collectible liability insurance from one or more qualified insurers; or

(4) any other satisfactory form of funding approved by the court.

(c) On termination of periodic payments of future damages, the court shall order the return of the security, or as much as remains, to the defendant.

Sec. 18.06. DEATH OF RECIPIENT. (a) On the death of the recipient, money damages awarded for loss of future earnings continue to be paid to the estate of the recipient of the award without reduction.

(b) Periodic payments, other than future loss of earnings, terminate on the death of the recipient.

(c) If the recipient of periodic payments dies before all payments required by the judgment are paid, the court may modify the judgment to award and apportion the unpaid damages for future loss of earnings in an appropriate manner.

(d) Following the satisfaction or termination of any obligations specified in the judgment for periodic payments, any obligation of the defendant physician or health care provider to make further payments ends and any security given reverts to the defendant.

Sec. 18.07. AWARD OF ATTORNEY'S FEES. For purposes of computing the award of attorney's fees when the claimant is awarded a recovery that will be paid in periodic payments, the court shall:

(1) place a total value on the payments based on the claimant's projected life expectancy; and

(2) reduce the amount in Subdivision (1) to present value.

SUBCHAPTER S. ATTORNEY'S FEES

Sec. 19.01. DEFINITION. In this subchapter, "recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical or health care services incurred by the claimant and the attorney's office overhead costs or charges are not deductible disbursements or costs.

Sec. 19.02. APPLICABILITY. The limitations in this subchapter apply without regard to whether:

(1) the recovery is by settlement, arbitration, or judgment; or

(2) the person for whom the recovery is sought is an adult, a minor, or an incapacitated person.

Sec. 19.03. PERIODIC PAYMENTS. If periodic payments are recovered by the claimant, the court shall place a total value on these payments based on the claimant's projected life expectancy and then reduce this amount to present value for purposes of computing the award of attorney's fees.

Sec. 19.04. LIMITATION ON ATTORNEY CONTINGENCY FEE AGREEMENTS. (a) An attorney may not contract for or collect a contingency fee for representing any person seeking damages in connection with a health care liability claim in excess of 33-1/3 percent of the amount recovered.

(b) This section has no effect if Section 11.03 of this Act is stricken from this Act or is otherwise to any extent invalidated by a method other than through legislative means.

Sec. 19.05. ALTERNATIVE LIMIT ON ATTORNEY CONTINGENCY FEES. (a) If Section 11.03 of this Act is stricken from this Act or is otherwise to any extent invalidated by a method other than through legislative means, this section is effective.

(b) An attorney may not contract for or collect a contingency fee for representing any person seeking damages in connection with a health care liability claim that exceeds the following limits:

(1) 40 percent of the first \$50,000 recovered;

(2) 33.3 percent of the next \$50,000 recovered;

(3) 25 percent of the next \$500,000 recovered; and

(4) 15 percent of any additional amount recovered.

SUBCHAPTER T. DECLARATORY JUDGMENTS; INJUNCTIONS; APPEALS

Sec. 20.01. APPLICABILITY. This subchapter applies only to an amendment to this Act that is effective on or after January 1, 2003.

Sec. 20.02. DECLARATORY JUDGMENT. The constitutionality and other validity under the state or federal constitution of all or any part of an amendment to this Act may be determined in an action for declaratory judgment in a district court in Travis County under Chapter 37, Civil Practice and

Remedies Code, if it is alleged that the amendment or a part of the amendment affects the rights, status, or legal relation of a party in a civil action with respect to any other party in the civil action.

Sec. 20.03. ACCELERATED APPEAL. (a) An appeal of a declaratory judgment or order, however characterized, of a district court, including an appeal of the judgment of an appellate court, holding or otherwise determining, under Section 20.02 of this subchapter, that all or any part of an amendment to this Act is constitutional or unconstitutional, or otherwise valid or invalid, under the state or federal constitution is an accelerated appeal.

(b) If the judgment or order is interlocutory, an interlocutory appeal may be taken from the judgment or order and is an accelerated appeal.

Sec. 20.04. INJUNCTIONS. A district court in Travis County may grant or deny a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of an amendment to this Act.

Sec. 20.05. DIRECT APPEAL. (a) There is a direct appeal to the supreme court from an order, however characterized, of a trial court granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction on the grounds of the constitutionality or unconstitutionality, or other validity or invalidity, under the state or federal constitution of all or any part of any amendment to this Act.

(b) The direct appeal is an accelerated appeal.

(c) This section exercises the authority granted by Section 3-b, Article V, Texas Constitution.

Sec. 20.06. STANDING OF AN ASSOCIATION OR ALLIANCE TO SUE. (a) An association or alliance has standing to sue for and obtain the relief described by Subsection (b) of this section if it is alleged that:

(1) the association or alliance has more than one member who has standing to sue in the member's own right;

(2) the interests the association or alliance seeks to protect are germane to a purpose of the association or alliance; and

(3) the claim asserted and declaratory relief requested by the association or alliance relate to all or a specified part of the amendment involved in the action being found constitutional or unconstitutional on its face, or otherwise found valid or invalid on its face, under the state or federal constitution.

(b) The association or alliance has standing:

(1) to sue for and obtain a declaratory judgment under Section 20.02 of this subchapter in an action filed and maintained by the association or alliance;

(2) to appeal or otherwise be a party to an appeal under Section 20.03 of this subchapter;

(3) to sue for and obtain an order under Section 20.04 of this subchapter granting or denying a temporary or otherwise interlocutory injunction or a permanent injunction in an action filed and maintained by the association or alliance; and

(4) to appeal or otherwise be a party to an appeal under Section 20.05 of this subchapter.

Sec. 20.07. RULES FOR APPEALS. An appeal under this subchapter, including an interlocutory, accelerated, or direct appeal, is governed, as applicable, by the Texas Rules of Appellate Procedure, including Rules 25.1(d)(6), 26.1(b), 28.1, 28.3, 32.1(g), 37.3(a)(1), 38.6(a) and (b), 40.1(b), and 49.4.

SECTION 22. Section 84.003, Civil Practice and Remedies Code, is amended by adding Subdivision (6) to read as follows:

(6) "Person responsible for the patient" means:

(A) the patient's parent, managing conservator, or guardian;

(B) the patient's grandparent;

(C) the patient's adult brother or sister;

(D) another adult who has actual care, control, and possession of the patient and has written authorization to consent for the patient from the parent, managing conservator, or guardian of the patient;

(E) an educational institution in which the patient is enrolled that has written authorization to consent for the patient from the parent, managing conservator, or guardian of the patient; or

(F) any other person with legal responsibility for the care of the patient.

SECTION 23. Section 84.004(c), Civil Practice and Remedies Code, is amended to read as follows:

(c) Except as provided by Subsection (d) and Section 84.007, a volunteer health care provider [~~who is serving as a direct service volunteer of a charitable organization~~] is immune from civil liability for any act or omission resulting in death, damage, or injury to a patient if:

(1) [~~the volunteer was acting in good faith and in the course and scope of the volunteer's duties or functions within the organization;~~

~~(2)~~ the volunteer commits the act or omission in the course of providing health care services to the patient;

(2) ~~(3)~~ the services provided are within the scope of the license of the volunteer; and

(3) ~~(4)~~ before the volunteer provides health care services, the patient or, if the patient is a minor or is otherwise legally incompetent, the person responsible for the patient [~~patient's parent, managing conservator, legal guardian, or other person with legal responsibility for the care of~~] signs a written statement that acknowledges:

(A) that the volunteer is providing care that is not administered for or in expectation of compensation; and

(B) the limitations on the recovery of damages from the volunteer in exchange for receiving the health care services.

SECTION 24. Chapter 84, Civil Practice and Remedies Code, is amended by adding Section 84.0065 to read as follows:

Sec. 84.0065. ORGANIZATION LIABILITY OF HOSPITALS. Except as provided by Section 84.007, in any civil action brought against a hospital or hospital system, or its employees, officers, directors, or volunteers, for damages based on an act or omission by the hospital or hospital system, or its employees, officers, directors, or volunteers, the liability of the hospital or hospital system is limited to money damages in a maximum amount of \$500,000 for any act or omission resulting in death, damage, or injury to a patient if the patient or, if the patient is a minor or is otherwise legally incompetent, the person responsible for the patient, signs a written statement that acknowledges:

(1) that the hospital is providing care that is not administered for or in expectation of compensation; and

(2) the limitations on the recovery of damages from the hospital in exchange for receiving the health care services.

SECTION 25. Section 88.002, Civil Practice and Remedies Code, is amended by adding Subsection (l) to read as follows:

(l) This chapter does not create liability on the part of physicians or health care providers for medical care or health care services performed or furnished or that should have been performed or furnished for, to, or on behalf of a patient.

SECTION 26. Article 5.15-1, Insurance Code, is amended by adding Section 11 to read as follows:

Sec. 11. VENDOR'S ENDORSEMENT. An insurer may not exclude or otherwise limit coverage for physicians or health care providers under a vendor's endorsement issued to a manufacturer, as that term is defined by Section 82.001, Civil Practice and Remedies Code. A physician or health care provider shall be considered a vendor for purposes of coverage under a vendor's endorsement or a manufacturer's general liability or products liability policy.

SECTION 27. The following provisions are repealed:

(1) Section 11.02(c), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes);

(2) Sections 13.01(c), (d), (e), (f), (g), (h), (m), (n), (o), and (r)(3), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes);

(3) Section 16.02(a), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes); and

(4) Section 242.0372, Health and Safety Code.

SECTION 28. The changes made by this article to the Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes) apply to a cause of action that accrues on or after January 1, 2004. A cause of action that accrues before January 1, 2004, is governed by the laws in effect immediately before January 1, 2004, and that law is continued in effect for that purpose.

Representative Nixon moved to table Amendment No. 40.

A record vote was requested.

The motion to table prevailed by (Record 101): 90 Yeas, 54 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farrar; Flores; Gallego; Garza; Giddings; Goodman; Guillen; Gutierrez; Hochberg; Hodge; Homer; Laney; Lewis; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Solis; Talton; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

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

Absent, Excused — Telford.

Absent — Luna; Moreno, P.

Amendment No. 41

Representative Dutton offered the following amendment to **CSHB 4**:
Floor Packet Page No. 63

Amend **CSHB 4** as follows:

On page 2, line 24 strike the words "one or more" and insert in lieu thereof "all"

Amendment No. 41 was withdrawn.

Amendment No. 42

Representative Eiland offered the following amendment to **CSHB 4**:
Floor Packet Page No. 67

Amend **CSHB 4** as follows:

On page 3, strike 26.005(a)(3), lines 20-22, and substitute "(3) the state agency informs the court in writing that it consents to the proposed abatement or dismissal; or."

Representative Nixon moved to table Amendment No. 42.

A record vote was requested.

The motion to table prevailed by (Record 102): 88 Yeas, 57 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Farabee; Flynn; Gattis; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kuempel; Laubenberg; Madden; Marchant; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Brown, F.; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farrar; Flores; Gallego; Geren; Giddings; Goodman; Guillen; Gutierrez; Hochberg; Hodge; Hopson; Jones, J.; Kolkhorst; Laney; Lewis; Luna; Mabry; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Solis; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

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

Absent, Excused — Telford.

Absent — Garza.

STATEMENT OF VOTE

When Record No. 102 was taken, I was in the house but away from my desk. I would have voted no.

Garza

Amendment No. 43

Representative Thompson offered the following amendment to **CSHB 4**:
Floor Packet Page No. 79

Amend **CSHB 4** on page 8, following line 13 by adding a new Subsection (c) to read as follows:

"(c) The total fees awarded may not be less than the total fees and expenses charged by the attorney or attorneys representing the defendant."

Amendment No. 44

Representative Thompson offered the following amendment to Amendment No. 43:

Amend Amendment No. 43 by Thompson to **CSHB 4** (beginning on page 79, amendment packet) by striking lines 3-5 and substituting:

(c) The total fees charged may not be more than \$250 per hour for any attorney representing the defendant. If the defendant is represented by a law firm utilizing more than one attorney at the same time, the \$250 limit applies to each hour of legal representation without regard to the number of attorneys utilized. The \$250 limit does not apply to paralegal or clerical services.

Amendment No. 44 was adopted without objection.

Representative Nixon moved to table Amendment No. 43.

A record vote was requested.

The motion to table prevailed by (Record 103): 94 Yeas, 49 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Canales; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Farabee; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Kuempel; Laney; Laubenberg; Lewis; Madden; Marchant; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Uresti; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Gutierrez; Hochberg; Hodge; Hopson; Jones, D.; Jones, J.; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Solis; Thompson; Turner; Wilson; Wise; Wolens.

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

Absent, Excused — Telford.

Absent — McCall; Smithee; Villarreal.

STATEMENT OF VOTE

When Record No. 103 was taken, my vote failed to register. I would have voted no.

Villarreal

Amendment No. 45

Representative Deshotel offered the following amendment to **CSHB 4**:

Floor Packet Page No. 514

Amend **CSHB 4** as follows:

On page 2, between lines 11 and 12 insert a new Section 26.003 to read as follows and renumber the remaining sections accordingly:

Sec. 26.003 HEALTH CARE PROVIDER. Notwithstanding any provision of Section 26.002 of this chapter, nothing in this chapter shall apply to an action where the claimant is a health care provider as defined in Article 4590i, Vernon's Texas Civil Statutes, seeking damages in their individual capacity or on behalf of a class of claimants against a responsible party for payment of health care services.

Amendment No. 45 was withdrawn.

Amendment No. 46

Representative Thompson offered the following amendment to **CSHB 4**:
Floor Packet Page No. 515

Amend **CSHB 4** as follows:

On page 2, between lines 11 and 12 insert a new Section 26.003 to read as follows and renumber the remaining sections accordingly:

Sec. 26.003 HEALTH CARE PROVIDER. Notwithstanding any provision of Section 26.002 of this chapter, nothing in this chapter shall apply to an action where the claimant is a health care provider as defined in Article 4590i, Vernon's Texas Civil Statutes, seeking damages as a claimant against a responsible party for payment of health care services.

Representative Nixon moved to table Amendment No. 46.

The motion to table prevailed.

Amendment No. 47

Representative Deshotel offered the following amendment to **CSHB 4**:
Floor Packet Page No. 516

Amend **CSHB 4** on page 2, between lines 17 and 18, by inserting:

(c) Each state agency by rule shall set the fee to be charged a moving party to conduct the investigation and grant the administrative remedy required by this chapter. The moving party shall be responsible for this fee.

(Speaker in the chair)

Representative Nixon moved to table Amendment No. 47.

The motion to table prevailed.

Amendment No. 48

Representative Deshotel offered the following amendment to **CSHB 4**:
Floor Packet Page No. 517

Amend **CSHB 4** as follows:

On page 3, after line 8, insert a new subsection (d) to read as follows:

An agency to which an action is referred under this chapter shall decline jurisdiction of the action if accepting the action will cause the agency to fail to meet any goal, outcome, output of efficiencies that are established for the agency in the general appropriations act and this chapter does not apply if the agency so declines.

Amendment No. 48 was withdrawn.

Amendment No. 49

Representative Dunnam offered the following amendment to **CSHB 4**:

Floor Packet Page No. 518

Amend **CSHB 4** as follows:

On page 3, between lines 8 and 9, insert a new subsection (d) to read as follows:

(d) The court may not abate or dismiss a claim for failure to exhaust administrative remedies if the abatement or dismissal would:

(1) result in a risk to public health or safety, or

(2) cause irreparable harm to the members of the class.

Representative Nixon moved to table Amendment No. 49.

A record vote was requested.

The motion to table prevailed by (Record 104): 92 Yeas, 52 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Farabee; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wilson; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farrar; Flores; Gallego; Garza; Giddings; Goodman; Guillen; Gutierrez; Hochberg; Hodge; Jones, J.; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Solis; Thompson; Turner; Uresti; Villarreal; Wise; Wolens.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Telford.

Absent — Hardcastle; Laney; Smithee.

Amendment No. 50

Representative Smithee offered the following amendment to **CSHB 4**:
Floor Packet Page No. 520

Amend **CSHB 4** as follows:

- (1) On page 11, line 6, strike "or pending".
- (2) On page 27, on lines 4 and 5, strike "or pending".
- (3) On page 37, on lines 12 and 13, strike "or pending".
- (4) On page 42, beginning on line 27, strike all from "or pending" through page 43, line 3, "that date".
- (5) On page 44, on lines 1 through 4, strike all after "6.03." and substitute "This article applies only to a suit commenced on or after the effective date of this article."
- (5) On page 45, on line 27, through page 46, line 3, strike all after "7.03." and substitute "This article applies only to a suit commenced on or after the effective date of this article."
- (6) On page 46, on lines 8 and 9, strike "or pending".
- (7) On page 91, on lines 18 and 19, strike "or pending".
- (8) On page 93, on lines 19 and 20, strike "or pending".
- (9) On page 95, on lines 6 and 7, strike "or pending".

Amendment No. 50 was withdrawn.

Amendment No. 51

Representative Mabry offered the following amendment to **CSHB 4**:

Amend **CSHB 4** as follows:

- (1) On page 12, between lines 5 and 6, insert:
Sec. 42.0015. POLICY; INTENT. It is the policy of this state to enact incentives and procedures to encourage the settlement of civil cases on terms that are fair and just to all parties, whether claimant or defendant. The procedures in this chapter are intended to be balanced toward all claimants and all defendants. It is the intent of the Legislature that, to the greatest extent possible, these procedures shall be implemented such that claims are resolved efficiently and fairly and without overreaching by any party or abuse of the system of civil justice.
- (2) Strike page 13, line 22 through page 16, line 25, and substitute:
Sec. 42.051. SETTLEMENT OFFER. (a) A party or a group of parties may serve on a party a settlement offer to settle all claims in the action between the parties.
- (b) The settlement offer must:
 - (1) be in writing;
 - (2) state that it is a settlement offer under this chapter;
 - (3) state the terms by which the claims may be settled;
 - (4) state a deadline by which the settlement offer must be accepted; and
 - (5) be served on the claimant to whom the settlement offer is made.
- (c) A party may not make a settlement offer under this section before the 90th day after the later of:

- (1) the date any of the defendants filed a responsive pleading; or
- (2) the date any of the defendants otherwise appeared in the action.

(d) A party may not make a settlement offer under this section after the 30th day before the date set for trial.

(e) The parties are not required to file a settlement offer with the court.

Sec. 42.052. ACCEPTANCE OF SETTLEMENT OFFER. (a) A party may accept a settlement offer made under this chapter on or before 5 p.m. on the 30th day after the date the party received the settlement offer or before the deadline stated in the settlement offer, whichever is later.

(b) Acceptance of a settlement offer must be:

- (1) in writing; and
- (2) served on the party who made the settlement offer.

Sec. 42.053. WITHDRAWING SETTLEMENT OFFER. (a) A party may withdraw a settlement offer by serving a written withdrawal on the party to whom the settlement offer was made before the party accepts the settlement offer. A party may not accept a settlement offer after it is withdrawn.

(b) If a settlement offer is withdrawn, the party that made the settlement offer is not entitled to recover litigation costs under this chapter.

Sec. 42.054. REJECTION OF SETTLEMENT OFFER. For purposes of this chapter, a settlement offer is rejected if:

(1) the party to whom the settlement offer was made rejects the settlement offer by serving a written rejection on any party making the settlement offer; or

(2) the settlement offer is not withdrawn and is not accepted before the deadline for accepting the offer.

Sec. 42.055. AWARD OF LITIGATION COSTS. (a) Any party who makes a settlement offer under this chapter to another party seeking monetary relief shall recover litigation costs from the party if:

(1) the settlement offer is rejected;

(2) the amount of monetary relief to be awarded in the judgment, exclusive of any litigation costs awarded under this chapter and exclusive of any attorney's fees, expenses, and costs incurred by the party after rejection of the offer, is more favorable to the party who made the settlement offer than the settlement offer; and

(3) the difference between the amount of monetary relief to be awarded to the party in the judgment, exclusive of any litigation costs awarded under this chapter and exclusive of any attorney's fees, expenses, and costs incurred by the party after rejection of the offer, and the amount of the settlement offer is equal to or greater than 10 percent of the amount of the settlement offer.

(b) Any party who makes a settlement offer to a party seeking nonmonetary relief, other than injunctive relief, may recover litigation costs from the party if:

(1) the settlement offer is rejected; and

(2) the judgment, exclusive of any litigation costs awarded under this chapter and exclusive of any attorney's fees, expenses, and costs incurred by the party after rejection of the offer, is more favorable to the party who made the settlement offer than the settlement offer.

(c) Litigation costs awarded to a party under this section include only those litigation costs incurred by the party who made a settlement offer after the rejection of the earliest settlement offer that entitles the party to an award of litigation costs under this section.

(d) Litigation costs awarded under this section shall:

(1) be awarded in the judgment;

(2) offset the claimant's recovery against the offering defendant; or

(3) be added to the claimant's recovery against any nonsettling defendant.

(3) On page 18, strike lines 2-8, and substitute:

(d) If litigation costs are awarded against a party under this chapter, the party shall not be awarded any attorney's fees, expenses, or costs to which the party would otherwise be entitled under any other law that were incurred by the party after the party's rejection of the earliest settlement offer that entitles the other party to an award of litigation costs under this section.

(Wohlgemuth in the chair)

Representative Nixon moved to table Amendment No. 51.

A record vote was requested.

The motion to table prevailed by (Record 105): 84 Yeas, 61 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Seaman; Smith, W.; Solomons; Stick; Swinford; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Goodman; Guillen; Gutierrez; Hochberg; Hodge; Homer; Hopson; Hughes; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Smith, T.; Smithee; Solis; Talton; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

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

Absent, Excused — Telford.

Absent — Oliveira.

Amendment No. 52

Representative Burnam offered the following amendment to **CSHB 4**:
Floor Packet Page No. 98

Amend **CSHB 4** as follows:

On Page 12, after line 11 insert a new subsection (2) to read as follows and renumber the remaining sections accordingly:

(2) an action in which the defendant:

(A) is a country that harbors or aids terrorists or that is listed by any agency of the United States government as harboring or aiding terrorists; or

(B) is a person who engages in or aids terrorism or aids or harbors terrorists;

Representative Nixon moved to table Amendment No. 52.

The motion to table prevailed.

Amendment No. 53

Representative Burnam offered the following amendment to **CSHB 4**:
Floor Packet Page No. 92

Amend **CSHB 4** as follows:

On Page 12, after Line 12 insert a new subdivision (3) to read as follows and renumber the remaining subdivisions appropriately:

(4) involving condemnation of property by a governmental entity, including an action governed by Chapter 21, Property Code, or any other law;

Amendment No. 53 was withdrawn.

MESSAGE FROM THE SENATE

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

CSHB 4 - (consideration continued)

(King in the chair)

Amendment No. 54

Representative Burnam offered the following amendment to **CSHB 4**:
Floor Packet Page No. 105

Amend **CSHB 4** as follows:

On page 16, line 27 at the end of the sentence, insert "This evidence shall include the rate of all hourly fees, the number of hours billed, and any invoices, contracts or other costs incurred by the defendant."

Representative Nixon moved to table Amendment No. 54.

The motion to table prevailed.

Amendment No. 55

On behalf of Representative Y. Davis, Representative Alonzo offered the following amendment to **CSHB 4**:

Floor Packet Page No. 109

Amend **CSHB 4** as follows:

On page 17, line 18 after "include" insert a ": (1)"

On page 17, line 20, strike the "." And insert a "; or"

On page 17, between lines 20 and 21, insert a new subdivision (2) to read as follows:

(2) any medical expenses.

(Wohlgemuth in the chair)

Representative Nixon moved to table Amendment No. 55.

The motion to table prevailed.

Amendment No. 56

Representative Hochberg offered the following amendment to **CSHB 4**:

Floor Packet Page No. 521

Amend **CSHB 4** as follows:

On page 12, between lines 5 and 6, insert the following:

Sec. 42.0019. APPLICABILITY OF CHAPTER TO BUSINESS CLAIMS.

Notwithstanding any other provision of this chapter, this chapter applies only to the settlement of a claim:

(1) by one business entity against another business entity, as defined by Section 306.001, Finance Code; and

(2) in an amount equal to \$1 million or more.

Representative Nixon moved to table Amendment No. 56.

The motion to table prevailed.

(Speaker in the chair)

Amendment No. 57

Representative Mabry offered the following amendment to **CSHB 4**:

Floor Packet Page No. 97

Amend **CSHB 4** as follows:

On page 12, after line 11, insert a new subsection (2) to read as follows and renumber accordingly:

(2) in which both monetary and non-monetary relief are sought by the claimant;

Amendment No. 58

Representative Dunnam offered the following amendment to Amendment No. 57:

Substitute for the Mabry amendment on page 97 of the packet:

Amend **CSHB 4** on page 13, between lines 19 and 20, by inserting the following:

Sec. 42.007. APPLICABILITY OF CHAPTER: NONMONETARY TERMS. Notwithstanding any other provision of this chapter, if a monetary settlement offer is made conditioned on terms other than monetary relief pled by the party to whom the settlement offer was made and recoverable by that party in law or in equity, other than the requirement for a release and indemnity of claim by and through the claimant, then this chapter does not apply unless the defendant succeeds in obtaining those other terms in the judgment.

Amendment No. 58 was adopted without objection.

Amendment No. 57, as amended, was adopted without objection.

Amendment No. 59

Representative Hartnett offered the following amendment to **CSHB 4**:

Floor Packet Page No. 522

Amend **CSHB 4** as follows:

On page 12, after line 12, insert a new subsection (3) to read as follows and renumber accordingly:

(3) brought under Chapter 115, Property Code;

Amendment No. 60

Representative Hartnett offered the following amendment to Amendment No. 59:

Amend Amendment No. 59 by Hartnett (on page 522, Amendment Packet) between "under" and "Chapter" by inserting "the Probate Code or".

Amendment No. 60 was adopted without objection.

Amendment No. 59, as amended, was adopted without objection.

Amendment No. 61

Representative Goodman offered the following amendment to **CSHB 4**:

Floor Packet Page No. 524

Amend **CSHB 4** on page 12, between lines 26 and 27, by inserting:

(e) This chapter does not apply to an action based on the breach of a contract or written negotiable instrument in which the parties to the contract or instrument have agreed in the contract or instrument to an amount of damages for breach or failure to perform.

Amendment No. 62

Representative Goodman offered the following amendment to Amendment No. 61:

Substitute for the Goodman amendment the following:

Amend **CSHB 4** on page 12, between lines 26 and 27, by inserting:

(e) This chapter does not apply to an action:

(1) on a contract that specifies remedies for breach, including specific performance, liquidated damages, or attorney's fees;

(2) on a negotiable instrument; or

(3) for a debt, including an action on a sworn account or for services rendered.

Amendment No. 62 was adopted without objection.

Amendment No. 61, as amended, was adopted without objection.

Amendment No. 63

Representative Dunnam offered the following amendment to **CSHB 4**:

Floor Packet Page No. 110

Amend **CSHB 4** as follows:

On page 18, between lines 8 and 9 insert a new subsection (e) to read as follows:

(e) The defendant or group of defendants can only recover litigation costs under this chapter if the defendant or group of defendants:

(1) has not filed for a continuance;

(2) has not caused undue delay, and;

(3) has not violated any rules of discovery under the Texas Rules of Civil Procedure.

Representative Nixon moved to table Amendment No. 63.

The motion to table prevailed.

Amendment No. 64

Representatives Alonzo and Y. Davis offered the following amendment to **CSHB 4**:

Floor Packet Page No. 112

Amend **CSHB 4** as follows:

On page 18, between lines 14 and 15 insert a new Sec. 42.058 to read as follows:

Sec. 42.058. APPLICATION. This chapter does not apply to a suit in which the damages amount to \$50,000 or less

Representative Nixon moved to table Amendment No. 64.

The motion to table prevailed.

Amendment No. 65

Representative Eiland offered the following amendment to **CSHB 4**:

Floor Packet Page No. 119

Amend **CSHB 4** as follows:

On page 22, between line 21 and 22, add a new subsection (c) to read:

(c) The judge or judges to whom the cases are assigned shall give priority to the pretrial proceedings in cases coordinated or consolidated under this article over all other matters pending before them.

Amendment No. 66

Representative Gattis offered the following amendment to Amendment No. 65:

Amend Amendment No. 65 by Eiland (beginning on page 119, Amendment Packet) by adding a new item to read as follows:

() Amend Article 3 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent sections accordingly:

SECTION _____. Section 23.101(a), Government Code, is amended to read as follows:

(a) The trial courts of this state shall regularly and frequently set hearings and trials of pending matters, giving preference to hearings and trials of the following:

(1) temporary injunctions;

(2) criminal actions, with the following actions given preference over other criminal actions:

(A) criminal actions against defendants who are detained in jail pending trial;

(B) criminal actions involving a charge that a person committed an act of family violence, as defined by Section 71.01, Family Code; and

(C) an offense under:

(i) Section 21.11, Penal Code;

(ii) Chapter 22, Penal Code, if the victim of the alleged offense is younger than 17 years of age;

(iii) Section 25.02, Penal Code, if the victim of the alleged offense is younger than 17 years of age; or

(iv) Section 25.06, Penal Code;

(3) election contests and suits under the Election Code;

(4) orders for the protection of the family under Section 3.581, 71.11, or 71.12, Family Code;

(5) appeals of final rulings and decisions of the Texas Workers' Compensation Commission and claims under the Federal Employers' Liability Act and the Jones Act; [and]

(6) appeals of final orders of the commissioner of the General Land Office under Section 51.3021, Natural Resources Code; and

(7) multidistrict litigation.

Amendment No. 66 was adopted without objection.

Amendment No. 65, as amended, was adopted without objection.

Amendment No. 67

On behalf of Representative Deshotel, Representative Eiland offered the following amendment to **CSHB 4**:

Floor Packet Page No. 126

Amend **CSHB 4** as follows:

On page 24, line 22 through page 26, line 2, strike subsections (b), (c), and (d).

Amendment No. 67 was withdrawn.

Amendment No. 68

On behalf of Representative Deshotel, Representative Eiland offered the following amendment to **CSHB 4**:

Floor Packet Page No. 123

Amend **CSHB 4** as follows:

On page 23, line 21 Strike Sec. 3.03

(Woolley in the chair)

(Telford now present)

Representative Gattis moved to table Amendment No. 68.

The motion to table prevailed.

Amendment No. 69

On behalf of Representative Deshotel, Representative Eiland offered the following amendment to **CSHB 4**:

Floor Packet Page No. 128

Amend **CSHB 4** as follows:

On page 26, line 3, Strike Sec. 3.04

On page 26, line 17, Strike Sec. 3.05

Representative Gattis moved to table Amendment No. 69.

A record vote was requested.

The motion to table prevailed by (Record 106): 89 Yeas, 54 Nays, 2 Present, not voting.

Yeas — Allen; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Farabee; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farrar; Flores; Gallego; Garza; Giddings; Goodman; Guillen; Gutierrez; Hochberg; Hodge; Hopson; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon;

McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Raymond; Rodriguez; Solis; Telford; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

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

Absent — Baxter; Hughes; Quintanilla; Smithee.

STATEMENT OF VOTE

When Record No. 106 was taken, I was in the house but away from my desk. I would have voted yes.

Baxter

Amendment No. 70

Representative Thompson offered the following amendment to **CSHB 4**:
Floor Packet Page No. 130

Amend **CSHB 4** as follows:

On page 26, line 15, between "to" and "actions" insert "any" and strike "other than actions for personal injury or wrongful death".

Amendment No. 70 was withdrawn.

COMMITTEES GRANTED PERMISSION TO MEET

Pursuant to House Rule 4, Section 9, Representative Morrison requested permission for those house committees and subcommittees that are scheduled to meet this afternoon to meet while the house is in session, and for those committees and subcommittees that are scheduled to meet on adjournment, adjournment shall be considered the time that the house adjourns pending reading and referral of bills.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Higher Education, during reading and referral of bills today, speakers committee room, for a formal meeting.

Agriculture and Livestock, during reading and referral of bills today, speakers committee room.

Law Enforcement, upon adjournment today, Desk 56, for a formal meeting.

Government Reform, during reading and referral of bills today, E1.026, for a formal meeting, to consider committee business.

Natural Resources, during reading and referral of bills today, regular meeting room.

Border and International Affairs, upon adjournment today, E1.014, for a public hearing, to consider testimony from the Texas Environmental Quality Commission.

Financial Institutions, upon adjournment today, Desk 7, for a formal meeting, to consider **HB 56** and **HB 1307**.

County Affairs, during reading and referral of bills today, E2.016, for a public hearing, to complete the posted agenda.

**PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR**

Representative Edwards moved to reset the congratulatory and memorial calendar for 9 a.m. Friday, March 28.

The motion prevailed without objection.

**PROVIDING FOR A LOCAL, CONSENT,
AND RESOLUTIONS CALENDAR**

Representative Reyna moved to reset the local, consent, and resolutions calendar for 9 a.m. Friday, March 28.

The motion prevailed without objection.

STATEMENT BY REPRESENTATIVE RODRIGUEZ

I am listed in the appeal to the speaker's ruling on Mr. Gallego's point of order because I believe that the intent of the House Rules and Article III, Section 16 of the Texas Constitution concerning open government in the Texas Legislature were violated on February 26, 2003, when **HB 4** was still in the committee process.

While there was not only a violation of the Rules of the House, I also believe there was a violation of the Texas Constitution. I do not believe that this violation was intentional, malicious, or in any way criminal in nature.

I believe that the speaker was fully within his authority to overrule Mr. Gallego's point of order. However, I respectfully disagree with the speaker's ruling. Since this bill violates the Texas Constitution on open government, this bill cannot be fixed by simply sending it in its current form back to the Civil Practices Committee. The bill's flaw is fatal and therefore should be withdrawn from consideration. The only remedy would be the filing of a new bill. The fact that the filing deadline has passed should have no bearing on whether this bill is given further consideration.

In my opinion, open government is an essential component of our legislative process. It keeps us accountable to our constituents and to each other, and it is critical to the integrity of the Texas House of Representatives, of which I am so proud to be a member.

PROVIDING FOR ADJOURNMENT

Representative Wilson moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 9 a.m. tomorrow in memory of Robert E. Johnson, Sr., former house member and parliamentarian.

The motion prevailed without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 3.)

(Edwards in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 6:49 p.m., adjourned until 9 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 2850 (By Wohlgenuth), Relating to the provision of health and human services in this state, including the powers and duties of the Health and Human Services Commission and other state agencies.

To Government Reform.

HB 2944 (By King), Relating to the courts of appeals districts and membership of the courts of appeals.

To Redistricting.

HB 3001 (By Swinford), Relating to the reorganization and consolidation of state governmental functions and entities.

To Government Reform.

HB 3015 (By Morrison), Relating to the tuition charged to students of institutions of higher education.

To Higher Education.

HB 3182 (By Delisi), Relating to establishment of a consumer-directed care demonstration program.

To State Health Care Expenditures, Select.

HB 3257 (By Delisi), Relating to the establishment of a defined contribution health care benefits program for active school employees.

To State Health Care Expenditures, Select.

HB 3286 (By Delisi), Relating to relating to the establishment of a defined contribution health care benefits program for retired school employees.

To State Health Care Expenditures, Select.

HB 3287 (By Delisi), Relating to the establishment of a defined contribution health care benefits program for state employees and retired state employees.

To State Health Care Expenditures, Select.

HB 3305 (By Berman), Relating to statutory authority to reduce appropriations made by the legislature to certain governmental entities.

To Appropriations.

HB 3306 (By Berman), Relating to statutory authority to reduce appropriations made by the legislature to certain individuals and governmental entities.

To Appropriations.

HB 3323 (By J. Keffer), Relating to the creation of the Texas Enterprise Fund.

To Economic Development.

HB 3326 (By J. Keffer), Relating to the operation of the financial assistance program and an integrated approach to providing employment services under that program.

To Economic Development.

HB 3343 (By Wohlgenuth and Turner), Relating to the coordination of statewide public transportation by the Texas Transportation Commission and the Texas Department of Transportation.

To Transportation.

HB 3346 (By Wohlgenuth and Taylor), Relating to the regulation of insurance written on personal risks.

To Insurance.

HB 3378 (By Hope), Relating to statutory authority to reduce appropriations made by the legislature to certain regulatory entities.

To Appropriations.

HB 3398 (By Crabb), Relating to the composition of the districts for the election of members of the United States House of Representatives from the State of Texas.

To Redistricting.

HB 3441 (By Pickett), Relating to statutory authority to reduce appropriations made by the legislature to certain governmental entities.

To Appropriations.

HB 3442 (By Pickett), Relating to statutory authority to reduce appropriations made by the legislature to certain governmental entities.

To Appropriations.

HB 3459 (By Pitts), Relating to statutory authority to reduce appropriations made by the legislature to certain governmental educational entities and to other fiscal matters involving certain governmental educational entities.

To Appropriations.

HB 3483 (By Delisi), Relating to certain programs operated under the medical assistance program.

To State Health Care Expenditures, Select.

HB 3519 (By Wohlgenuth), Relating to statutory authority to reduce appropriations made by the legislature to certain governmental entities providing health services, human services, and related services.

To Appropriations.

HB 3527 (By Hamric), Relating to the abolition of the State Aircraft Pooling Board, to the transfer of certain functions associated with the board to the Texas Building and Procurement Commission, and to providing for contracts with private charter aircraft providers in lieu of a central pool of state-owned aircraft.

To Government Reform.

HB 3531 (By Delisi), Relating to reimbursement for telemedicine medical services under the Medicaid program and other government-funded programs.

To State Health Care Expenditures, Select.

HCR 96 (By Eiland), Designating April 1, 2003, as Chambers County Day at the State Capitol.

To Rules and Resolutions.

HCR 102 (By Gallego), Honoring the musical legacy of Robert "Wolfman Jack" Smith.

To Rules and Resolutions.

HCR 104 (By J. Davis), Honoring the life of Minnie Mae Glenn of Brownsville.

To Rules and Resolutions.

HCR 107 (By Lewis), Congratulating RaShawn Washington of Fort Worth on the publication of her poem "Talk."

To Rules and Resolutions.

HCR 108 (By Lewis), Honoring Dunbar Middle School student Tiffany Lewis of Fort Worth for her selection to attend the People to People Student Ambassador Program's 2003 Leadership Summit.

To Rules and Resolutions.

HCR 110 (By Lewis), Congratulating Torivia N. Hernandez on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.

To Rules and Resolutions.

HCR 111 (By Lewis), Congratulating Rochelle M. Grisafi on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.

To Rules and Resolutions.

HCR 112 (By Lewis), Congratulating Crystal Clancy on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.

To Rules and Resolutions.

HCR 113 (By Lewis), Congratulating Sandra G. Farmer on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 114 (By Lewis), Congratulating Shawne Briggs on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 115 (By Lewis), Congratulating Kristy Muckleroy on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 116 (By Lewis), Congratulating Karla Bevel on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 117 (By Lewis), Congratulating Shaneeka Shannon on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 118 (By Lewis), Congratulating Keith Hailburton on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 119 (By Lewis), Congratulating Tonya Allen on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 120 (By Lewis), Congratulating Paulino Rosales III on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 121 (By Lewis), Congratulating Sedonia L. Johnson on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 122 (By Lewis), Congratulating Andrea Curley Harper on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 123 (By Lewis), Congratulating Lori Freeman on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 124 (By Lewis), Congratulating Willanette Williams on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 127 (By Lewis), In memory of Tarrence Leon White of Fort Worth.
To Rules and Resolutions.

HCR 128 (By Lewis), Congratulating the Fort Worth Dunbar High School boys' basketball team on winning the 2003 UIL Class 4A state championship.
To Rules and Resolutions.

HCR 129 (By Lewis), Congratulating Melzora Webster on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 130 (By Lewis), Congratulating Kristen Williams on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 131 (By Lewis), Congratulating Dorothy Westergren on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 132 (By Lewis), Congratulating Patty Rose on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 133 (By Lewis), Congratulating Mary Preston on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 134 (By Lewis), Congratulating LaWanda Booghrey on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 135 (By Lewis), Congratulating Ozella Campbell on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 136 (By Lewis), Congratulating Mary Ornellas on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 137 (By Lewis), Congratulating Latresa Kennard on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 138 (By Lewis), Congratulating Roshea Phillips on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 139 (By Lewis), Congratulating Erin Bushko on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 140 (By Lewis), Congratulating La Tres Cole on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 141 (By Lewis), Congratulating Ben Broadwater on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 142 (By Lewis), Congratulating Juana Williams on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 143 (By Lewis), Congratulating Karen Chaffin on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 144 (By Lewis), Congratulating Shannon Wilson on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 145 (By Lewis), Congratulating Jan Wilkins on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 146 (By Lewis), Congratulating Kathy Elliott on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 147 (By Lewis), Congratulating Jamie Cox on being named a 2002-2003 Outstanding Teacher by the Fort Worth Independent School District.
To Rules and Resolutions.

HCR 149 (By Farabee), Honoring Purple Heart recipient James Virdell of Wichita Falls.
To Rules and Resolutions.

HR 471 (By Hilderbran), In memory of Charles H. Johnston, Jr., of Kerrville.
To Rules and Resolutions.

HR 472 (By Hilderbran), In memory of Earl Randolph Bruno of Kerrville.
To Rules and Resolutions.

HR 473 (By Hilderbran), In memory of Lydia Whitewood Brown of Kerrville.
To Rules and Resolutions.

HR 474 (By Hilderbran), In memory of J. Y. Little of Abilene.
To Rules and Resolutions.

HR 475 (By Hilderbran), In memory of Demetrios John "Rio" Nicholas of Fredericksburg.
To Rules and Resolutions.

SB 35 to Public Education.

SB 57 to Law Enforcement.

SB 84 to State Affairs.

SB 89 to State Affairs.

SB 140 to Criminal Jurisprudence.

SB 162 to Public Health.

SB 186 to Public Education.

SB 196 to Elections.

SB 197 to Elections.

SB 202 to Insurance.

SB 304 to Government Reform.

SB 317 to Juvenile Justice and Family Issues.

SB 353 to Border and International Affairs.

SB 354 to Judicial Affairs.

SB 359 to Licensing and Administrative Procedures.

SB 373 to Insurance.

SB 417 to Financial Institutions.

SB 423 to Ways and Means.

SB 437 to Higher Education.

SB 454 to Elections.

SB 486 to Public Health.

SB 553 to Transportation.

SB 607 to State Cultural and Recreational Resources.

List No. 2

HB 2916 (By Ritter), Relating to the purchase of creditable service time by members of Judicial Retirement System, Plan Two.

To Pensions and Investments.

HB 2934 (By Villarreal), Relating to consumer protection for and remedies available to a homebuyer whose home does not comply with certain warranties; providing an administrative penalty.

To State Affairs.

HB 2935 (By Villarreal), Relating to state liability for conduct of certain child-placement agencies.

To Human Services.

HB 3038 (By R. Cook), Relating to the elimination of the Acupuncture Board and functions of the Texas Acupuncture Association.

To Government Reform.

HB 3039 (By R. Cook), Relating to the lease of space for state agencies by the Texas Building and Procurement Commission.

To Government Reform.

HB 3040 (By R. Cook), Relating to vehicle fleet management services provided by the Texas Building and Procurement Commission.

To Government Reform.

HB 3041 (By R. Cook), Relating to school bus safety standards.

To Government Reform.

HB 3042 (By R. Cook), Relating to the administration of the Texas Building and Procurement Commission.

To Government Reform.

HB 3043 (By R. Cook), Relating to abolishing the requirement that certain state agencies participate in travel services contracts.

To Government Reform.

HB 3044 (By R. Cook), Relating to written comments by the General Land Office regarding leases executed by the Texas Building and Procurement Commission.

To Government Reform.

HB 3045 (By R. Cook), Relating to the limitation on the allocation of office space to state agencies.

To Government Reform.

HB 3046 (By R. Cook), Relating to the state purchasing powers and duties of the Texas Building and Procurement Commission, including transferring certain functions from the attorney general and state auditor to the commission.

To Government Reform.

HB 3047 (By R. Cook), Relating to the disposition of certain surplus and salvage property of the state.

To Government Reform.

HB 3048 (By R. Cook), Relating to state construction projects.

To Government Reform.

HB 3049 (By R. Cook), Relating to the consolidation of certain state agencies having general governmental functions, including functions regarding information resources, purchasing, and building and space acquisition and management.

To Government Reform.

HB 3262 (By Ritter), Relating to the establishment of a Center for Excellence at Lamar University at Beaumont.

To Higher Education.

HB 3263 (By Ritter), Relating to taxes administered by the comptroller of public accounts.

To Ways and Means.

HB 3366 (By Ritter, Deshotel, and Hamilton), Relating to licensing and regulation of certain pilots, pilotage rates, and pilot service.

To Transportation.

HB 3462 (By Villarreal), Relating to laborers in Texas.

To Border and International Affairs.

HB 3463 (By Villarreal), Relating to discrimination by the state, a political subdivision of the state, or a private person.

To State Affairs.

HB 3464 (By Villarreal), Relating to highway beautification
To State Affairs.

HB 3465 (By Villarreal), Relating to eligibility for public school
prekindergarten classes.
To Public Education.

List No. 3

HB 2801 (By Giddings), Relating to urban land bank demonstration
programs.
To Urban Affairs.

HB 2802 (By Giddings), Relating to the establishment of a school of
pharmacy at the University of North Texas Health Science Center at Fort Worth.
To Higher Education.

HB 2803 (By Giddings), Relating to the rendition of property for ad
valorem tax purposes and to the consequences of a failure to render property.
To Local Government Ways and Means.

HB 2804 (By Giddings), Relating to school district internship programs in
which students earn local credit for high school graduation by working with
elected government officials.
To Public Education.

HB 2805 (By Giddings), Relating to regulation of casket sales.
To Business and Industry.

HB 2806 (By Giddings), Relating to a pilot program creating reinvestment
zones to promote the relocation of businesses to certain areas of this state.
To Business and Industry.

HB 2807 (By Giddings), Relating to the maximum cumulative premiums for
certain small face amount life insurance policies.
To Insurance.

HB 2808 (By Giddings), Relating to workers' compensation insurance.
To Business and Industry.

HB 2809 (By Giddings), Relating to required payment options for certain
small face amount life insurance policies.
To Insurance.

HB 2810 (By Giddings), Relating to certain life insurance policies.
To Insurance.

HB 2811 (By Giddings), Relating to certain small face amount life insurance
policies.
To Insurance.

HB 2812 (By Giddings), Relating to unclaimed benefits under certain life
insurance policies; interim study.
To Insurance.

HB 2813 (By Giddings), Relating to public and common nuisances; providing a penalty.

To Civil Practices.

HB 2814 (By Rodriguez), Relating to legislative lobbying by a housing authority; imposing a criminal penalty.

To Urban Affairs.

HB 2815 (By Rodriguez), Relating to the consideration of race, ethnicity, or national origin in certain actions and decisions of public institutions of higher education.

To Higher Education.

HB 2816 (By Driver), Relating to a local option election for the sale of certain alcoholic beverages in certain cities or towns located in more than one county.

To Licensing and Administrative Procedures.

HB 2817 (By Driver), Relating to sales tax information provided by the comptroller to certain municipalities.

To Ways and Means.

HB 2818 (By Driver), Relating to recovery of an overpayment to a physician or provider by an insurer.

To Insurance.

HB 2819 (By Driver), Relating to the confidentiality of certain information held by governmental bodies.

To State Affairs.

HB 2820 (By Seaman), Relating to the annexation of additional territory and the composition of the port commission of the Port of Corpus Christi Authority of Nueces County, Texas.

To Transportation.

HB 2821 (By Seaman), Relating to the annexation of additional territory and the composition of the port commission of the Port of Corpus Christi Authority of Nueces County, Texas.

To Transportation.

HB 2822 (By Eissler), Relating to certain school district employees who evaluate students with speech impairments and to the State Board of Examiners for Speech-Language Pathology and Audiology.

To Public Education.

HB 2823 (By Eissler), Relating to individual transition plans for certain students receiving special education services.

To Public Education.

HB 2824 (By Eissler), Relating to adoption of a medical savings account program for the provision of health benefits coverage to active employees of school districts.

To State Health Care Expenditures, Select.

HB 2825 (By Eissler), Relating to the authority of the commissioner of education to waive certain monitoring or reporting requirements.

To Public Education.

HB 2826 (By Eissler), Relating to a continuing ad valorem tax for the payment of bonds issued by a school district.

To Local Government Ways and Means.

HB 2827 (By Eissler), Relating to providing a uniform limit on the population of a county election precinct.

To Elections.

HB 2828 (By Bailey), Relating to complaints against certain peace officers and fire fighters.

To Urban Affairs.

HB 2829 (By Luna), Relating to supplemental pay for certain Department of Public Safety officers who are proficient in a second language.

To Law Enforcement.

HB 2830 (By Zedler), Relating to the creation and operation of a statewide risk pool to provide health benefits coverage to active employees of school districts.

To Insurance.

HB 2831 (By Zedler), Relating to parental rights in public education and to civil remedies related to those rights.

To Public Education.

HB 2832 (By Zedler), Relating to exempting certain institutions offering religious education from state regulation.

To Higher Education.

HB 2833 (By Zedler), Relating to a physician's report of a complication resulting from an abortion; providing a penalty.

To Public Health.

HB 2834 (By Zedler), Relating to the licensing and regulation of surgical technologists; providing a penalty.

To Public Health.

HB 2835 (By B. Brown), Relating to the expectation of measurable gain as a result of projects undertaken by corporations created in accordance with the Development Corporation Act of 1979, Article 5190.6 VTCS

To Economic Development.

HB 2836 (By B. Brown), Relating to general provisions proceedings for court ordered mental health services.

To Public Health.

HB 2837 (By B. Brown), Relating to general provisions proceedings for court ordered mental health services.

To Public Health.

HB 2838 (By B. Brown), Relating to general provisions proceedings for court ordered mental health services.

To Public Health.

HB 2839 (By Chavez), Relating to the establishment of an asthma research center at the Texas Tech University campus in El Paso.

To Higher Education.

HB 2840 (By Corte), Relating to the right to refuse certain immunizations and medical treatment.

To Public Health.

HB 2841 (By Corte), Relating to the civil liability of certain emergency medical services personnel and providers.

To Civil Practices.

HB 2842 (By Corte), Relating to the immunization registry.

To Public Health.

HB 2843 (By Corte), Relating to legal and judicial ethics.

To Civil Practices.

HB 2844 (By Casteel), Relating to the exemption from the requirement that a person register as a property tax consultant to perform certain property tax consulting services.

To Licensing and Administrative Procedures.

HB 2845 (By Menendez), Relating to the ability of state agencies to use the Internet and other resources to obtain more cost-effective travel reservations and tickets for state employees.

To State Affairs.

HB 2846 (By Farabee), Relating to the repeal of the requirement that the State Office of Administrative Hearings conduct hearings in gas utility cases.

To Energy Resources.

HB 2847 (By Farabee), Relating to the repeal of the Texas Aggregate Quarry and Pit Safety Act.

To County Affairs.

HB 2848 (By Farabee), Relating to transferring power and authority over railroads from the Railroad Commission of Texas to the Texas Department of Transportation and renaming the Railroad Commission of Texas as the Texas Energy Commission.

To Government Reform.

HB 2849 (By Denny, Solomons, and Crownover), Relating to possession and consumption of an alcoholic beverage on premises that are licensed or permitted under the Alcoholic Beverage Code and located in certain public facilities.

To Licensing and Administrative Procedures.

HB 2851 (By Wohlgemuth), Relating to products liability.

To Civil Practices.

HB 2852 (By Wohlgemuth), Relating to the appointment of the Department of Protective and Regulatory Services to serve as a temporary or permanent guardian for a ward.

To Human Services.

HB 2853 (By Rodriguez), Relating to additional fees and court costs for the State Commission on Judicial Conduct; imposing a judicial occupation fee.

To Judicial Affairs.

HB 2854 (By Farrar), Relating to the transfer or cancellation of a water right.

To Natural Resources.

HB 2855 (By Farrar), Relating to continuity of care under an evidence of coverage.

To Insurance.

HB 2856 (By Farrar), Relating to certain fees collected by a domestic relations office.

To Juvenile Justice and Family Issues.

HB 2857 (By Farrar), Relating to the confidentiality of certain records of and communications with a domestic relations office.

To Juvenile Justice and Family Issues.

HB 2858 (By Farrar), Relating to certain hearings relating to a person placed on community supervision for violation of a court order in a suit affecting the parent-child relationship.

To Juvenile Justice and Family Issues.

HB 2859 (By Wohlgemuth), Relating to the regulation of obstructions to air navigation.

To Transportation.

HB 2860 (By Morrison), Relating to higher education assistance for the spouses and dependents of certain persons killed during the campaign against terrorism, including homeland defense.

To Higher Education.

HB 2861 (By Morrison), Relating to the accountability of, and reporting by, public institutions of higher education.

To Higher Education.

HB 2862 (By Morrison), Relating to institutions of higher education, including the administration, operation, governance, and financing of those institutions.

To Higher Education.

HB 2863 (By Dunnam), Relating to the functions of the State Office of Administrative Hearings, including hearings functions transferred to the office from the Texas Department of Licensing and Regulation.

To Licensing and Administrative Procedures.

HB 2864 (By Chisum), Relating to the deployment of high-speed telecommunications services.

To Regulated Industries.

HB 2865 (By Swinford), Relating to activities by the holder of a winery permit.

To Licensing and Administrative Procedures.

HB 2866 (By Swinford), Relating to duplicate inspections of licensed day-care centers.

To Human Services.

HB 2867 (By Telford), Relating to the requirement for filing of a conduct surety bond by certain alcoholic beverage license and permit holders.

To Licensing and Administrative Procedures.

HB 2868 (By Telford), Relating to the designation of Caddo Lake, Stream Segment 0401 of the Cypress Creek Basin, and Little Cypress Creek, Stream Segment 0409 of the Cypress Creek Basin, as being of unique ecological value.

To Natural Resources.

HB 2869 (By Alonzo), Relating to regulation of insurers writing professional liability insurance for physicians and health care providers.

To Insurance.

HB 2870 (By Alonzo), Relating to conditions of employment for corrections officers employed by certain municipalities or counties.

To Urban Affairs.

HB 2871 (By Alonzo), Relating to the protection of the rights of Texas voters without regard to race, color, or ethnicity.

To Elections.

HB 2872 (By Alonzo), Relating to conditions of employment for state correctional officers.

To Corrections.

HB 2873 (By Alonzo), Relating to representation of constituents on local governing bodies.

To Urban Affairs.

HB 2874 (By Bonnen and Homer), Relating to the operations, functions, and funding of the Texas Commission on Environmental Quality.

To Environmental Regulation.

HB 2875 (By Bonnen), Relating to the definition of "disposes of" for purposes of criminal penalties imposed under the Water Code.

To Environmental Regulation.

HB 2876 (By Bonnen), Relating to automobile insurance rate regulation.

To Insurance.

HB 2877 (By Bonnen and Homer), Relating to the permitting procedures of the Texas Commission on Environmental Quality.

To Environmental Regulation.

HB 2878 (By Bonnen), Relating to transportation rates between a gas utility or municipally owned utility and a state agency.

To Environmental Regulation.

HB 2879 (By Bonnen), Relating to the exemption from ad valorem taxation of property owned by a political subdivision of this state that is rented or leased for certain purposes.

To Local Government Ways and Means.

HB 2880 (By Driver), Relating to alcoholic beverage industry sponsorship at public entertainment facilities.

To Licensing and Administrative Procedures.

HB 2881 (By Driver), Relating to the offense of killing or injuring an assistance animal.

To Law Enforcement.

HB 2882 (By Branch), Relating to the preservation of historic courthouses.

To State Cultural and Recreational Resources.

HB 2883 (By Van Arsdale), Relating to the creation of an inspection information database for commercial motor vehicles.

To Law Enforcement.

HB 2884 (By Van Arsdale), Relating to the conveyance of certain surface estates located above or over an inactive mineral estate.

To Land and Resource Management.

HB 2885 (By Van Arsdale), Relating to tuition rates for certain undergraduate students at general academic teaching institutions.

To Higher Education.

HB 2886 (By Van Arsdale), Relating to the Bureau of Vital Statistics forms.

To Human Services.

HB 2887 (By Van Arsdale), Relating to the applicability of Chapter 49, Texas Water Code Subchapter I, to certain services to comply with federal and state construction stormwater requirements.

To Natural Resources.

HB 2888 (By R. Cook), Relating to removing exemptions for certain wells and impounded water.

To Natural Resources.

HB 2889 (By R. Cook), Relating to the authority of certain municipalities to issue bonds, notes, or warrants to finance the acquisition, construction, operation, or repair of certain health and recreational facilities.

To Urban Affairs.

HB 2890 (By R. Cook), Relating to allowing groundwater conservation districts to define waste by local rule.

To Natural Resources.

HB 2891 (By Allen), Relating to the operations of the Texas Juvenile Probation Commission.

To Juvenile Justice and Family Issues.

HB 2892 (By Allen), Relating to a person knowingly bartering or expending funds derived from the commission of an offense, providing penalties.

To Corrections.

HB 2893 (By Allen), Relating to the operations of the Commission on Jail Standards.

To Corrections.

HB 2894 (By Allen), Relating to the operation of the Interagency Council on Sex Offender Treatment.

To Corrections.

HB 2895 (By Allen), Relating to the operations of the Texas Youth Commission.

To Corrections.

HB 2896 (By Allen), Relating to the operation of the Board of Pardons and Paroles.

To Corrections.

HB 2897 (By Swinford), Relating to state agency utility savings and capital expenditure reductions.

To Government Reform.

HB 2898 (By Phillips), Relating to the publication of notice in a newspaper by certain governmental entities.

To County Affairs.

HB 2899 (By Phillips), Relating to the authority of the Texas Department of Transportation to contract for the erection and maintenance of logo, major shopping area, and agricultural signs.

To Transportation.

HB 2900 (By Phillips), Relating to the fee charged for a nonresident fishing license.

To State Cultural and Recreational Resources.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 18

HCR 109

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
Wednesday, March 26, 2003

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 418 Nelson
Relating to the regulation and prompt payment of health care providers;
providing penalties.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, March 26, 2003 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 80 Chavez SPONSOR: Shapleigh
Honoring Martelia Garnet Reaves of El Paso on the occasion of her 100th
birthday.

HCR 148 Coleman SPONSOR: Ellis, Rodney

Designating March 26, 2003, as ACT Now! Day at the Capitol.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, March 26, 2003 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 86 Wentworth
Relating to the eligibility of a high school graduate for automatic admission to an institution of higher education.

SB 314 Janek
Relating to the medical transportation program.

SB 333 Zaffirini
Relating to a chemical dependency counselor or counselor intern.

SB 441 Harris
Relating to the transportation by motor vehicle of persons within the boundaries of certain airports; providing criminal penalties.

SB 473 Ellis, Rodney
Relating to assisting consumers to prevent and detect identity theft; providing penalties.

SB 540 Williams
Relating to the authority of the commissioners court of a county to alter speed limits on county roads.

SB 597 Duncan
Relating to the regulation of certain companies that provide for-profit legal service contracts; providing penalties.

SB 660 Ogden
Relating to the penalty for certain speeding offenses.

SB 716 Lindsay
Relating to causeways, bridges, tunnels, turnpikes, and highways in certain counties bordering the Gulf of Mexico and in adjacent counties.

SB 737 Hinojosa
Relating to the exemption of certain military personnel from jury service.

SB 900 Shapiro
Relating to computation and reporting of the ratios of a school district's expenditures and personnel relating to direct student instruction.

SJR 22

Harris

Proposing a constitutional amendment authorizing the legislature to define rates of interest for commercial loans.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

March 25Corrections - **SB 519**Insurance - **HB 928****Public Education - HB 583, HB 673, HB 912, HB 1022, HB 1169, HB 1295**State Affairs - **HB 1075, HB 1083, HB 1171****ENROLLED****March 25 - HCR 109****SENT TO THE GOVERNOR****March 25 - HCR 87**

