

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-EIGHTH DAY — THURSDAY, MAY 26, 2005

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 858).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

The invocation was offered by Albert Haynes, pastor, Bethany Missionary Baptist Church, Dallas, as follows:

Dear Heavenly and Holy Father, we seek your truth and ask for your guidance and strength. Direct us in all our doings that they may be offered to your honor and glory and for the well-being of all people.

Great and glorious God, we pray for these legislators of our state. Motivate them to lift up the downtrodden and lend their voices to those without a voice. May they direct our state with justice, wisdom, and compassion. May they be moved by the desire for service rather than power, integrity rather than rhetoric, and freedom for all rather than privilege for the few.

O merciful source of strength, continue to challenge them with a sense of integrity that will make us proud and whose work will be of benefit to society. Uphold our leaders that we may have the wisdom to understand human frailty and the courage to act to set us back on course.

Sovereign one, grant in your great wisdom that all those whose grave responsibility it is to create and implement public policy would be faithful to the hopes of your people so that all may prosper and live together in peace. Amen.

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

CAPITOL PHYSICIAN

The speaker recognized Representative J. Keffer who presented Dr. Robert Hogue of Brownwood as the "Doctor for the Day."

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

HCR 222 - ADOPTED (by Craddick)

Representative West moved to suspend all necessary rules to take up and consider at this time **HCR 222**.

The motion prevailed.

The following resolution was laid before the house:

HCR 222, Congratulating Francis Vernon Ruble and Aimer Loutency Ruble on their 63rd wedding anniversary.

HCR 222 was read and was adopted.

HR 2094 - ADOPTED (by Hill)

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 2094**.

The motion prevailed.

The following resolution was laid before the house:

HR 2094, Honoring Captain Larry Joe Williams of Garland on his retirement from the Dallas County Sheriff's Office in June 2005.

HR 2094 was read and was adopted.

On motion of Representatives Driver, Jackson, Goolsby, and Harper-Brown, the names of all the members of the house were added to **HR 2094** as signers thereof.

HCR 125 - READ (by Hartnett)

The chair laid out and had read the following previously adopted resolution:

HCR 125, In memory of former State Representative Frederick Joseph Agnich of Dallas.

HCR 125 - MOTION TO ADD NAMES

On motion of Representative Hill, the names of all the members of the house were added to **HCR 125** as signers thereof.

INTRODUCTION OF GUEST

The speaker recognized Representative Hartnett who introduced Brooksie Agnich, wife of the Honorable Joseph Agnich.

LEAVE OF ABSENCE GRANTED

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

Martinez Fischer on motion of Veasey.

**HR 2095 - ADOPTED
(by Campbell)**

Representative Campbell moved to suspend all necessary rules to take up and consider at this time **HR 2095**.

The motion prevailed.

The following resolution was laid before the house:

HR 2095, Congratulating the Angelo State University softball team for winning the 2004 NCAA Division II Softball Championship.

HR 2095 was read and was adopted.

INTRODUCTION OF GUEST

The speaker recognized Representative Campbell who introduced Travis Scott of Angelo State University.

(Edwards in the chair)

**HR 1792 - READ
(by J. Keffer)**

The chair laid out and had read the following previously adopted resolution:

HR 1792, Congratulating Dana Vollmer of Granbury on winning a gold medal at the 2004 Olympic Games in Athens, Greece, as a member of the women's 800-meter freestyle relay team.

HR 1792 - MOTION TO ADD NAMES

On motion of Representative Hopson, the names of all the members of the house were added to **HR 1792** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative J. Keffer who introduced Dana Vollmer and her parents.

HR 1835 - ADOPTED
(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1835**.

The motion prevailed.

The following resolution was laid before the house:

HR 1835, Paying tribute to the accomplishments of Dr. Charles Runnels in his work in Texas and at Pepperdine University in Malibu, California.

HR 1835 was read and was adopted.

On motion of Representative McReynolds, the names of all the members of the house were added to **HR 1835** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Hunter who introduced Dr. Charles Runnels and his wife Amy Jo.

HR 2100 - ADOPTED
(by Hughes, Paxton, Taylor, Phillips, Anderson, et al.)

Representative Hughes moved to suspend all necessary rules to take up and consider at this time **HR 2100**.

The motion prevailed.

The following resolution was laid before the house:

HR 2100, Honoring Dr. Robert B. Sloan, Jr., for his contributions as president of Baylor University.

HR 2100 was read and was adopted.

On motion of Representatives Wong, Phillips, Paxton, and J. Davis, the names of all the members of the house were added to **HR 2100** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representatives Phillips and Hughes who introduced Dr. Robert Sloan, Jr., and his family.

(Speaker in the chair)

RECESS

At 10:54 a.m., the speaker announced that the house would stand recessed until 11 a.m. today.

The speaker called the house to order at 11 a.m.

TRIBUTE IN MEMORY OF FALLEN TEXANS
IN THE GLOBAL WAR ON TERRORISM

In accordance with the provisions of **HR 1884**, providing for a memorial session of the house of representatives at 11 a.m. today, for the purpose of a tribute to fallen soldiers of the Global War on Terrorism, the Honorable Tom Craddick, speaker of the house, called the house of representatives to order.

Speaker Craddick stated that the house was meeting in memorial session pursuant to **HR 1884** in honor of all Texans killed while serving in the Global War on Terrorism and welcomed Governor Rick Perry and Secretary of State Roger Williams.

The house and gallery rose for the posting of the colors.

Speaker Craddick recognized Representative Edwards who led the pledge of allegiance.

Senior Airman Rebecca Packard sang the national anthem.

Speaker Craddick presented Lieutenant Colonel David Moran, chaplain, who offered the invocation.

Speaker Craddick requested the reading clerk to read **HR 1885**, honoring Texans who have died while serving in the Global War on Terrorism and all men and women who have served in the United States armed forces.

HR 1885

WHEREAS, On this day, the Texas House of Representatives pauses to honor those whose patriotism has called them to duty in our nation's armed forces, and we also join together in solemn remembrance of those Texans who have been killed while serving in the Global War on Terrorism; and

WHEREAS, Texas servicemen and servicewomen have long distinguished themselves as individuals of remarkable courage, dedication, and determination, and today we are proud to honor all the men and women from our state who have ever left behind their loved ones and the comfort and security of their homes to heed our country's call to arms; and

WHEREAS, During these difficult times, as U.S. forces continue to prosecute the Global War on Terrorism, we are reminded anew of the tenacious resolve of our military personnel and the immeasurable debt that we owe to those who have given their lives in this country's behalf; to date, the United States Department of Defense has confirmed the deaths of more than 1,500 American men and women who have served in this war, including at least 150 individuals with immediate ties to Texas; and

WHEREAS, Our state and nation are fortunate to have sons and daughters whose love of country leads them to military service, yet the deaths of these heroic Texans is a sobering reminder that armed conflict is not without great and terrible cost; their deaths represent a tremendous loss to their families and friends, the members of their units, and the State of Texas, and their sacrifice in the service of our nation will not soon be forgotten; now, therefore, be it further

RESOLVED, That the House of Representatives of the 79th Texas Legislature hereby pay special tribute to the memory of those Texans who have died while serving in the Global War on Terrorism and honor with gratitude their selfless and steadfast valor; and, be it further

RESOLVED, That the Texas House of Representatives express its heartfelt appreciation to all the brave men and women who have ever served in the United States armed forces.

Secretary Williams introduced Governor Perry who addressed the house as follows:

Thank you, Secretary Williams. Speaker Craddick, members of the legislature, friends and fellow Texans, it is my distinct honor to be with you on this solemn occasion. To my fellow veterans who have kept us safe and made us proud and to the family members who have sacrificed so much for the cause of freedom, I say thank you on behalf of every Texan.

On this day of remembrance, our hearts are torn with sorrow for heroes lost and pride for the way they lived their lives. Though they came from different backgrounds and heritages, from farms and barrios and suburban neighborhoods, they were united by a deep love for this nation and her people and an enduring commitment to protect the freedom that we so cherish no matter the cost. The magnitude of their sacrifice is difficult for any human being to ever fully understand but perhaps it is best captured by the words of John: "Greater love has no one than this that he lay down his life for his friends."

To those here today who have lost a loved one in the War on Terror, I want you to know that the people of this state weep with you and we count each of your tears as precious because they are shed for someone who showed us the greatest love imaginable. And though you will miss them dearly, know that their legacy will live on in the hearts of people who have been liberated, from young girls who can now attend school in Afghanistan to free Iraqis who bear the ink-stained fingers of democracy.

Freedom is a precious commodity purchased at a great price, a price paid by men and women often in the prime of their lives with dreams like every other American with spouses and parents and children who will never again be the same because of the sacrifice they made. The freedom they have died for must always be cherished and honored and freedom's protectors must always be remembered today, tomorrow, and every day the red, white and blue hovers over this great land.

Texas recently laid to rest a hero who answered the call of his nation in a previous century, Sergeant Jose Mendoza Lopez, who single-handedly killed 100 enemy soldiers and saved his company from certain defeat at the Battle of the Bulge. Though the military awarded him the Medal of Honor for his selfless and heroic actions, Sergeant Lopez insisted that he had only done what any other soldier would do. As a soldier, Sergeant Lopez understood the depth of the commitment that every American makes when they put on the uniform, that there is no price they would not pay, no burden they would not bear so that we might be free.

We stand here today to promise that we will always honor the service of every fallen soldier, sailor, airman, marine and coastguardsmen, that we will never forget their lives or their sacrifice and that we will honor their sacrifice the best way we know how, by standing for freedom where it lives and wherever it is thirsted for.

No greater tribute could we give to fallen heroes. Thank you, may God bless you, and may God bless America.

The Service Medley was played.

Representatives Corte, Hupp, Chavez, and McReynolds; and Senators Shapleigh and Van de Putte read the names of the fallen soldiers.

Governor Perry presented flags flown over the Capitol to family members of the fallen soldiers.

The house and gallery observed a moment of silence.

A cannon salute was offered by the Texas Army National Guard Salute Battery.

Taps was played by Sergeant Todd Lester.

Speaker Craddick introduced Chaplain Moran who offered the benediction.

RECESS

At 12:25 p.m., the speaker announced that the house would stand recessed until 1:30 p.m. today.

AFTERNOON SESSION

The house met at 1:30 p.m. and was called to order by the speaker.

LEAVE OF ABSENCE GRANTED

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

Pitts on motion of Keel.

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. 52).

HB 2048 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 2048, A bill to be entitled An Act relating to certain online services and transactions involving state agencies.

Representative Uresti moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2048**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2048**: Uresti, chair; Hupp; J. Davis; M. Noriega; and Gattis.

LEAVE OF ABSENCE GRANTED

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

Kolkhorst on motion of Keel.

(Corte in the chair)

HB 1644 - HOUSE CONCURS IN SENATE AMENDMENTS

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

HB 1644, A bill to be entitled An Act relating to the authority of a water control and improvement district or a municipal utility district to enter into a contract to convey property to another water district or water supply corporation and the authority of a conservation and reclamation district to acquire a certificate of convenience and necessity or to acquire a facility or a right to use a facility.

Representative Callegari moved to concur in the senate amendments to **HB 1644**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.) (The vote was reconsidered later today, and the house again concurred in senate amendments to **HB 1644** by Record No. 886.)

**HB 495 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 495, A bill to be entitled An Act relating to the student enrollment required for the operation of Texas A&M University–Central Texas as an independent general academic teaching institution.

Representative Miller moved to concur in the senate amendments to **HB 495**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 859): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar;

Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Senate Committee Substitute

CSHB 495, A bill to be entitled An Act relating to the student enrollment required for the operation of Texas A&M University–Central Texas as an independent general academic teaching institution.

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

SECTION 1. Section 87.861(d), Education Code, is amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, Texas A&M University–Central Texas may not operate as a general academic teaching institution until the Texas Higher Education Coordinating Board certifies that enrollment at the Tarleton State University System Center–Central Texas in Killeen has reached an enrollment equivalent of:

(1) 1,000 full-time students for one semester if the legislature authorizes revenue bonds to be issued to finance educational and related facilities for the institution, and the bonds are issued for that purpose; or

(2) 2,500 full-time students for one semester if the conditions specified by Subdivision (1) are not satisfied.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 495** (senate committee printing) by striking SECTION 1 in its entirety and replacing with the following new SECTION 1:

SECTION 1. Section 87.861(d), Education Code, is amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, Texas A&M University–Central Texas may not operate as a general academic teaching institution until the Texas Higher Education Coordinating Board certifies that

enrollment at the Tarleton State University System Center—Central Texas in Killeen has reached an enrollment equivalent of 1,000 [~~2,500~~] full-time students for one semester.

(Speaker in the chair)

**HB 914 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 914, A bill to be entitled An Act relating to disclosure of certain business or financial relationships with certain local government officers; providing criminal penalties.

Representative Woolley moved to concur in the senate amendments to **HB 914**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 860): 131 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, J.; Keel; Keffer, B.; King, P.; King, T.; Krusee; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Blake; Chavez; Chisum; Corte; Dutton; Flores; Gattis; Gonzalez Toureilles; Jackson; Keffer, J.; Kuempel; Laney; McClendon; McReynolds.

STATEMENT OF VOTE

When Record No. 860 was taken, my vote failed to register. I would have voted yes.

Kuempel

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

Amend **HB 914** (house engrossed printing), in SECTION 1 of the bill, in added Chapter 176, Local Government Code, by striking Section 176.010 (page 8, lines 17-27, and page 9, lines 1-5) and renumbering Section 176.011 of the chapter accordingly.

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Amend **HB 914** (house engrossed printing), in SECTION 1 of the bill, in added Section 176.003(a)(2)(B), Local Government Code, between "gifts" and "that" (page 3, line 11), by inserting ", other than gifts of food, lodging, transportation, or entertainment accepted as a guest,".

Senate Amendment No. 3 (Senate Floor Amendment No. 1)

Amend **HB 914** (House committee printing) as follows:

(1) In SECTION 1 of the bill, at the end of the heading to proposed Chapter 176, Local Government Code (page 1, line 26), after "OFFICERS", add "; PROVIDING PUBLIC ACCESS TO CERTAIN INFORMATION".

(2) In SECTION 1 of the bill, in proposed Section 176.009, Local Government Code (page 4, line 18), between "INTERNET." and "A local", insert "(a)".

(3) In SECTION 1 of the bill, between proposed Sections 176.009 and 176.010, Local Government Code (page 4, between lines 21 and 22), insert the following:

(b) This subsection applies only to a county with a population of 800,000 or more or a municipality with a population of 500,000 or more. A county or municipality shall provide, on the Internet website maintained by the county or municipality, access to each report of political contributions and expenditures filed under Chapter 254, Election Code, by a member of the commissioners court of the county or the governing body of the municipality in relation to that office as soon as practicable after the officer files the report.

Senate Amendment No. 4 (Senate Floor Amendment No. 3)

Amend **HB 914** (Senate committee printing) in SECTION 1 of the bill, in added Section 176.001(3), Local Government Code (page 1, line 33), between "school district," and "or other political subdivision", by inserting "junior college district".

MESSAGES FROM THE SENATE

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

(B. Cook in the chair)

**HB 1208 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1208, A bill to be entitled An Act relating to a limitation on the use of eminent domain by certain conservation and reclamation districts.

Representative Gattis moved to concur in the senate amendments to **HB 1208**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 861): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Dutton.

Senate Committee Substitute

CSHB 1208, A bill to be entitled An Act relating to a limitation on the use of eminent domain by certain conservation and reclamation districts.

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

SECTION 1. Subchapter D, Chapter 54, Water Code, is amended by adding Section 54.209 to read as follows:

Sec. 54.209. LIMITATION ON USE OF EMINENT DOMAIN. A district may not exercise the power of eminent domain outside the district boundaries to acquire:

(1) a site for a water treatment plant, water storage facility, wastewater treatment plant, or wastewater disposal plant;

(2) a site for a park, swimming pool, or other recreational facility except a trail;

(3) a site for a trail on real property designated as a homestead as defined by Section 41.002, Property Code; or

(4) an exclusive easement through a county regional park.

SECTION 2. Section 4.08, Chapter 1029, Acts of the 76th Legislature, Regular Session, 1999, is amended by adding Subsection (f) to read as follows:

(f) Section 54.209, Water Code, does not apply to the district.

SECTION 3. The change in law made by this Act does not affect an eminent domain action initiated before the effective date of this Act. Such an action is governed by the law in effect when the action was initiated, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

HR 1822 - ADOPTED

(by Merritt, Herrero, M. Noriega, and Hunter)

Representative Merritt moved to suspend all necessary rules to take up and consider at this time **HR 1822**.

The motion prevailed.

The following resolution was laid before the house:

HR 1822, Honoring Lieutenant General Wayne D. Marty on the occasion of his retirement as Texas adjutant general.

HR 1822 was read and was adopted.

On motion of Representative McReynolds, the names of all the members of the house were added to **HR 1822** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representatives Hunter and M. Noriega who introduced Lieutenant General Wayne D. Marty, his wife Janie, and daughter Brandy. General Marty briefly addressed the house.

REMARKS BY REPRESENTATIVE M. NORIEGA

Mr. Speaker, members, ladies and gentlemen, I am pleased to take a minute and talk about part of the Marty team, Mrs. Marty. Military families, like good political families, are team efforts and Janie Marty is a crucial component of the Marty team. It goes without saying that she has been a brave and supportive spouse, as all successful military leaders must have someone "at their back."

Perhaps more importantly to all of us, she has become an expert in family support. Family support is a phrase that the military uses to describe the programs, both formal and informal, that help military families cope with the challenges presented by having a family member away serving our great state and nation. Mrs. Marty has made herself a member of more than 600 e-mail groups that are dedicated to family support functions, something that takes time and heart.

My husband, Lieutenant Colonel Rick Noriega, now serving in Operation Enduring Freedom in Kabul, Afghanistan, asked me to contact the wives of the men serving with him. I asked Mrs. Marty to join us for dinner, and she took the evening and broke bread with us. She was generous with her time and gracious with her concern.

When more and more of our citizens are packing up and leaving their families, their country, their homes, and their lives, Mrs. Marty has been a quiet hero, deserving of recognition, the same as her esteemed and honored husband. It is for these reasons that I am proud to co-author this resolution. Thank you, Mr. Speaker.

HR 1804 - ADOPTED
(by Menendez)

Representative Menendez moved to suspend all necessary rules to take up and consider at this time **HR 1804**.

The motion prevailed.

The following resolution was laid before the house:

HR 1804, Congratulating Brigadier General Charles G. Rodriguez of San Antonio on his appointment as Texas adjutant general.

HR 1804 was read and was adopted.

On motion of Representative Berman, the names of all the members of the house were added to **HR 1804** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Menendez who introduced Brigadier General Charles G. Rodriguez and his wife Cappy.

HR 2056 - READ
(by Goodman and T. Smith)

The chair laid out and had read the following previously adopted resolution:

HR 2056, Honoring U.S. Marine Lance Corporal Clinton Willis Barkley of Bedford for his service to his country.

HR 2056 - MOTION TO ADD NAMES

On motion of Representative Baxter, the names of all the members of the house were added to **HR 2056** as signers thereof.

INTRODUCTION OF GUEST

The chair recognized Representative Goodman who introduced Debby Reeves, mother of Lance Corporal Clinton Barkley.

HR 2113 - ADOPTED
(by Uresti)

Representative Uresti moved to suspend all necessary rules to take up and consider at this time **HR 2113**.

The motion prevailed.

The following resolution was laid before the house:

HR 2113, In memory of U.S. Marine Corps Reserve Sergeant Aaron Nathaniel Cepeda, Sr., of San Antonio.

HR 2113 was read and was unanimously adopted by a rising vote.

On motion of Representative P. King, the names of all the members of the house were added to **HR 2113** as signers thereof.

HR 2114 - ADOPTED
(by Uresti)

Representative Uresti moved to suspend all necessary rules to take up and consider at this time **HR 2114**.

The motion prevailed.

The following resolution was laid before the house:

HR 2114, In memory of Lance Corporal Lance Tanner Graham of San Antonio.

HR 2114 was read and was unanimously adopted by a rising vote.

HB 984 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

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

HB 984, A bill to be entitled An Act relating to the care of elementary and secondary school students with diabetes.

Representative Reyna moved to concur in the senate amendments to **HB 984**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 862): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira;

Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

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

Amend **HB 984** by striking proposed Section 168.009, Health and Safety Code, on page 8, lines 16 through 22 and replacing with the following:

Sec. 168.009. IMMUNITY FROM DISCIPLINARY ACTION OR LIABILITY. (a) A school employee may not be subject to any disciplinary proceeding, as defined by Section 22.0512(b), Education Code, resulting from an action taken in compliance with this subchapter. The requirements of this subchapter are considered to involve the employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Section 22.0511, Education Code. Nothing in the subchapter shall be considered to limit the immunity from liability afforded under Section 22.0511, Education Code.

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Amend **HB 984**, on page 7, line 8, by striking "policy" and replacing with "procedure".

HB 1209 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1209, A bill to be entitled An Act relating to using county election precincts for any election held on the November uniform election date.

Representative Gattis moved to concur in the senate amendments to **HB 1209**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 863): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen;

Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Madden.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Hunter; Talton; Taylor.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1209** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, on page 1, line 22, between "any other election" and "held on", insert the following:

of a political subdivision not located in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million

(2) In SECTION 2 of the bill, on page 1, line 28, between "participating political subdivisions" and "shall use", insert the following:

not located in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million

(3) In SECTION 3 of the bill, on page 1, line 48, between "a political subdivision" and "holds an election", insert the following:

not located in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million

HB 1252 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1252, A bill to be entitled An Act relating to providing services for persons with chronic kidney disease under the medical assistance program.

Representative Guillen moved to concur in the senate amendments to **HB 1252**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1252** (Senate Committee Printing) as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 11 through 12) and substitute "Section 533.009, Government Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:".

(2) In SECTION 1 of the bill, immediately following amended Section 533.009(a), Government Code (page 1, between lines 21 and 22), insert the following:

(f) If a managed care organization implements a special disease management program to manage chronic kidney disease and its medical complications as provided by Subsection (a) and the managed care organization develops a program to provide screening for and diagnosis and treatment of chronic kidney disease and its medical complications to recipients under the organization's managed care plan, the program for screening, diagnosis, and treatment must use generally recognized clinical practice guidelines and laboratory assessments that identify chronic kidney disease on the basis of impaired kidney function or the presence of kidney damage.

(3) In SECTION 3 of the bill, in added Subsection (a), Section 32.069, Human Resources Code (page 1, line 39), strike "(a)".

(4) In SECTION 3 of the bill, strike added Subsections (b) and (c), Section 32.069, Human Resources Code (page 1, line 48, through page 2, line 3).

(5) In SECTION 4 of the bill (page 2, line 8), between "program" and the period, insert "or between the commission and a managed care organization under the medical assistance program, as applicable".

**HB 1690 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1690, A bill to be entitled An Act relating to common nuisance.

Representative Keel moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1690**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1690**: Keel, chair; Hill; Nixon; Hodge; and Rose.

**HB 1830 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1830, A bill to be entitled An Act relating to the notice provided for the establishment of municipal management districts.

Representative Wong moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1830**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1830**: Wong, chair; Talton; Nixon; Vo; and Van Arsdale.

**HB 1855 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1855, A bill to be entitled An Act relating to the deletion of certain electronic records concerning a customer who issues a check; providing a civil penalty.

Representative Giddings moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1855**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1855**: Giddings, chair; Elkins; Bohac; Martinez; and Zedler.

**HB 2337 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2337, A bill to be entitled An Act relating to the use of information provided by an applicant for a driver's license or personal identification certificate in an image verification system.

Representative Corte moved to concur in the senate amendments to **HB 2337**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering their votes are as follows: Herrero and Leibowitz recorded voting no.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1 - 2nd Reading)

Amend **HB 2337** as follows:

(1) In SECTION 2 of the bill, in amended Section 502.1715(b), Transportation Code (Senate committee printing, page 1, line 20), strike "Before August 31, 2007 [~~2005~~], fees" and substitute "Fees [~~Before August 31, 2005, fees~~]".

(2) In SECTION 2 of the bill, in amended Section 502.1715(b), Transportation Code (Senate committee printing, page 1, line 22), strike "The" and substitute "Subject to appropriations, the".

(3) In SECTION 2 of the bill, in amended Section 502.1715(c), Transportation Code (Senate committee printing, page 1, line 37), strike "On or after August 31, 2007 [~~2005~~], fees" and substitute "Fees [~~On or after August 31, 2005~~]".

(4) Add the following SECTION to the bill and renumber subsequent sections accordingly:

SECTION . EFFECT OF ACT. (a) The amendments to Section 502.1715, Transportation Code of this Act prevail over any other Act of the 79th Legislature, Regular Session, 2005, regardless of the relative dates of enactment.

Senate Amendment No. 2 (Senate Floor Amendment No. 1 - 3rd Reading)

Amend **HB 2337** in Section 521.059(c) on page 3, line 8 by inserting the following between "section" and "to":

"only to the extent allowed by Chapter 730, Transportation Code."

Senate Amendment No. 3 (Senate Floor Amendment No. 3 - 3rd Reading)

Amend **HB 2337** (senate committee printing) in Section 4 of the bill, in added Section 521.059, Transportation Code (page 2, between lines 7 and 8) by adding a new Subsection (d) to read as follows:

(d) The department shall provide a statistical report annually to the legislature describing the rate of error presented in the image verification system, including the rate of incorrect matching of facial images, categorized by race. This subsection expires September 1, 2010.

**HB 2382 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2382, A bill to be entitled An Act relating to training requirements for certain chief appraisers of appraisal districts.

Representative Hegar moved to concur in the senate amendments to **HB 2382**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 864): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Gonzales; Gonzalez Toureilles; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric;

Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Flores; Geren; Giddings; Goolsby; Hochberg; Turner.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2382**, SECTION 1, Section 1151.164, Occupations Code (Senate committee printing page 1, lines 46-48) by striking subsection (c) and substituting the following:

(c) The training program implemented by the board under this section must be provided by the board or by a provider approved by the board. The board shall identify no less than two providers before the board may finally approve a provider under this section.

HB 2423 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 2423, A bill to be entitled An Act relating to discrimination by a groundwater conservation district against landowners whose land is enrolled or participating in a federal conservation program.

Representative Puente moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2423**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2423**: Puente, chair; Geren; Hope; T. King; and Hardcastle.

MESSAGE FROM THE SENATE

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

HB 2510 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 2510, A bill to be entitled An Act relating to the regulation of on-site sewage disposal systems and the maintenance of those systems; imposing administrative and criminal penalties.

Representative Bonnen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2510**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2510**: Bonnen, chair; T. King; Crownover; Howard; and Ritter.

**HB 2569 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2569, A bill to be entitled An Act relating to the office of district attorney for the 253rd Judicial District and to the creation of the office of district attorney for the 344th Judicial District.

Representative Ritter moved to concur in the senate amendments to **HB 2569**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2569** (Senate Committee Printing), in SECTION 1 of the bill, by striking amended Section 43.170(b), Government Code (page 1, lines 19 through 28), and substituting the following:

(b) The Commissioners Court [~~commissioners court~~] of Liberty County [~~one or more of the counties comprising the district~~] may supplement the state salary of the district attorney. The supplemental compensation may not exceed \$5,000 a year. [~~The Commissioners Court of Chambers County shall pay 40 percent of any supplemental compensation, and the Commissioners Court of Liberty County shall pay 60 percent.~~] The supplemental compensation must be paid from the officers' salary fund of the county. If the officers' salary fund of a county is not adequate, the commissioners court may transfer the necessary amount from the general fund of the county.

**HB 873 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 873, A bill to be entitled An Act relating to regulation by a property owners' association of certain displays on property in a residential subdivision.

Representative Dukes moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 873**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 873**: Dukes, chair; Giddings; Zedler; Elkins; and Solomons.

**HB 2604 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2604, A bill to be entitled An Act relating to preferences for veterans in state-funded job training or employment assistance programs and services.

Representative Guillen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2604**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2604**: Guillen, chair; Peña; Corte; Berman; and Hughes.

**HB 2680 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2680, A bill to be entitled An Act relating to services provided by health care practitioners to charities and medically underserved areas and liability insurance for those practitioners.

Representative Branch moved to concur in the senate amendments to **HB 2680**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 865): 140 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison;

Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Cook, B.(C); Riddle.

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Allen, R.; Callegari; Goolsby.

Senate Committee Substitute

CSHB 2680, A bill to be entitled An Act relating to services provided by health care practitioners to charities and liability insurance for those practitioners.

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

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 112 to read as follows:

CHAPTER 112. GENERAL LICENSING REQUIREMENTS APPLICABLE
TO MULTIPLE HEALTH CARE PRACTITIONERS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITIONS. In this chapter:

(1) "Health care practitioner" means an individual issued a license, certificate, registration, title, permit, or other authorization to engage in a health care profession.

(2) "Licensing entity" means a department, commission, board, office, authority, or other agency of the state that regulates activities and persons under this title.

Sec. 112.002. APPLICABILITY. This chapter applies only to licensing entities and health care practitioners under Chapters 401, 453, and 454 and Subtitles B, C, D, E, F, and K.

[Sections 112.003-112.050 reserved for expansion]

SUBCHAPTER B. SERVICES PROVIDED TO CHARITIES

Sec. 112.051. REDUCED LICENSE REQUIREMENTS FOR RETIRED HEALTH CARE PRACTITIONERS PERFORMING CHARITY WORK. (a) Each licensing entity shall adopt rules providing for reduced fees and continuing education requirements for a retired health care practitioner whose only practice is voluntary charity care.

(b) The licensing entity by rule shall define voluntary charity care.

SECTION 2. Article 21.49-3, Insurance Code, is amended by adding Section 3C to read as follows:

Sec. 3C. COVERAGE FOR VOLUNTEER HEALTH CARE PROVIDERS. (a) In this section:

(1) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(2) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(b) The association shall make available medical liability insurance or appropriate health care liability insurance covering a volunteer health care provider for the legal liability of the person against any loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of

negligence in rendering or the failure to render professional service while acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code.

(c) A volunteer health care provider who is serving as a direct service volunteer of a charitable organization is eligible to obtain from the association the liability insurance made available under this section. A volunteer health care provider who obtains coverage under this section is subject to Section 4A of this article and the other provisions of this article in the same manner as physicians who are eligible to obtain medical liability insurance from the association.

(d) This section does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this section.

SECTION 3. Subsection (a), Article 21.49-4, Insurance Code, is amended by adding Subdivisions (4) and (5) to read as follows:

(4) "Charitable organization" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

(5) "Volunteer health care provider" has the meaning assigned by Section 84.003, Civil Practice and Remedies Code.

SECTION 4. Article 21.49-4, Insurance Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The trust, in accordance with Subsection (c) of this article, may make available professional liability insurance covering a volunteer health care provider for an act or omission resulting in death, damage, or injury to a patient while the person is acting in the course and scope of the person's duties as a volunteer health care provider as described by Chapter 84, Civil Practice and Remedies Code. This subsection does not affect the liability of a volunteer health care provider who is serving as a direct service volunteer of a charitable organization. Section 84.004(c), Civil Practice and Remedies Code, applies to the volunteer health care provider without regard to whether the volunteer health care provider obtains liability insurance under this subsection. The trust may make professional liability insurance available under this subsection to a volunteer health care provider without regard to whether the volunteer health care provider is a physician or dentist.

SECTION 5. The joint underwriting association established under Article 21.49-3, Insurance Code, is not required to make liability insurance available in accordance with Section 3C, Article 21.49-3, Insurance Code, as added by this Act, before the 181st day after the effective date of this Act.

SECTION 6. This Act applies only to a professional liability insurance policy that is delivered, issued for delivery, or renewed on or after the 181st day after the effective date of this Act. A policy delivered, issued for delivery, or renewed before the 181st day after the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

**HB 126 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 126, A bill to be entitled An Act relating to the penalty for tampering with a governmental record establishing residency for enrollment in a public school and to residency requirements for public school enrollment.

Representative Berman moved to concur in the senate amendments to **HB 126**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 866): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Coleman; Denny; Miller; Woolley.

Senate Committee Substitute

CSHB 126, A bill entitled to be An Act relating to the penalty for tampering with a governmental record establishing residency for enrollment in a public school.

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

SECTION 1. Section 37.10(c), Penal Code, is amended to read as follows:

(c)(1) Except as provided by Subdivisions [~~Subdivision~~] (2) and (3) and by Subsection (d), an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony.

(2) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the governmental record was a public school record, report, or assessment instrument required under Chapter 39, Education

Code, or was a license, certificate, permit, seal, title, letter of patent, or similar document issued by government, by another state, or by the United States, unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the second degree.

(3) An offense under this section is a Class C misdemeanor if it is shown on the trial of the offense that the governmental record is a governmental record that is required for enrollment of a student in a school district and was used by the actor to establish the residency of the student.

SECTION 2. Section 37.10(c), Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

HB 160 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 160, A bill to be entitled An Act relating to motor vehicles equipped with recording devices.

Representative McCall moved to concur in the senate amendments to **HB 160**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 867): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kruse; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Bonnen; Chavez; Smith, T.

STATEMENTS OF VOTE

When Record No. 867 was taken, I was temporarily out of the house chamber. I would have voted yes.

Bonnen

When Record No. 867 was taken, I was in the house but away from my desk. I would have voted yes.

Chavez

When Record No. 867 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

Senate Committee Substitute

CSHB 160, A bill to be entitled An Act relating to motor vehicles equipped with recording devices.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subchapter K, Chapter 547, Transportation Code, is amended by adding Section 547.615 to read as follows:

Sec. 547.615. RECORDING DEVICES. (a) In this section:

(1) "Owner" means a person who:

(A) has all the incidents of ownership of a motor vehicle, including legal title, regardless of whether the person lends, rents, or creates a security interest in the vehicle;

(B) is entitled to possession of a motor vehicle as a purchaser under a security agreement; or

(C) is entitled to possession of a motor vehicle as a lessee under a written lease agreement if the agreement is for a period of not less than three months.

(2) "Recording device" means a feature that is installed by the manufacturer in a motor vehicle and that does any of the following for the purpose of retrieving information from the vehicle after an accident in which the vehicle has been involved:

(A) records the speed and direction the vehicle is traveling;

(B) records vehicle location data;

(C) records steering performance;

(D) records brake performance, including information on whether brakes were applied before an accident;

(E) records the driver's safety belt status; or

(F) transmits information concerning the accident to a central communications system when the accident occurs.

(b) A manufacturer of a new motor vehicle that is sold or leased in this state and that is equipped with a recording device shall disclose that fact in the owner's manual of the vehicle.

(c) Information recorded or transmitted by a recording device may not be retrieved by a person other than the owner of the motor vehicle in which the recording device is installed except:

- (1) on court order;
- (2) with the consent of the owner for any purpose, including for the purpose of diagnosing, servicing, or repairing the motor vehicle;
- (3) for the purpose of improving motor vehicle safety, including for medical research on the human body's reaction to motor vehicle accidents, if the identity of the owner or driver of the vehicle is not disclosed in connection with the retrieved information; or
- (4) for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle accident.
- (d) For information recorded or transmitted by a recording device described by Subsection (a)(2)(B), a court order may be obtained only after a showing that:
 - (1) retrieval of the information is necessary to protect the public safety; or
 - (2) the information is evidence of an offense or constitutes evidence that a particular person committed an offense.
- (e) For the purposes of Subsection (c)(3):
 - (1) disclosure of a motor vehicle's vehicle identification number with the last six digits deleted or redacted is not disclosure of the identity of the owner or driver; and
 - (2) retrieved information may be disclosed only:
 - (A) for the purposes of motor vehicle safety and medical research communities to advance the purposes described in Subsection (c)(3); or
 - (B) to a data processor solely for the purposes described in Subsection (c)(3).
- (f) If a recording device is used as part of a subscription service, the subscription service agreement must disclose that the device may record or transmit information as described by Subsection (a)(2). Subsection (c) does not apply to a subscription service under this subsection.

SECTION 2. This Act takes effect September 1, 2006.

**HB 265 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative W. Smith called up with senate amendments for consideration at this time,

HB 265, A bill to be entitled An Act relating to the time for processing a municipal building permit.

Representative W. Smith moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 265**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 265**: W. Smith, chair; Pickett; Howard; West; and McReynolds.

**HB 308 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 308, A bill to be entitled An Act relating to discipline in public schools and the assignment of certain public school students involved in a sexual assault.

Representative Hope moved to concur in the senate amendments to **HB 308**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 868): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Bonnen; Davis, J.; Edwards; Turner.

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

Amend **HB 308** (Engrossed Version) by striking SECTION 1 and SECTION 4 of the bill and renumbering remaining sections appropriately.

HB 129 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 129, A bill to be entitled An Act relating to the authority to require a convicted person to perform manual labor for a nonprofit organization.

Representative Berman moved to concur in the senate amendments to **HB 129**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 869): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.;

Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Senate Committee Substitute

CSHB 129, A bill to be entitled An Act relating to the authority to require a convicted person to perform manual labor for a nonprofit organization or a cemetery maintained by the county.

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

SECTION 1. Article 43.10, Code of Criminal Procedure, is amended to read as follows:

Art. 43.10. MANUAL LABOR. Where the punishment assessed in a conviction for misdemeanor is confinement in jail for more than one day, or where in such conviction the punishment is assessed only at a pecuniary fine and the party so convicted is unable to pay the fine and costs adjudged against him, or where the party is sentenced to jail for a felony or is confined in jail after conviction of a felony, the party convicted shall be required to work in the county jail industries program or shall be required to do manual labor in accordance with the provisions of this article under the following rules and regulations:

1. Each commissioners court may provide for the erection of a workhouse and the establishment of a county farm in connection therewith for the purpose of utilizing the labor of said parties so convicted;

2. Such farms and workhouses shall be under the control and management of the sheriff, and the sheriff may adopt such rules and regulations not inconsistent with the rules and regulations of the Commission on Jail Standards and with the laws as the sheriff deems necessary;

3. Such overseers and guards may be employed by the sheriff under the authority of the commissioners court as may be necessary to prevent escapes and to enforce such labor, and they shall be paid out of the county treasury such compensation as the commissioners court may prescribe;

4. They shall be put to labor upon public works and maintenance projects, including public works and maintenance projects for a political subdivision located in whole or in part in the county. They may be put to labor upon maintenance projects for a cemetery that the commissioners court uses public funds, county employees, or county equipment to maintain under Section

713.028, Health and Safety Code. They may also be put to labor providing maintenance and related services to a nonprofit organization that qualifies for a tax exemption under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code, and is organized as a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), provided that, at the sheriff's request, the commissioners court determines that the nonprofit organization provides a public service to the county or to a political subdivision located in whole or in part in the county;

5. One who from age, disease, or other physical or mental disability is unable to do manual labor shall not be required to work. His inability to do manual labor may be determined by a physician appointed for that purpose by the county judge or the commissioners court, who shall be paid for such service such compensation as said court may allow; and

6. For each day of manual labor, in addition to any other credits allowed by law, a defendant is entitled to have one day deducted from each sentence he is serving. The deduction authorized by this article, when combined with the deduction required by Article 42.10 of this code, may not exceed two-thirds (2/3) of the sentence.

SECTION 2. Sections 713.028(a) and (c), Health and Safety Code, are amended to read as follows:

(a) For purposes of historical preservation or public health, safety, or welfare, a commissioners court may use public funds, county employees, county inmate labor as provided by Article 43.10, Code of Criminal Procedure, and county equipment to maintain a cemetery that has a grave marker more than 50 years old.

(c) At the discretion of the commissioners court, a county may permit the use of public funds, county employees, county inmate labor as provided by Article 43.10, Code of Criminal Procedure, and county equipment to open and close graves in a cemetery described by Subsection (a). ~~Maintenance of a cemetery under Subsection (a) includes any activity necessary for the continued operation of the cemetery, including the opening and closing of graves. This subsection applies only to a county with a population of 40,000 or less.]~~

SECTION 3. The change in law made by Section 1 of this Act applies to a person who is convicted of an offense with respect to which Article 43.10, Code of Criminal Procedure, applies, regardless of whether the conviction occurs before, on, or after the effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

HB 629 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 629, A bill to be entitled An Act relating to notice required for a mechanic's, contractor's, or materialman's lien in certain circumstances.

Representative Solomons moved to concur in the senate amendments to **HB 629**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 629, A bill to be entitled An Act relating to notice required for a mechanic's, contractor's, or materialman's lien in certain circumstances.

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

SECTION 1. Section 53.103, Property Code, is amended to read as follows:

Sec. 53.103. LIEN ON RETAINED FUNDS. A claimant has a lien on the retained funds if the claimant:

(1) sends the notices required by this chapter in the time and manner required; and

(2) files an affidavit claiming a lien not later than the 30th day after the earlier of the date:

(A) the work is completed;

(B) the original contract is terminated; or

(C) the original contractor abandons performance under the original contract.

SECTION 2. Subchapter E, Chapter 53, Property Code, is amended by adding Section 53.107 to read as follows:

Sec. 53.107. NOTICE RELATING TO TERMINATION OF WORK OR ABANDONMENT OF PERFORMANCE BY ORIGINAL CONTRACTOR OR OWNER. (a) Not later than the 10th day after the date an original contract is terminated or the original contractor abandons performance under the original contract, the owner shall give notice to each subcontractor who, before the date of termination or abandonment, has:

(1) given notice to the owner as provided by Section 53.056, 53.057, or 53.058; or

(2) sent to the owner by certified or registered mail a written request for notice of termination or abandonment.

(b) The notice must contain:

(1) the name and address of the owner;

(2) the name and address of the original contractor;

(3) a description, legally sufficient for identification, of the real property on which the improvements are located;

(4) a general description of the improvements agreed to be furnished under the original contract;

(5) a statement that the original contract has been terminated or that performance under the contract has been abandoned;

(6) the date of the termination or abandonment; and

(7) a conspicuous statement that a claimant may not have a lien on the retained funds unless the claimant files an affidavit claiming a lien not later than the 30th day after the date of the termination or abandonment.

(c) A notice sent in compliance with this section on or before the 10th day after the date of termination or abandonment is prima facie evidence of the date the original contract was terminated or work was abandoned for purposes of this subchapter.

(d) A subcontractor who fails to file a lien affidavit in the time prescribed by Section 53.103(2) has a lien to the extent authorized under this subchapter if:

(1) the subcontractor otherwise complies with this chapter; and
(2) the owner did not provide the subcontractor notice as required by this section.

(e) This section does not apply to a residential construction project.

SECTION 3. This Act applies only to a subcontractor who claims a lien as provided by Subchapter E, Chapter 53, Property Code, as amended by this Act, if that claim arises under an original contract entered into on or after the effective date of this Act. A claim that arises under a contract entered into before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2005.

HB 754 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 754, A bill to be entitled An Act relating to transportation of loose materials.

Representative Gattis moved to concur in the senate amendments to **HB 754**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 754, A bill to be entitled An Act relating to transportation of loose materials.

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

SECTION 1. Sections 725.003(a) and (c), Transportation Code, are amended to read as follows:

(a) A person or the person's agent or employee may not ~~[load or]~~ transport loose material, aggregates, or refuse in violation of this chapter.

(c) An offense under this section is a misdemeanor punishable by a fine of ~~[-~~ [~~(1)~~ not less than \$25 or more than ~~[\$200 for a first conviction; and~~] ~~(2) not less than \$200 or more than~~ \$500 ~~[for a second or subsequent conviction].~~

SECTION 2. Section 725.021, Transportation Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) Except as provided by Subsection (e), the [The] load shall be covered and the covering firmly secured at the front and back, unless the load:

(1) is completely enclosed by the load-carrying compartment; or

(2) does not blow or spill over the top of the load-carrying compartment.

(e) If the vehicle is a commercial motor vehicle transporting aggregates, as defined by Section 133.003, Natural Resources Code, or refuse, the load shall be covered and the covering firmly secured at the front and back or shall be completely enclosed by the load-carrying compartment. For purposes of this section, "commercial motor vehicle" means a motor vehicle, trailer, or semitrailer used primarily in the business of transporting property.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2005.

HB 840 - HOUSE CONCURS IN SENATE AMENDMENTS

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

HB 840, A bill to be entitled An Act relating to the forfeiture of contraband used to facilitate or intended to be used to facilitate the commission of certain criminal offenses.

Representative Riddle moved to concur in the senate amendments to **HB 840**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.) (The vote was reconsidered later today, and the house concurred in senate amendments to **HB 840** on May 27.)

HB 1567 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1567, A bill to be entitled An Act relating to the transition to competition of certain electric utilities outside of ERCOT.

Representative Ritter moved to concur in the senate amendments to **HB 1567**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 870): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Jones; Hope; Hopson; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo;

Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Bohac; Howard; Smith, W.

Senate Committee Substitute

CSHB 1567, A bill to be entitled An Act relating to the transition to competition of certain electric utilities outside of ERCOT.

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

SECTION 1. Chapter 39, Utilities Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. TRANSITION TO COMPETITION IN CERTAIN NON-ERCOT AREAS

Sec. 39.451. APPLICABILITY. This subchapter applies only to an investor-owned electric utility that is operating solely outside of ERCOT in areas of this state that were included in the Southeastern Electric Reliability Council on January 1, 2005.

Sec. 39.452. REGULATION OF UTILITY AND TRANSITION TO COMPETITION. (a) Until the date on which an electric utility subject to this subchapter is authorized by the commission to implement customer choice under Section 39.453, the rates of the electric utility shall be regulated under traditional cost-of-service regulation and the electric utility is subject to all applicable regulatory authority prescribed by this subtitle and Subtitle A, including Chapters 14, 32, 33, 36, and 37.

(b) Notwithstanding Subsection (a), except for adjustments authorized by Sections 36.203, 39.454, 39.455, and 39.456, a person may not file a proceeding to change, alter, or revoke any rate offered or charged by an electric utility subject to this subchapter before June 30, 2007, with an effective date no earlier than June 30, 2008. As part of a Subchapter C, Chapter 36, rate proceeding, the utility shall propose a competitive generation tariff to allow eligible customers the ability to contract for competitive generation. The commission shall approve, reject, or modify the proposed tariff. The tariffs subject to this subsection may not be considered to offer a discounted rate or rates under Section 36.007, and the utility's rates shall be set, in the proceeding in which the tariff is adopted, to recover any costs unrecovered as a result of the implementation of the tariff.

(c) That portion of any commission order issued before the effective date of this section requiring the electric utility to comply with a provision of this chapter is void.

(d) Until the date on which an electric utility subject to this subchapter implements customer choice:

(1) the provisions of this chapter do not apply to that electric utility, other than this subchapter, Sections 39.904 and 39.905, and the provisions relating to the duty to obtain a permit from the Texas Commission on Environmental Quality for an electric generating facility and to reduce emissions from an electric generating facility; and

(2) the electric utility is not subject to a rate freeze and, subject to the limitation provided by Subsection (b), may file for rate changes under Chapter 36 and for approval of one or more of the rate rider mechanisms authorized by Sections 39.454 and 39.455.

(e) An electric utility subject to this subchapter may proceed with and complete jurisdictional separation to establish two vertically integrated utilities, one of which is solely subject to the retail jurisdiction of the commission and one of which is solely subject to the retail jurisdiction of the Louisiana Public Service Commission.

(f) Not later than January 1, 2006, an electric utility subject to this subchapter shall file a plan with the commission for identifying the applicable power region or power regions, enumerating the steps to achieve the certification of a power region in accordance with Section 39.453, and specifying the schedule for achieving the certification of a power region. The utility may amend the plan as appropriate. The commission may, on its own motion or the motion of any affected person, initiate a proceeding to certify a qualified power region under Section 39.152 when the conditions supporting such a proceeding exist.

(g) Not later than the earlier of January 1, 2007, or the 90th day after the date the applicable power region is certified in accordance with Section 39.453, the electric utility shall file a transition to competition plan. The transition to competition plan must:

(1) identify how the electric utility intends to mitigate market power and to achieve full customer choice, including specific alternatives for constructing additional transmission facilities, auctioning rights to generation capacity, divesting generation capacity, or any other measure that is consistent with the public interest;

(2) include a provision to reinstate a customer choice pilot project and to establish a price to beat for residential customers and commercial customers having a peak load of 1,000 kilowatts or less; and

(3) include any other additional information or provisions that the commission may require.

(h) The commission shall approve, modify, or reject a plan filed under Subsection (g) not later than the 180th day after the date the plan is filed unless a hearing is requested by any party to the proceeding. A modification to the plan by the commission may not be in conflict with the jurisdiction or orders of the Federal Energy Regulatory Commission or result in significant additional cost without allowing for timely recovery for that cost. If a hearing is requested, the 180-day deadline is extended one day for each day of the hearing. The transition to competition plan shall be updated or amended annually, subject to commission approval, until the initiation of customer choice by an electric utility subject to this subchapter. Consistent with its jurisdiction, the commission shall have the authority in approving or modifying the transition to competition plan to require the electric utility to take reasonable steps to facilitate the development of a wholesale generation market within the boundaries of the electric utility's service territory.

Sec. 39.453. CUSTOMER CHOICE AND RELEVANT MARKET AND RELATED MATTERS. (a) The commission may not authorize customer choice until the commission certifies the applicable power region as a qualifying power region under Section 39.152(a). Sections 39.152(b)-(d) also apply to the electric utility and commission in determining whether to certify the applicable power region.

(b) The commission shall certify that the requirement of Section 39.152(a)(3) is met for an electric utility subject to this subchapter only if the commission finds that the total capacity owned and controlled by the electric utility and the utility's affiliates does not exceed 20 percent of the total installed generation capacity within the power region of that utility.

Sec. 39.454. RECOUPMENT OF TRANSITION TO COMPETITION COSTS. An electric utility subject to this subchapter is entitled to recover, as provided by this section, all reasonable and necessary expenditures made or incurred before the effective date of this section to comply with this chapter, to the extent the costs have not otherwise been recovered. The electric utility may file with the commission an application for recovery that gives details of the amounts spent or incurred. After notice and hearing, the commission shall review the amounts and, if the amounts are found to be reasonable and necessary and not otherwise previously recovered, approve a transition to competition retail rate rider mechanism for the recovery of the approved transition to competition costs. A rate proceeding under Chapter 36 is not required to implement the rider. A rate rider implemented to recover approved transition to competition costs shall provide for recovery of those costs over a period not to exceed 15 years, with appropriate carrying costs.

Sec. 39.455. RECOVERY OF INCREMENTAL CAPACITY COSTS. An electric utility subject to this subchapter is entitled to recover, through a rate rider mechanism, reasonable and necessary costs of incremental resources required to meet load requirements to the extent those costs result in the utility expending more for capacity costs under purchase power agreements than were included in the utility's last base rate case, adjusted for load growth. Any rider under this section shall be implemented after review and approval by the commission, after notice and opportunity for hearing. Following the initial implementation of the rider, an electric utility subject to this subchapter may request revisions semiannually, after notice and opportunity for hearing, on the dates provided in the commission's rules for filing petitions to revise the utility's fuel factor. In conjunction with the utility's fuel reconciliation proceedings, the commission shall reconcile the costs recovered under the rider and the actual incremental capacity costs eligible for recovery under this section. The rider shall expire on the introduction of customer choice or on the implementation of rates resulting from the filing of a Subchapter C, Chapter 36, rate proceeding. In no event may the amount recovered annually under the rider exceed five percent of the utility's annual base rate revenues.

Sec. 39.456. FRANCHISE AGREEMENTS. A municipality, with the agreement of an electric utility, may accelerate the expiration date of a franchise agreement that was in existence on September 1, 1999. Any new franchise agreement must be approved by the governing body of the municipality. To the extent that a new franchise agreement would result in an increase in the payment of franchise fees to the municipality, and subject to the terms of the franchise agreement, either the electric utility or the municipality, without the need for a rate proceeding under Chapter 36, may file with the commission for approval of a rider for the electric utility's recovery of franchise payments resulting from the agreement, so long as such rider is collected only from customers of the electric utility that are located within the boundaries of the municipality.

Sec. 39.457. CONTRACTUAL RIGHTS. In the event that the electric utility subject to this subchapter either merges, consolidates, or otherwise becomes affiliated with another owner of electric generation, or completes the

jurisdictional separation authorized by Section 39.452(e) and the resulting vertically integrated utility proposes to join a regional transmission organization, and either action adversely affects the rights or obligations of an electric cooperative under a wholesale generation or transmission agreement entered into before the effective date of this subchapter or otherwise adversely affects the electric cooperative's access to its existing generation resources under said agreements, then the utility shall submit a proposal agreeable to the cooperative and the utility for addressing such rights and obligations in the appropriate regulatory proceeding. Such proposal shall be consistent with applicable law regarding the rights and obligations of the electric cooperative and the utility under such existing generation or transmission agreements.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

HB 1588 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1588. A bill to be entitled An Act relating to the qualifications and removal of and continuing education requirements for a constable.

Representative Driver moved to concur in the senate amendments to **HB 1588.**

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 871): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Edwards; Flores; Jones, J.; McClendon; Moreno, P.; Wong.

Senate Committee Substitute

CSHB 1588, A bill to be entitled An Act relating to the qualifications and removal of and continuing education requirements for a constable.

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

SECTION 1. Section 86.0021(a), Local Government Code, is amended to read as follows:

(a) A person is not eligible to serve as constable unless:

(1) the person is eligible to be licensed under Sections 1701.309 and 1701.312, Occupations Code, and:

(A) ~~[(4)]~~ has at least an associate's degree conferred by an institution of higher education accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board ~~[a high school diploma or a high school equivalency certificate]; and]~~

(B) is a special investigator under Article 2.122(a), Code of Criminal Procedure; or

(C) is an honorably retired peace officer or honorably retired federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code; or

(2) the person is an active or inactive licensed peace officer under Chapter 1701 ~~[eligible to be licensed under Sections 1701.309 and 1701.312], Occupations Code.~~

SECTION 2. Subchapter H, Chapter 1701, Occupations Code, is amended by adding Section 1701.3545 to read as follows:

Sec. 1701.3545. INITIAL TRAINING AND CONTINUING EDUCATION FOR CONSTABLES. (a) A public institution of higher education selected by the commission shall establish and offer a program of initial training and a program of continuing education for constables. The curriculum for each program must relate to law enforcement management and civil process issues. The institution selected under this subsection shall develop the curriculum for the programs. The curriculum must be approved by the commission.

(b) Each constable must complete at least 40 hours of continuing education provided by the selected institution under this section each 48-month period.

(c) An individual appointed or elected to that individual's first position as constable must complete at least 40 hours of initial training for new constables in accordance with Subsections (d) and (e).

(d) A newly appointed or elected constable shall complete the initial training program for new constables not later than the second anniversary of that individual's appointment or election as constable. The initial training program for new constables is in addition to the initial training required by this chapter. The first 48-month period under Subsection (b) begins, for an individual who completes the initial training program for new constables under this section, on the first anniversary of the date the individual completed the initial training program.

(e) The institution selected under Subsection (a) by rule may provide for the waiver of:

(1) all or part of the required 40 hours of initial training for new constables to the extent the new constable has satisfactorily completed equivalent training during the 24 months preceding the individual's appointment or election;
or

(2) the continuing education requirements of Subsection (b) for an individual who has satisfactorily completed equivalent continuing education during the preceding 24 months.

(f) An individual who is subject to the continuing education requirements of Subsection (b) is exempt from other continuing education requirements under this subchapter.

(g) The commission shall establish procedures to annually determine the status of the peace officer license of each elected constable and to ensure that constables comply with this section. The commission shall forward to the attorney general's office documentation for each constable who does not comply with this section. A constable who does not comply with this section forfeits the office and the attorney general shall institute a quo warranto proceeding under Chapter 66, Civil Practice and Remedies Code, to remove the constable from office.

(h) To the extent of a conflict between this section and any other law, this section controls.

SECTION 3. Section 1701.354, Occupations Code, is amended to read as follows:

Sec. 1701.354. CONTINUING EDUCATION FOR [~~CONSTABLES AND~~] DEPUTY CONSTABLES. (a) If the commission requires a state, county, special district, or municipal agency that employs a [~~constable or~~] deputy constable to provide the [~~constable or~~] deputy constable with a training program under Section 1701.352, the commission shall require the [~~constable or~~] deputy constable to attend at least 20 hours of instruction in civil process.

(b) The commission shall adopt rules and procedures concerning a civil process course, including rules providing for:

- (1) approval of course content and standards; and
- (2) issuance of course credit.

(c) [~~For the purposes of removal of a constable under Subchapter B, Chapter 87, Local Government Code, a constable is considered to be incompetent if the constable fails to complete the hours of instruction required by this section.~~

[~~(d)~~] The commission may waive the requirement that a [~~constable or~~] deputy constable complete the instruction required by this section if:

- (1) the [~~constable or~~] deputy constable requests a waiver because of hardship; and
- (2) the commission determines that a hardship exists.

SECTION 4. (a) Not later than January 1, 2006, the public institution of higher education selected by the Commission on Law Enforcement Officer Standards and Education under Section 1701.3545, Occupations Code, as added by this Act, shall establish the initial training and education programs required by that section.

(b) Section 1701.3545(c), Occupations Code, as added by this Act, requiring newly appointed or elected constables to complete at least 40 hours of initial training, applies only to an individual newly appointed or elected as constable who takes office on or after January 1, 2006.

SECTION 5. The changes in law made by this Act to Section 86.0021, Local Government Code, do not apply to a constable serving a term that began before the effective date of this Act. A constable serving a term that began before the effective date of this Act is governed for the remainder of that term by the applicable law that existed immediately before the effective date of this Act, and the prior law is continued in effect for that purpose.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

**HB 1622 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1622, A bill to be entitled An Act relating to the creation of a county court at law in Hill County.

Representative Pickett moved to concur in the senate amendments to **HB 1622**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 1622, A bill to be entitled An Act relating to the creation of a county court at law in Hill County.

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

SECTION 1. Subchapter C, Chapter 25, Government Code, is amended by adding Sections 25.1111 and 25.1112 to read as follows:

Sec. 25.1111. HILL COUNTY. Hill County has one statutory county court, the County Court at Law of Hill County.

Sec. 25.1112. HILL COUNTY COURT AT LAW PROVISIONS. (a) In addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law in Hill County has concurrent jurisdiction with the district court in felony cases and family law cases and proceedings. A county court at law does not have jurisdiction of felony cases involving capital murder.

(b) A county court at law in Hill County has the same terms of court as the 66th District Court.

(c) The judge of a county court at law may not engage in the private practice of law and must meet the qualifications established by Section 25.0014.

(d) The judge of a county court at law shall be paid as provided by Section 25.0005. The judge's salary shall be paid out of the county treasury on order of the commissioners court. The judge is entitled to necessary office and operational expenses, including administrative and clerical personnel, in the same manner as the county judge.

(e) The district clerk serves as the clerk of a county court at law for all criminal and civil matters except that the county clerk serves as the clerk of the county court at law in uncontested probate and guardianship matters. The county clerk shall transfer to the district clerk any contested probate and guardianship matters filed with the county clerk.

(f) The commissioners court may employ the assistant district attorneys, assistant county attorneys, assistant clerks, deputy sheriffs, and bailiffs necessary to serve the county court at law.

(g) Notwithstanding Section 74.0911, the judge of the 66th District Court shall act as presiding judge between the district and county court at law and may assign to the county court at law original or appellate cases that are within the jurisdiction of the county court at law. The assignment shall be made by docket notation.

(h) In matters of concurrent jurisdiction, the judge of a county court at law and the judge of the 66th District Court may exchange benches, transfer cases, assign each other to hear cases in accordance with orders signed and approved by the judges involved, and otherwise manage their respective dockets under local administrative rules.

(i) The official court reporter of a county court at law is entitled to the compensation set by the commissioners court on order of the judge of the court in an amount not to exceed 90 percent of the compensation paid to the court reporter of a district court in Hill County.

(j) If a family law case or proceeding is tried before a jury, the jury shall be composed of 12 members. In all other cases, except as otherwise required by law, the jury shall be composed of six members.

(k) Jurors regularly impaneled for a week by the district court may, on request of the county judge or the judge of a county court at law, be made available and shall serve for the week in the county court or the county court at law.

SECTION 2. Section 24.168(b), Government Code, is amended to read as follows:

(b) In addition to other jurisdiction provided by law, the 66th District Court has concurrent jurisdiction with the County Court of Hill County and the statutory county courts in Hill County in all civil and criminal matters over which the county court and the statutory county courts would have original or appellate jurisdiction. The district court has control over the assignment of cases as prescribed by Sections 25.1112 and ~~[Section]~~ 26.209.

SECTION 3. Section 26.209(c), Government Code, is amended to read as follows:

(c) The judge of the 66th District Court shall act as presiding judge between the district and county courts and may assign to the county court original or appellate cases that are within the county court's jurisdiction and assign to a county court at law cases that are within the jurisdiction of the county court at law. The assignment shall be made by docket notation.

SECTION 4. Section 152.1151(a), Human Resources Code, is amended to read as follows:

(a) The juvenile board of Hill County is composed of the county judge, the statutory county court judges, and the district judges in Hill County.

SECTION 5. The County Court at Law of Hill County is created September 1, 2005.

SECTION 6. This Act takes effect September 1, 2005.

HB 1813 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1813, A bill to be entitled An Act relating to historical reenactments on premises permitted or licensed under the Alcoholic Beverage Code.

Representative Pickett moved to concur in the senate amendments to **HB 1813**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 1813, A bill to be entitled An Act relating to historical reenactments on premises permitted or licensed under the Alcoholic Beverage Code.

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

SECTION 1. Section 11.61, Alcoholic Beverage Code, is amended by amending Subsection (e) and adding Subsection (i) to read as follows:

(e) Except as provided by Subsection (f) or (i), the commission or administrator shall cancel an original or renewal permit if it is found, after notice and hearing, that the permittee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued under Chapter 1702, Occupations Code, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform; and

(C) the weapon is in plain view;

(2) who is a peace officer;

(3) who is a permittee or an employee of a permittee if the person is supervising the operation of the premises; or

(4) who possesses a concealed handgun of the same category the person is licensed to carry under Subchapter H, Chapter 411, Government Code, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

(i) The commission shall adopt rules allowing a historical reenactment on the premises of a permit holder. Rules adopted under this subsection must prohibit the use of live ammunition in a historical reenactment.

SECTION 2. Section 61.71, Alcoholic Beverage Code, is amended by amending Subsection (f) and adding Subsection (j) to read as follows:

(f) Except as provided by Subsection (g) or (j), the commission or administrator shall cancel an original or renewal dealer's on-premises or off-premises license if it is found, after notice and hearing, that the licensee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued under Chapter 1702, Occupations Code, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform; and

(C) the weapon is in plain view;

(2) who is a peace officer;

(3) who is a licensee or an employee of a licensee if the person is supervising the operation of the premises; or

(4) who possesses a concealed handgun of the same category the person is licensed to carry under Subchapter H, Chapter 411, Government Code, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

(j) The commission shall adopt rules allowing a historical reenactment on the premises of a license holder. Rules adopted under this subsection must prohibit the use of live ammunition in a historical reenactment.

SECTION 3. Section 46.035, Penal Code, is amended by adding Subsection (j) to read as follows:

(j) Subsections (a) and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.

SECTION 4. Section 46.15, Penal Code, is amended by adding Subsection (i) to read as follows:

(i) The provisions of Section 46.02 prohibiting the carrying of a handgun do not apply to an individual who carries a handgun as a participant in a historical reenactment performed in accordance with the rules of the Texas Alcoholic Beverage Commission.

SECTION 5. (a) The Alcoholic Beverage Commission shall adopt rules under Sections 11.61(i) and 61.71(j), Alcoholic Beverage Code, as added by this Act, not later than January 1, 2006.

(b) The change in law made by Sections 3 and 4 of this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2005.

HB 989 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 989, A bill to be entitled An Act relating to recovery of certain transmission investments of electric utilities.

Representative Chisum moved to concur in the senate amendments to **HB 989**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 872): 138 Yeas, 6 Nays, 2 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones,

J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Bonnen; Farrar; Herrero; Leibowitz; Noriega, M.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Senate Committee Substitute

CSHB 989, A bill to be entitled An Act relating to recovery of certain transmission investments of electric utilities.

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

SECTION 1. Subchapter E, Chapter 36, Utilities Code, is amended by adding Section 36.209 to read as follows:

Sec. 36.209. RECOVERY BY CERTAIN NON-ERCOT UTILITIES OF CERTAIN TRANSMISSION COSTS. (a) This section applies only to an electric utility that operates solely outside of ERCOT in areas of this state included in the Southwest Power Pool or the Western Electricity Coordinating Council and that owns or operates transmission facilities.

(b) The commission, after notice and hearing, may allow an electric utility to recover on an annual basis its reasonable and necessary expenditures for transmission infrastructure improvement costs and changes in wholesale transmission charges to the electric utility under a tariff approved by a federal regulatory authority to the extent that the costs or charges have not otherwise been recovered. The commission may allow the electric utility to recover only the costs allocable to retail customers in the state and may not allow the electric utility to over-recover costs.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

HB 2243 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2243, A bill to be entitled An Act relating to the regulation of locksmiths and locksmith companies under the Private Security Act.

Representative Jackson moved to concur in the senate amendments to **HB 2243**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 2243, A bill to be entitled An Act relating to the regulation of locksmiths and locksmith companies under the Private Security Act.

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

SECTION 1. Section 1702.1056, Occupations Code, is amended to read as follows:

Sec. 1702.1056. LOCKSMITH COMPANY. (a) A person acts as a locksmith company for the purposes of this chapter if the person:

(1) sells, installs, services, or maintains mechanical security devices, including deadbolts and locks; ~~[-and]~~

(2) ~~[(+)]~~ advertises services offered by the company using the term "locksmith"; or

(3) ~~[(=)]~~ includes the term "locksmith" in the company's name.

(b) This section does not apply to a hotel, as that term is defined by Section 156.001, Tax Code.

SECTION 2. Section 1702.2227, Occupations Code, is amended to read as follows:

Sec. 1702.2227. LOCKSMITH. (a) An individual acts as a locksmith for the purposes of this chapter if the person:

(1) sells, installs, services, or maintains mechanical security devices, including deadbolts and locks; or

(2) ~~[-and]~~ advertises or offers services to the public or represents to the public that the person is a locksmith.

(b) This section does not apply to a hotel, as that term is defined by Section 156.001, Tax Code.

SECTION 3. Subchapter L, Chapter 1702, Occupations Code, is amended by adding Section 1702.286 to read as follows:

Sec. 1702.286. CUSTOMER AUTHORIZATION REQUIRED FOR CERTAIN LOCKSMITH SERVICES. (a) A locksmith company or locksmith may not perform services for a customer who seeks entry to a structure, motor vehicle, or other property unless the customer, in the course of the transaction:

(1) shows the locksmith company or locksmith a government-issued identification; and

(2) provides a signed authorization stating that the customer owns or is otherwise entitled to legal access to the structure, motor vehicle, or other property.

(b) A locksmith company or locksmith is exempt from Subsection (a) if the locksmith is requested to perform services in a case of imminent threat to a person or property.

SECTION 4. Section 1702.324(b), Occupations Code, as amended by Chapters 936, 1237, and 1276, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(b) This chapter does not apply to:

(1) a manufacturer or a manufacturer's authorized distributor who sells equipment to a license holder or registrant that is used in the operations for which the person is required to be licensed or registered;

(2) a person engaged exclusively in the business of obtaining and providing information to:

(A) determine creditworthiness;

(B) collect debts; or

(C) ascertain the reliability of information provided by an applicant for property, life, or disability insurance or an indemnity or surety bond;

(3) a person engaged exclusively in the business of repossessing property that is secured by a mortgage or other security interest;

(4) a person who:

(A) is engaged in the business of psychological testing or other testing and interviewing services, including services to determine attitudes, honesty, intelligence, personality, and skills, for preemployment purposes; and

(B) does not perform any other service that requires a license under this chapter;

(5) a person who:

(A) is engaged in obtaining information that is a public record under Chapter 552, Government Code, regardless of whether the person receives compensation;

(B) is not a full-time employee, as defined by Section 61.001, Labor Code, of a person licensed under this chapter; and

(C) does not perform any other act that requires a license under this chapter;

(6) a licensed engineer practicing engineering or directly supervising engineering practice under Chapter 1001, including forensic analysis, burglar alarm system engineering, and necessary data collection;

(7) an employee of a cattle association who inspects livestock brands under the authority granted to the cattle association by the Grain Inspection, Packers and Stockyards Administration of the United States Department of Agriculture;

(8) a landman performing activities in the course and scope of the landman's business;

(9) an attorney while engaged in the practice of law;

(10) a person who obtains a document for use in litigation under an authorization or subpoena issued for a written or oral deposition;

(11) an admitted insurer, insurance adjuster, agent, or insurance broker licensed by the state, performing duties in connection with insurance transacted by that person;

(12) a person who on the person's own property or on property owned or managed by the person's employer:

(A) installs, changes, or repairs a mechanical security device;

(B) repairs an electronic security device; or

(C) cuts or makes a key for a security device; ~~or~~

(13) security personnel, including security contract personnel, working at a commercial nuclear power plant licensed by the United States Nuclear Regulatory Commission; or

(14) a retailer, wholesaler, or other person who sells mechanical security devices, including locks and deadbolts, but who does not:

(A) service mechanical security devices for the public outside of the person's premises; or

(B) claim to act as a locksmith.

SECTION 5. To the extent of any conflict, this Act prevails over another Act of the 79th Legislature, Regular Session, 2005, relating to nonsubstantive additions and corrections in enacted codes.

SECTION 6. This Act takes effect September 1, 2005.

**HB 2466 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2466, A bill to be entitled An Act relating to recycling market development.

Representative Swinford moved to concur in the senate amendments to **HB 2466**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 2466, A bill to be entitled An Act relating to recycling market development.

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

SECTION 1. Section 2155.448(a), Government Code, is amended to read as follows:

(a) Each state fiscal year, the commission[~~, in coordination with the Recycling Market Development Board,~~] by rule may identify recycled, remanufactured, or environmentally sensitive commodities or services, as those terms are defined by rule of the commission, and designate purchasing goals for the procurement of those commodities and services by state agencies for that fiscal year.

SECTION 2. Section 361.423, Health and Safety Code, is amended to read as follows:

Sec. 361.423. RECYCLING MARKET DEVELOPMENT [~~BOARD AND~~] IMPLEMENTATION PROGRAM. (a) The commission, the Texas Building and Procurement Commission, and other consenting state agencies as appropriate [~~Recycling Market Development Board consists of the chairman of the commission and the executive director of the Texas Building and Procurement Commission. The members of the Recycling Market Development Board shall, in the order listed in this subsection, rotate as the presiding officer for terms of one year. The Recycling Market Development Board may designate chief executives of additional agencies as members of the board if it identifies the agencies as agencies needed to assist the board in performing its duties as outlined in Subsection (b).~~] shall regularly [~~provide support to and~~] coordinate the recycling activities of state [~~member~~] agencies and shall each pursue an economic development strategy that focuses on the state's waste management priorities established by Section 361.022 and that includes development of recycling industries and markets as an integrated component.

(b) The commission and the Texas Building and Procurement Commission [~~Recycling Market Development Board~~], on an ongoing basis, shall jointly:

(1) identify existing economic and regulatory incentives and disincentives for creating an optimal market development strategy;

(2) analyze or take into consideration the market development implications of:

(A) the state's waste management policies and regulations;

(B) existing and potential markets for plastic, glass, paper, lead-acid batteries, tires, compost, scrap gypsum, coal combustion by-products, and other recyclable materials; and

(C) the state's tax structure and overall economic base;

(3) examine and make policy recommendations regarding the need for changes in or the development of:

(A) economic policies that affect transportation, such as those embodied in freight rate schedules;

(B) tax incentives and disincentives;

(C) the availability of financial capital including grants, loans, and venture capital;

(D) enterprise zones;

(E) managerial and technical assistance;

(F) job-training programs;

(G) strategies for matching market supply and market demand for recyclable materials, including intrastate and interstate coordination;

(H) the state recycling goal;

(I) public-private partnerships;

(J) research and development;

(K) government procurement policies;

(L) educational programs for the public, corporate and regulated communities, and government entities; and

(M) public health and safety regulatory policies;

(4) establish a comprehensive statewide strategy to expand markets for recycled products in Texas;

(5) provide information and technical assistance to small and disadvantaged businesses, business development centers, chambers of commerce, educational institutions, and nonprofit associations on market opportunities in the area of recycling; and

(6) with the cooperation of the Office of State-Federal Relations, assist communities and private entities in identifying state and federal grants pertaining to recycling and solid waste management.

(c) In carrying out this section, the commission and the Texas Building and Procurement Commission [~~responsible agencies~~] may obtain research and development and technical assistance from the Hazardous Waste Research Center at Lamar University at Beaumont or other similar institutions.

(d) In carrying out this section, the commission and the Texas Building and Procurement Commission shall utilize the Pollution Prevention Advisory Committee as set out in Section 361.0215 of the Health and Safety Code.

SECTION 3. (a) On the effective date of this Act, the Recycling Market Development Board is dissolved.

(b) On the effective date of this Act, all functions and activities of the Recycling Market Development Board are transferred to the Texas Commission on Environmental Quality and the Texas Building and Procurement Commission jointly, and those agencies have all duties and rights of the Recycling Market Development Board as provided by law immediately before that date.

(c) The validity of an action taken by the Recycling Market Development Board before the effective date of this Act is not affected by the dissolution of the board by this Act.

SECTION 4. This Act takes effect September 1, 2005.

**HB 2518 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2518, A bill to be entitled An Act relating to the requirements of a mental health court program.

Representative Coleman moved to concur in the senate amendments to **HB 2518**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 873): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Senate Committee Substitute

CSHB 2518, A bill to be entitled An Act relating to a mental health court program.

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

SECTION 1. Section 616.002, Health and Safety Code, is amended to read as follows:

Sec. 616.002. AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county may establish a mental health court program for persons who:

(1) have been arrested for or charged with a misdemeanor or felony;

and

(2) are suspected by a law enforcement agency or a court of having a mental illness or mental retardation.

SECTION 2. Section 616.003, Health and Safety Code, is amended to read as follows:

Sec. 616.003. PROGRAM. (a) A mental health court program established under Section 616.002;

(1) may handle all issues arising under Articles 16.22 and [7] 17.032, Code of Criminal Procedure, and Chapter 46B [~~46.02~~], Code of Criminal Procedure; and

(2) must:

(A) ensure a person eligible for the program is provided legal counsel before volunteering to proceed through the mental health court program and while participating in the program;

(B) allow a person, if eligible for the program, to choose whether to proceed through the mental health court program or proceed through the regular criminal justice system;

(C) allow a participant to withdraw from the mental health court program at any time before a trial on the merits has been initiated;

(D) provide a participant with a court-ordered individualized treatment plan indicating the services that will be provided to the participant; and

(E) ensure that the jurisdiction of the mental health court extends at least six months but does not extend beyond the probationary period for the offense charged if the probationary period is longer than six months.

(b) The issues shall be handled by a magistrate, as designated by Article 2.09, Code of Criminal Procedure, who is part of a mental health court program established under Section 616.002.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

LEAVE OF ABSENCE GRANTED

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

Gattis on motion of Van Arsdale.

HB 789 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative P. King called up with senate amendments for consideration at this time,

HB 789, A bill to be entitled An Act relating to communications; providing penalties.

Representative P. King moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 789**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 789**: P. King, chair; Baxter; Crabb; R. Cook; and Hartnett.

HB 916 - HOUSE CONCURS IN SENATE AMENDMENTS

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

HB 916, A bill to be entitled An Act relating to creating the Governor's Health Care Coordinating Council.

Representative Woolley moved to concur in the senate amendments to **HB 916**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 874): 140 Yeas, 0 Nays, 2 Present, not voting. (The vote was reconsidered later today, and the house again concurred in senate amendments to **HB 916** on May 27 by Record No. 891.)

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Martinez Fischer.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Casteel; Isett; Smith, W.

(Martinez Fischer now present)

**HB 3526 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3526, A bill to be entitled An Act relating to the creation of the Greater Sharpstown Management District; providing authority to impose a tax and issue a bond or similar obligation.

Representative Hochberg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3526**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3526**: Hochberg, chair; Madden; Talton; Wong; and A. Allen.

**HB 1516 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1516, A bill to be entitled An Act relating to the Department of Information Resources' management of state electronic services.

Representative Isett moved to concur in the senate amendments to **HB 1516**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 1516, A bill to be entitled An Act relating to the Department of Information Resources' management of state electronic services.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
ARTICLE 1. STATE ELECTRONIC PROJECTS**

SECTION 1.01. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.0565 to read as follows:

Sec. 2054.0565. USE OF CONTRACTS BY OTHER GOVERNMENTAL ENTITIES. (a) The department may include terms in a procurement contract entered into by the department, including a contract entered into under Section 2157.068, that allow the contract to be used by another state agency, a political subdivision of this state, or a governmental entity of another state.

(b) A political subdivision that purchases an item or service using a contract under this section satisfies any other law requiring the political subdivision to seek competitive bids for that item or service.

SECTION 1.02. Section 2054.071, Government Code, is amended to read as follows:

Sec. 2054.071. IDENTITY OF MANAGER; CONSOLIDATION. (a) The individual required to sign a state agency's strategic plan under Subchapter E, or that individual's designated representative, shall serve as the agency's information resources manager.

(b) A representative designated under Subsection (a) may be designated to serve as a joint information resources manager by two or more state agencies. The department must approve the joint designation.

SECTION 1.03. Section 2054.074, Government Code, is amended to read as follows:

Sec. 2054.074. RESPONSIBILITY TO PREPARE OPERATING PLANS. (a) The information resources manager shall prepare the biennial operating plans under Subchapter E.

(b) A joint information resources manager may, to the extent appropriate, consolidate the operating plans of each agency for which the manager serves under Section 2054.071.

SECTION 1.04. Section 2054.096, Government Code, is amended by adding Subsection (c) to read as follows:

(c) Each state agency, other than an institution of higher education, shall use state commodity hardware configurations as a part of the agency's planning under this section. The department shall specify the state commodity hardware configurations in its instructions for the preparations of agency strategic plans.

SECTION 1.05. Subchapter E, Chapter 2054, Government Code, is amended by adding Section 2054.1015 to read as follows:

Sec. 2054.1015. PLANNED PROCUREMENT SCHEDULES FOR COMMODITY ITEMS. (a) In this section:

(1) "Commodity items" has the meaning assigned by Section 2157.068.

(2) "State agency" does not include an institution of higher education.

(b) A state agency must provide a planned procurement schedule for commodity items to the department before the agency's operating plan may be approved under Section 2054.102.

(c) The department shall use information contained in the schedules to plan future vendor solicitations of commodity items.

(d) A state agency shall notify the department, the Legislative Budget Board, and the state auditor's office if the agency makes a substantive change to a planned procurement schedule for commodity items.

SECTION 1.06. Chapter 2054, Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. TEXAS PROJECT DELIVERY FRAMEWORK

Sec. 2054.301. APPLICABILITY. This subchapter applies only to a major information resources project.

Sec. 2054.302. GUIDELINES; FORMS. (a) A state agency shall prepare each document required by this subchapter in a manner consistent with department guidelines.

(b) The department, in consultation with the Legislative Budget Board and state auditor's office, shall develop and provide guidelines and forms for the documents required by this subchapter.

(c) The department shall work with state agencies in developing the guidelines and forms.

Sec. 2054.303. BUSINESS CASE AND STATEWIDE IMPACT ANALYSIS. (a) For each proposed major information resources project, a state agency must prepare:

(1) a business case providing the initial justification for the project, including the anticipated return on investment in terms of cost savings and efficiency for the project; and

(2) a statewide impact analysis of the project's effect on the state's common information resources infrastructure, including the possibility of reusing code or other resources.

(b) The agency shall file the documents with the department, Legislative Budget Board, and state auditor's office when the agency files its legislative appropriations request.

(c) The department shall use the analysis to ensure that the proposed project does not unnecessarily duplicate existing statewide information resources technology.

Sec. 2054.304. PROJECT PLANS. (a) A state agency shall develop a project plan for each major information resources project.

(b) Except as provided by Subsection (c), the state agency must file the project plan with the quality assurance team and the Texas Building and Procurement Commission before the agency:

- (1) spends more than 10 percent of allocated funds for the project; or
- (2) first issues a vendor solicitation for the project.
- (c) Unless the project plan has been filed under this section:
 - (1) the Texas Building and Procurement Commission may not issue a vendor solicitation for the project; and
 - (2) the agency may not post a vendor solicitation for the project in the state business daily under Section 2155.083.

Sec. 2054.305. PROCUREMENT PLAN AND METHOD FOR MONITORING CONTRACTS. Before issuing a vendor solicitation for a project, the state agency must develop, consistent with department guidelines:

- (1) a procurement plan with anticipated service levels and performance standards for each vendor; and
- (2) a method to monitor changes to the scope of each contract.

Sec. 2054.306. POST-IMPLEMENTATION REVIEW. After implementation of a major information resources project, a state agency shall prepare a post-implementation review. The agency shall provide the review to the agency's executive director, the department, and the state auditor's office.

Sec. 2054.307. APPROVAL OF DOCUMENTS AND CONTRACT CHANGES. (a) A state agency's executive director, information resources manager, designated project manager, and the agency employee in charge of information security for the agency must approve and sign:

- (1) each document required by this subchapter; and
- (2) if the department requires the approval and signatures, any other document related to this subchapter.

(b) The state agency's executive director must approve a proposed contract amendment or change order for a major information resources project if the amendment or change order:

- (1) changes the monetary value of the contract by more than 10 percent; or
- (2) significantly changes the completion date of the contract.

SECTION 1.07. Chapter 2054, Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. STATEWIDE TECHNOLOGY CENTERS

Sec. 2054.375. DEFINITION. In this subchapter, "statewide technology center" means a statewide technology center established or operated under this subchapter.

Sec. 2054.376. APPLICABILITY. (a) This subchapter applies to all information resources technologies, other than telecommunications services, that are:

- (1) obtained by a state agency using state money; or
- (2) used by a state agency.
- (b) This subchapter does not apply to:
 - (1) The Department of Public Safety's use for criminal justice or homeland security purposes of a federal database or network;
 - (2) A Texas equivalent of a database or network described by Subdivision (1) that is managed by the Department of Public Safety;
 - (3) the uniform statewide accounting system, as that term is used in Subchapter C, Chapter 2101;
 - (4) the state treasury cash and treasury management system; or
 - (5) a database or network managed by the comptroller to:

(A) collect and process multiple types of taxes imposed by the state, or

(B) manage or administer fiscal, financial, revenue and expenditure activities of the state under Chapter 403 and Chapter 404.

Sec. 2054.377. INSTITUTIONS OF HIGHER EDUCATION. The department may not establish or expand a statewide technology center that includes participation by an institution of higher education unless the Information Technology Council for Higher Education agrees to the establishment or expansion.

Sec. 2054.378. SCOPE OF OPERATION OF CENTERS. (a) The department may operate statewide technology centers to provide two or more state agencies, on a cost-sharing basis, services relating to:

(1) information resources and information resources technology; and

(2) the deployment and development of statewide applications.

(b) The department may operate a statewide technology center directly or contract with another person to operate the center.

Sec. 2054.379. RULES. The department shall adopt rules and guidelines to implement this subchapter.

Sec. 2054.380. FEES. The department shall set and charge a fee to each state agency that receives a service from a statewide technology center in an amount sufficient to cover the direct and indirect cost of providing the service.

Sec. 2054.381. CONTRACTING; HISTORICALLY UNDERUTILIZED BUSINESSES. (a) In any procurement related to the establishment of a statewide technology center, the department shall maximize vendor competition and, to the extent feasible and cost-effective, interoperability.

(b) In contracting under this subchapter, the department shall follow the requirements of Chapter 2161 and related rules regarding historically underutilized businesses.

(c) The department shall provide to all qualified businesses the opportunity to compete for department contracts under this subchapter.

Sec. 2054.382. STATEWIDE TECHNOLOGY CENTERS FOR DATA OR DISASTER RECOVERY SERVICES; USE REQUIRED. (a) The department shall manage the operations of statewide technology centers that provide data center services or disaster recovery services for two or more state agencies, including management of the operations of the center on the campus of Angelo State University.

(b) The department by rule shall describe the data services provided by statewide technology centers.

(c) A state agency may not spend appropriated money to contract or issue purchase orders for data center services or disaster recovery services, including maintenance of those services, unless the executive director approves the expense. The department may establish appropriate thresholds and procedures for securing approval under this subsection.

(d) The Legislative Budget Board may not grant prior approval under Section 2054.386 in relation to services provided under this section.

Sec. 2054.383. ESTABLISHMENT OF ADDITIONAL STATEWIDE TECHNOLOGY CENTERS. (a) The department may establish additional statewide technology centers as provided by this section.

(b) The department may not establish a center under this section unless:

(1) the governor approves the establishment;

(2) the Legislative Budget Board approves the expenditures necessary for the establishment; and

(3) the executive director determines in writing that consolidating operations or services of selected state agencies will promote efficiency and effectiveness and provide the best value for the state.

(c) In the written determination under Subsection (b)(3), the executive director shall identify the selected state agencies that will be required to participate in the new center.

Sec. 2054.384. COST AND REQUIREMENTS ANALYSIS. (a) The department shall conduct a cost and requirements analysis for each state agency that the department intends to select for participation in a statewide technology center.

(b) A selected state agency shall identify its particular requirements, operations costs, and requested service levels for the department. The department may require a state agency to validate or resubmit data related to these factors. The department shall fulfill the requirements and service levels of each state agency to the extent possible.

Sec. 2054.385. NOTICE OF SELECTION. After completion of the cost and requirements analysis for each state agency under Section 2054.384, the department shall provide notice to each state agency selected to receive services or operations through the statewide technology center. The notice must include:

(1) the state agency operations selected for consolidation at a statewide technology center;

(2) the scope of services to be provided to the agency;

(3) a schedule of anticipated costs for the agency; and

(4) the implementation schedule for that agency.

Sec. 2054.386. INTERAGENCY CONTRACT; PRIOR APPROVAL OF EXPENDITURES. (a) A state agency that is selected under Section 2054.385 to receive services or to have operations performed through a statewide technology center may not, except as provided by Subsection (b), spend appropriated money for the identified operations and services without the prior approval of the Legislative Budget Board.

(b) Unless the Legislative Budget Board grants prior approval for the selected state agency to spend appropriated money for the identified operations or services in another specified manner, the selected agency shall enter into an interagency contract with the department to receive the identified services and have the identified operations performed through the statewide technology center. Amounts charged to the selected agency under the interagency contract must be based on the fees set by the department under Section 2054.380 but may not exceed the amounts expected to be necessary to cover the direct and indirect costs of performing operations and providing services under the contract. Before executing an interagency contract or alternatively receiving prior approval from the Legislative Budget Board under this section, the state agency may only spend appropriated money for the selected service or operation if the executive director approves the expense.

(c) Not later than the 30th business day after the date the selected state agency is notified of its selection under Section 2054.385, the agency may request the Legislative Budget Board to grant its prior approval for the agency to spend appropriated money for the identified operations or services in a manner other than through an interagency contract with the department under Subsection (b).

(d) The request to the Legislative Budget Board must:

- (1) be in writing;
- (2) include a copy of the selection notice made by the executive director; and
- (3) demonstrate that the decision of the executive director to select the agency will probably:
 - (A) fail to achieve meaningful cost savings for the state; or
 - (B) result in an unacceptable loss of effectiveness or operational efficiency.

(e) If the Legislative Budget Board determines that an interagency contract between the department and the selected state agency under Subsection (b) will fail to achieve meaningful cost savings for the state or result in an unacceptable loss of effectiveness or operational efficiency at the selected agency, the Legislative Budget Board may grant its prior approval for the selected agency to spend appropriated money for the identified operations or services in another specified manner, in which event the selected agency is not required to enter into an interagency contract under Subsection (b).

(f) The Legislative Budget Board shall notify the state agency, the executive director, and the comptroller of its decision.

Sec. 2054.387. INTERAGENCY CONTRACT; COMPLIANCE WITH SERVICE LEVELS. The department shall ensure compliance with service levels agreed to in an interagency contract executed under this subchapter.

Sec. 2054.388. TRANSFER OF OWNERSHIP. (a) The department, subject to the governor's approval, may require a state agency that enters into an interagency contract under Section 2054.386 to transfer to the department ownership, custody, or control of resources that the department, in consultation with the agency, determines are used to support the operations or services selected under Section 2054.385. These resources may include:

- (1) information resources;
- (2) information resources technologies;
- (3) full-time equivalent positions; and
- (4) any other resources determined necessary by the department to support the selected operations or services.

(b) The department shall advise the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, and state auditor's office regarding the expected savings to be received for each state agency from which ownership, custody, or control is transferred under this section.

(c) The department and the state agency shall work to reconcile any federal funding issues that arise out of a transfer under this section. The department, subject to the governor's approval, shall exclude applicable resources from the transfer if the federal funding issues cannot be reconciled.

(d) Chapter 2175 does not apply to information resources or information resources technologies transferred under this section.

Sec. 2054.389. TRANSITION SCHEDULES. The department shall establish transition schedules for the transfer of state agency operations and services to statewide technology centers under this subchapter.

Sec. 2054.390. MIGRATION OF SERVICES. (a) The department shall prioritize the migration of services to the statewide technology center system established under this subchapter based on the size of the current technology center operational environment at a state agency, with the largest 25 technology center environments ranking highest in priority.

(b) Unless the executive director determines that a migration under this section is not cost-effective, the department shall ensure the migration of at least three technology center environments to the statewide technology center system each fiscal year. This subsection expires September 1, 2013.

(c) A state agency shall comply with the department's request to migrate under this section.

(d) Any consolidation plan adopted by the department to execute this section must prioritize and fully use the existing capacity of the State Data Center located on the campus of Angelo State University.

Sec. 2054.391. USE OF STATEWIDE TECHNOLOGY CENTERS REQUIRED. (a) A state agency may not transfer services from a statewide technology center unless the executive director and the governor approve the transfer.

(b) If the department becomes aware that a state agency is not using a statewide technology center for operations or services in accordance with the interagency contract entered into under Section 2054.386 and as directed by the department, the department shall notify the comptroller, the Legislative Budget Board, the state auditor's office, and the affected state agency of the violation.

(c) After notification under Subsection (b), the state agency may not spend appropriated money for operations or services the agency was selected to receive through a statewide technology center without the prior approval of the executive director.

SECTION 1.08. Section 2157.068, Government Code, is amended to read as follows:

Sec. 2157.068. PURCHASE OF COMMODITY [~~SOFTWARE~~] ITEMS.

(a) In this section, "commodity"~~:-~~

[(1) "~~Commodity software~~ items" means commercial software, hardware, or technology services, other than telecommunications services, [~~for personal computers~~] that are [~~is~~] generally available to businesses or the public and for which the department determines that a reasonable demand exists in two or more state agencies. The term includes seat management, through which a state agency transfers its personal computer equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop in the state agency, including all necessary hardware, software, and support services.

[(2) "~~Department~~" means the Department of Information Resources.]

(b) The department shall negotiate with catalog information systems vendors to attempt to obtain a favorable price for all of state government on licenses for commodity [~~software~~] items, based on the aggregate volume of purchases expected to be made by the state. The terms and conditions of a license agreement between a vendor and the department under this section may not be less favorable to the state than the terms of similar license agreements between the vendor and retail distributors.

(c) In contracting for commodity items under this section, the department shall make good faith efforts to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses.

(d) The department may charge a reasonable administrative fee to a state agency, [~~or~~] political subdivision of this state, or governmental entity of another state that purchases commodity [~~software~~] items through the department in an amount that is sufficient to recover costs associated with the administration of this section.

(e) ~~(d)~~ The department shall compile and maintain a list of commodity ~~[software]~~ items available for purchase through the department that have a lower price than the prices for commodity ~~[software]~~ items otherwise available to state agencies under this chapter. The department shall make the list available on the world wide web or on a suitable successor to the world wide web if the technological developments involving the Internet make it advisable to do so.

(f) ~~(e)~~ The department may adopt rules regulating a purchase by a state agency of a commodity ~~[software]~~ item under this section, including a requirement that, notwithstanding other provisions of this chapter, the agency must make the purchase in accordance with a contract developed by the department unless the agency obtains:

(1) an exemption ~~[a waiver]~~ from the department; or

(2) express prior approval from the Legislative Budget Board for the expenditure necessary for the purchase.

(g) The Legislative Budget Board's approval of a biennial operating plan under Section 2054.102 is not an express prior approval for purposes of Subsection (f)(2). A state agency must request an exemption from the department under Subsection (f)(1) before seeking prior approval from the Legislative Budget Board under Subsection (f)(2).

(h) The department shall, in cooperation with state agencies, establish guidelines for the classification of commodity items under this section. The department may determine when a statewide vendor solicitation for a commodity item will reduce purchase prices for a state agency.

SECTION 1.09. Section 2170.003, Government Code, is amended to read as follows:

Sec. 2170.003. OWNERSHIP OR LEASE OF NECESSARY EQUIPMENT. (a) The department may own, lease, or lease-purchase in accordance with Chapters 2155, 2156, 2157, and 2158 any or all of the facilities or equipment necessary to provide telecommunications services. The department may acquire telecommunications services without competitive bid from the Lonestar Education and Research Network (LEARN) or its successors for the purposes established in Subsection (b).

(b) During an emergency, a single node failure or a systemwide failure of the consolidated telecommunications system, the department may divert telecommunications services traffic to the Lonestar Education and Research Network to avoid service interruption. Upon resolution of the emergency and upon determination that the consolidated telecommunications system is operational, traffic will be diverted back to the consolidated telecommunications system. The department may also use the Lonestar Education and Research Network for the purposes of latency tolerant data transfer of files to or from a consolidated state data center established and operated by the department. The Lonestar Education and Research Network shall be exclusively used by the department only for the purposes set out in this section.

SECTION 1.10. Subsections (c) and (d), Section 2170.051, Government Code, are amended to read as follows:

(c) A state agency shall use the consolidated telecommunications system to the fullest extent possible. A state agency may not acquire telecommunications services unless the department's executive director ~~[telecommunications planning and oversight council]~~ determines that the agency's requirement for telecommunications services cannot be met at a comparable cost by the consolidated telecommunications system.

(d) A state agency may not enter into or renew a contract with a carrier or other provider of telecommunications services without obtaining a waiver from the department's executive director [~~telecommunications planning and oversight council~~] certifying that the requested telecommunications services cannot be provided at a comparable cost on the consolidated telecommunications system. The executive director [~~telecommunications planning and oversight council~~] shall evaluate requests for waivers based on cost-effectiveness to the state government as a whole. A waiver may be granted only for a specific period and will automatically expire on the stated expiration date unless an extension is approved [~~by the telecommunications planning and oversight council~~]. A contract for telecommunications services obtained under waiver may not extend beyond the expiration date of the waiver. If the executive director [~~telecommunications planning and oversight council~~] becomes aware of any state agency receiving telecommunications services without a waiver, the executive director [~~telecommunications planning and oversight council~~] shall notify the agency and the comptroller. The state agency shall have 60 days after notification by the executive director [~~telecommunications planning and oversight council~~] in which to submit a waiver request [~~to the telecommunications planning and oversight council~~] documenting the agency's reasons for bypassing the consolidated telecommunications system and otherwise providing all information required by the waiver application form.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Section 2054.003, Government Code, is amended by adding Subdivision (8-a) to read as follows:

(8-a) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

SECTION 2.02. Section 2157.001, Government Code, is amended to read as follows:

Sec. 2157.001. DEFINITIONS. In this chapter:

(1) "Automated information system" includes:

(A) the computers and computer devices on which an information system is automated, including computers and computer devices that the commission identifies in guidelines developed by the commission in consultation with the department [~~Department of Information Resources~~] and in accordance with Chapter 2054 and rules adopted under that chapter;

(B) a service related to the automation of an information system, including computer software or computers;

(C) a telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network, and services related to telecommunications that are not covered under Paragraph (D); and

(D) for the department [~~Department of Information Resources~~], as telecommunications provider for the state, the term includes any service provided by a telecommunications provider, as that term is defined by Section 51.002, Utilities Code.

(2) "Department" means the Department of Information Resources.

SECTION 2.03. Section 2157.003, Government Code, is amended to read as follows:

Sec. 2157.003. DETERMINING BEST VALUE FOR PURCHASES OF AUTOMATED INFORMATION SYSTEMS. "Best value" for purposes of this chapter means the lowest overall cost of an automated information system. In determining the lowest overall cost for a purchase or lease of an automated information system under this chapter, the commission or a state agency shall consider factors including:

- (1) the purchase price;
- (2) the compatibility to facilitate the exchange of existing data;
- (3) the capacity for expanding and upgrading to more advanced levels of technology;
- (4) quantitative reliability factors;
- (5) the level of training required to bring persons using the system to a stated level of proficiency;
- (6) the technical support requirements for the maintenance of data across a network platform and the management of the network's hardware and software;
- (7) the compliance with applicable department [~~Department of Information Resources~~] statewide standards validated by criteria adopted by the department by rule; and
- (8) applicable factors listed in Sections 2155.074 and 2155.075.

SECTION 2.04. Subsection (a), Section 2157.005, Government Code, is amended to read as follows:

(a) The commission and the department [~~Department of Information Resources~~], in consultation with other state agencies and after public comment, shall develop a technology access clause to be included in all contracts entered into by the state or state agencies that involve the acquisition of an automated information system.

SECTION 2.05. Subsection (b), Section 2157.063, Government Code, is amended to read as follows:

(b) In determining which goods or services are in the state's best interest, the agency shall consider:

- (1) the installation and hardware costs;
- (2) the overall life-cycle cost of the system or equipment;
- (3) the estimated cost of employee training and estimated increase in employee productivity;
- (4) the estimated software and maintenance costs; and
- (5) the rules that prescribe applicable statewide standards adopted by the department [~~Department of Information Resources~~].

SECTION 2.06. Subsections (b) and (c), Section 2157.121, Government Code, are amended to read as follows:

(b) A state agency, other than the department [~~Department of Information Resources~~], shall send its proposal specifications and criteria to the commission for approval or request the commission to develop the proposal specifications and criteria.

(c) The department [~~Department of Information Resources~~] may acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals without regard to whether the commission makes the determination required under Subsection (a) for other state agencies.

SECTION 2.07. Subsection (a), Section 2157.181, Government Code, is amended to read as follows:

(a) The commission, with the concurrence of the department [~~Department of Information Resources~~], may negotiate with vendors preapproved terms and conditions to be included in contracts relating to the purchase or lease of a telecommunication device, system, or service or an automated information system awarded to a vendor by a state agency.

SECTION 2.08. Section 2157.182, Government Code, is amended to read as follows:

Sec. 2157.182. VALIDITY OF PREAPPROVED TERMS AND CONDITIONS; RENEGOTIATION. (a) Preapproved terms and conditions to which a vendor, the commission, and the department [~~Department of Information Resources~~] agree are valid for two years after the date of the agreement and must provide that the terms and conditions are to be renegotiated before the end of the two years.

(b) The commission and the department [~~Department of Information Resources~~] jointly shall establish procedures to ensure that terms and conditions are renegotiated before they expire in a contract between the vendor and a state agency.

SECTION 2.09. Section 2157.184, Government Code, is amended to read as follows:

Sec. 2157.184. NOTIFICATION OF STATE AGENCIES AND VENDORS. The commission and the department [~~Department of Information Resources~~] jointly shall establish procedures to notify state agencies and potential vendors of the provisions of this subchapter regarding preapproved terms and conditions.

ARTICLE 3. REPEALER; TRANSITION; EFFECTIVE DATE

SECTION 3.01. Subsection (c), Section 2054.201, and Section 2055.061, Government Code, are repealed.

SECTION 3.02. (a) The Department of Information Resources shall conduct a statewide assessment of information technology security resources and practices of state agencies.

(b) Not later than December 31, 2005, the department shall report the results of its assessment to the governor, the lieutenant governor, the speaker of the house of representatives, and the state auditor's office.

(c) The assessment and report prepared under this section are confidential. Chapter 552, Government Code, does not apply to the assessment or the report.

SECTION 3.03. (a) The Department of Information Resources, in coordination with the Legislative Budget Board, the Texas Building and Procurement Commission, and the comptroller, shall analyze current automated information systems of state agencies to determine how the systems may be combined to more effectively synchronize strategic planning, budgeting, and reporting of technology expenditures, assets, and projects.

(b) Not later than December 31, 2005, the department shall report the results of its analysis to the governor, the lieutenant governor, the speaker of the house of representatives, and the state auditor's office.

SECTION 3.04. (a) In this section:

(1) "Department" means the Department of Information Resources.

(2) "State agency" has the meaning assigned by Section 2054.003, Government Code, except that the term does not include an institution of higher education as defined by Section 61.003, Education Code.

(b) Not later than March 31, 2006, each state agency shall enter into an interagency contract with the department for services that the agency is required to obtain through a statewide technology center under Subchapter L, Chapter 2054, Government Code, as added by this Act, that establishes a time line for the transfer of ownership of resources to the department in accordance with Subchapter L, Chapter 2054, Government Code.

(c) Not later than August 31 of 2006 and 2007, the department shall report on the status of the statewide technology center system migration and consolidation under Section 2054.390, Government Code, as added by this Act, describing reviews and transfers during the fiscal year, and an update on the status of any contracts relating to the statewide technology centers. The department shall file the report with:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the chairs of the house and senate committees with primary oversight over the department;
- (5) the chairs of the senate finance and the house of representatives appropriations committees;
- (6) the state auditor's office; and
- (7) each member of the Legislative Budget Board.

SECTION 3.05. The changes in law made by this Act with regard to contracts apply only to a contract for which the initial notice soliciting bids or proposals is given on or after the effective date of this Act. A contract for which the initial notice soliciting bids or proposals is given before that date is governed by the law in effect when the initial notice is given, and the former law is continued in effect for that purpose.

SECTION 3.06. This Act takes effect September

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

1) Amend **CSHB 1516** on page 6 by striking lines 58-61, and substituting the following:

(c) In contracting for commodity items under this section, the department shall make good faith efforts to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses and persons with disabilities' products and services available under Chapter 122, Human Resources Code.

2) Amend **CSHB 1516** on page 10, line 51 after "September" by adding "1, 2005."

HB 646 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 646, A bill to be entitled An Act relating to the provision of certain reports and records requested by the attorney general.

Representative Otto moved to concur in the senate amendments to **HB 646**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 646, A bill to be entitled An Act relating to the provision of certain reports and records requested by the attorney general.

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

SECTION 1. Article 2.23, Code of Criminal Procedure, is amended to read as follows:

Art. 2.23. REPORT TO ATTORNEY GENERAL. (a) The clerks of the district and county courts shall, when requested in writing [required] by the Attorney General, report to the Attorney General not later than the 10th day after the date the request is received [him at such times], and in the form prescribed by the Attorney General [accordance with such forms as he may direct], [such] information in court records that relates [in relation] to a criminal matter, including information requested by the Attorney General for purposes of federal habeas review, [matters as may be shown by their records].

~~[When any district clerk has failed, neglected or refused to make any such report after being requested in writing by the Attorney General to make such report, the Attorney General shall notify in writing the Comptroller of Public Accounts of such failure, neglect or refusal, and said Comptroller shall not thereafter draw any warrant in favor of said clerk until said report has been filed with the Attorney General.]~~

(b) A state agency or the office of an attorney representing the state shall, when requested in writing by the Attorney General, provide to the Attorney General any record that is needed for purposes of federal habeas review. The agency or office must provide the record not later than the 10th day after the date the request is received and in the form prescribed by the Attorney General.

(c) A district court, county court, state agency, or office of an attorney representing the state may not restrict or delay the reproduction or delivery of a record requested by the Attorney General under this article.

SECTION 2. This Act takes effect September 1, 2005.

HB 664 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 664, A bill to be entitled An Act relating to consideration of a bidder's principal place of business in awarding certain municipal and school district contracts.

Representative Isett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 664**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 664**: Isett, chair; Swinford; Frost; Hopson; and Hamilton.

**HB 843 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 843, A bill to be entitled An Act relating to the authority of certain counties to regulate the construction of certain communication facilities in certain circumstances; providing a penalty.

Representative Truitt moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 843**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 843**: Truitt, chair; P. King; R. Cook; Gattis; and Riddle.

**HB 988 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 988, A bill to be entitled An Act relating to the county in which a seller of a motor vehicle may file an application for registration and certificate of title.

Representative Chisum moved to concur in the senate amendments to **HB 988**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 988, A bill to be entitled An Act relating to the county in which a seller of a motor vehicle may file an application for registration and certificate of title.

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

SECTION 1. Section 501.0234, Transportation Code, is amended by adding Subsections (d), (e) and (f) to read as follows:

(d) A seller who applies for the registration or a certificate of title for a motor vehicle under Subsection (a)(1) may, at the seller's option, apply in any of the counties set forth in that subsection.

(e) If the seller applies for registration or certificate of title in a county other than the county of residence of the purchaser, and if the purchaser so directs, the tax assessor-collector of the county in which the seller applies shall, not later than six months after the transaction, tender to the tax assessor-collector of the county of the purchaser's residence, all taxes, fees and other revenue that were collected as a result of that transaction which the tax assessor-collector is authorized by law to retain.

(f) The department shall promulgate a form by which the purchaser of a motor vehicle may designate the purchaser's county of residence as the recipient of all taxes, fees, and other revenue collected as a result of that transaction which the tax assessor-collector is authorized by law to retain. A seller shall make that form available to the purchaser of a vehicle at the time of purchase, but unless that form is executed by the purchaser at the time of sale, all taxes, fees and other revenue that were collected as a result of the transaction which the tax assessor-collector is authorized by law to retain remain in the county in which the seller applies for title and registration.

SECTION 2. Section 501.0234, Transportation Code, is amended by amending Subsection (a) and by adding Subsection (d) to read as follows:

(a) A person who sells at the first or a subsequent sale a motor vehicle and who holds a general distinguishing number issued under Chapter 503 of this code or Chapter 2301, Occupations Code, shall:

(1) except as provided by this section, in the time and manner provided by law, apply, in the name of the purchaser of the vehicle, for the registration of the vehicle, if the vehicle is to be registered, and a certificate of title for the vehicle and file with the appropriate designated agent each document necessary to transfer title to or register the vehicle; and at the same time

(2) remit any required motor vehicle sales tax.

(d) A seller has a reasonable time to comply with the terms of Subsection (a)(1) and is in not in violation of that provision during the time the seller is making a good faith effort to comply. Notwithstanding compliance with this chapter, equitable title to a vehicle passes to the purchaser of the vehicle at the time the vehicle is the subject of a sale that is enforceable by either party.

SECTION 3. This Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 988** (Senate Committee Printing) by striking SECTION 1 (page 1, lines 13-38) and substituting the following:

SECTION 1. Section 501.0234, Transportation Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) A seller who applies for the registration or a certificate of title for a motor vehicle under Subsection (a) (1) shall apply in the county as directed by the purchaser from the counties set forth in Section 501.023 of this code.

(e) The department shall promulgate a form on which the purchaser of a motor vehicle shall designate the purchaser's choice as set out in Section 501.023 as the recipient of all taxes, fees, and other revenue collected as a result of the transaction, which the tax assessor-collector is authorized by law to retain. A seller shall make that form available to the purchaser of a vehicle at the time of purchase.

HB 1379 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative J. Jones called up with senate amendments for consideration at this time,

HB 1379, A bill to be entitled An Act relating to the admissibility in a civil action of certain information relating to identify theft.

Representative J. Jones moved to concur in the senate amendments to **HB 1379**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 875): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

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

Amend **HB 1379** as follows:

(1) On page 1, line 16, strike "and" and substitute " ; "

(2) On page 1, lines 17–18, strike "(2) offered to prove liability of the seller, employee, or agent for damages arising from the alleged violation."

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend **HB 1379** (Senate committee printing) in SECTION 1 of the bill by striking added Section 18.062, Civil Practice and Remedies Code (page 1, lines 20-30), and substituting the following:

Sec. 18.062. CERTAIN INFORMATION RELATING TO IDENTITY THEFT. (a) Except as provided by Subsection (b), a business record is not admissible in a civil action if the business record is provided to law enforcement personnel in connection with an investigation of an alleged violation of Section 32.51, Penal Code (fraudulent use or possession of identifying information).

(b) A business record described by Subsection (a) is admissible if the party offering the record has obtained the record from a source other than law enforcement personnel.

HB 1701 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 1701, A bill to be entitled An Act relating to the defense of indigent persons accused of a criminal offense.

Representative Keel moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1701**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1701**: Keel, chair; Hamric; Riddle; Hodge; and Peña.

HB 1765 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1765, A bill to be entitled An Act relating to the creation of programs and funding for emerging technology industries.

Representative Morrison moved to concur in the senate amendments to **HB 1765**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 876): 138 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; West; Wong; Woolley; Zedler.

Nays — Castro; Herrero.

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

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Berman; Coleman; Grusendorf; Vo.

STATEMENT OF VOTE

I was shown voting no on Record No. 876. I intended to vote yes.

Castro

REASON FOR VOTE

As previously stated, although the New and Emerging Technology Fund may be a good plan for the purpose of stimulating economic development in our state, its funding requirements and implementation are still not appropriate at this time when compared to Texas' social and educational concerns that demand immediate attention and funding. Given the lack of funding and attention being allocated still to date to address these issues, I must again vote against this bill.

Herrero

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1765** in Section 1 of the bill (Senate Committee printing, page 4, line 25) between "the" and "Lower" by adding "Middle and".

HB 2110 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2110, A bill to be entitled An Act relating to the applicability of certain weapon laws to certain prosecutors and certain court employees.

Representative Berman moved to concur in the senate amendments to **HB 2110**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 877): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithe; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Thompson.

Senate Committee Substitute

CSHB 2110, A bill to be entitled An Act relating to the applicability of certain weapon laws to certain judges and prosecutors.

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

SECTION 1. Section 46.15(a), Penal Code, is amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers, including commissioned peace officers of a recognized state, or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) a judge or justice of a federal court, the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code; ~~[or]~~

(5) an honorably retired peace officer or federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that:

(A) verifies that the officer honorably retired after not less than 20 years of service as a commissioned officer; and

(B) is issued by the agency from which the peace officer retired or, for a federal criminal investigator, by a state law enforcement agency; or

(6) a district attorney, criminal district attorney, or county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code.

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

SECTION 3. This Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2110** (Senate committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 13-57), and substitute the following:

SECTION 1. Subsection (a), Section 46.15, Penal Code, is amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) ~~peace officers [including commissioned peace officers of a recognized state]~~ or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) a judge or justice of a federal court, the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code; ~~or~~

(5) an honorably retired peace officer or federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that:

(A) verifies that the officer honorably retired after not less than 15 ~~20~~ years of service as a commissioned officer; and

(B) is issued by ~~[the agency from which the peace officer retired or for a federal criminal investigator, by]~~ a state or local law enforcement agency; or

(6) a district attorney, criminal district attorney, or county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code.

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

SECTION _____. Section 1701.357, Occupations Code, is amended by amending Subsections (a) through (d) and adding Subsection (i) to read as follows:

(a) This section applies only to:

(1) a peace officer ~~[designated as a peace officer under Article 2.12(1), (2), (3), or (10), Code of Criminal Procedure]~~; and

(2) a federal criminal investigator designated as a special investigator under Article 2.122 [~~2.122(a)(1) or (5)~~], Code of Criminal Procedure.

(b) The head of a state or local law enforcement agency may allow an honorably retired peace officer [~~of the agency to whom this section applies~~] an opportunity to demonstrate weapons proficiency if the retired officer provides to the agency a sworn affidavit stating that:

(1) the officer honorably retired after not less than a total of 15 [~~20~~] years of service as a commissioned officer with one or more state or local law enforcement agencies;

(2) the officer's license as a commissioned officer was not revoked or suspended for any period during the officer's term of service as a commissioned officer; and

(3) the officer has no psychological or physical disability that would interfere with the officer's proper handling of a handgun.

(c) The agency shall establish written procedures for the issuance or denial of a certificate of proficiency under this section. The agency shall issue the certificate to a retired officer who satisfactorily demonstrates weapons proficiency under Subsection (b), provides proof that the officer is receiving retirement benefits on the basis of service with a state or local law enforcement agency, and satisfies the written procedures established by the agency. The agency shall maintain records of any retired officer who holds a certificate issued under this section.

(d) A certificate issued under this section expires on the second anniversary of the date the certificate was issued. A retired officer to whom this section applies may request an annual evaluation of weapons proficiency and issuance of a certificate of proficiency as needed to comply with applicable federal or other laws.

(i) On request of a retired officer who holds a certificate of proficiency under this section, the head of a state or local law enforcement agency may issue to the retired officer identification that indicates that the officer retired from the agency. An identification under this subsection must include a photograph of the retired officer.

SECTION ____ . Subsection (g), Section 46.15, Penal Code, as added by Chapter 795, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2110** by inserting the following new SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 30.05, Penal Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) This section does not apply if:

(1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun or other weapon was forbidden; and

(2) the actor at the time of the offense was a peace officer, including a commissioned peace officer of a recognized state, or a special investigator under Article 2.122, Code of Criminal Procedure, regardless of whether the peace officer or special investigator was engaged in the actual discharge of an official duty while carrying the weapon.

(h) For purposes of Subsection (g), "recognized state" has the meaning assigned by Section 46.15.

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

SECTION _____. This Act takes effect September 1, 2005.

HB 3016 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3016, A bill to be entitled An Act relating to the determination of the market value of certain drug supplies for ad valorem property tax purposes.

Representative Hill moved to concur in the senate amendments to **HB 3016**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Bohac, Herrero, Leibowitz, and Zedler recorded voting no.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3016** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 23.12, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) In this subsection, "drug supplies held in surplus" means drugs, as defined by Section 431.002(14), Health and Safety Code, that are owned by a person who holds a wholesale drug distributor license under Chapter 431, Health and Safety Code, other than a pharmaceutical drug manufacturer, retail pharmacy, or chain pharmacy, and that are held for less than 60 days for use in responding to terrorist attack, bioterrorism event, and catastrophic man-made or natural disasters, but only that percentage of the owner's inventory necessary to treat victims of terrorist attack, bioterrorism event, or catastrophic man-made or natural disasters by attending physicians or other emergency health care personnel. In determining the market value of drug supplies held in surplus, the chief appraiser shall exclude as economic obsolescence from the market value the value attributable to drug supplies held in surplus that exceed the amount of drugs held for normal market purposes. For rendition purposes, in calculating the number of days drug supplies held in surplus are held in an inventory, the owner shall quantify the average number of days of the owner's day-to-day working inventory (cycle stock) that the owner holds to meet normal customer demand and shall subtract that number of days from the average number of days the owner holds the owner's total drug inventory. When the owner renders the owner's total drug inventory, the owner shall include information sufficient to establish the validity of the owner's calculations under this subsection. Notwithstanding any other provision of this subsection, the percentage of an

owner's drug supplies held in surplus inventory may not exceed 10 percent of the owner's total inventory of drugs as defined by Section 431.002(14), Health and Safety Code.

SECTION 2. This Act takes effect January 1, 2006.

**HB 867 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 867, A bill to be entitled An Act relating to the registration and supervision of sex offenders; providing penalties.

Representative R. Allen moved to concur in the senate amendments to **HB 867**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 867, A bill to be entitled An Act relating to the registration and supervision of sex offenders; providing penalties.

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

ARTICLE 1. SEX OFFENDER REGISTRATION REQUIREMENTS

SECTION 1.01. Chapter 62, Code of Criminal Procedure, is reenacted and amended to read as follows:

CHAPTER 62. SEX OFFENDER REGISTRATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Art. 62.001 ~~[62.01]~~. DEFINITIONS. In this chapter:

- (1) "Department" means the Department of Public Safety.
- (2) "Local law enforcement authority" means the chief of police of a municipality or the sheriff of a county in this state.
- (3) "Penal institution" means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Youth Commission, or a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county jail.
- (4) "Released" means discharged, paroled, placed in a nonsecure community program for juvenile offenders, or placed on juvenile probation, community supervision, or mandatory supervision.
- (5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, regardless of the pendency of an appeal, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:
 - (A) ~~[a conviction for]~~ a violation of Section 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;
 - (B) ~~[a conviction for]~~ a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) ~~[a conviction for]~~ a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor ~~[defendant]~~ committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) ~~[a conviction for]~~ a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor ~~[defendant]~~ committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) ~~[a conviction for]~~ a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) the second ~~[conviction for a]~~ violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G) ~~[a conviction for]~~ an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), or (E);

(H) ~~[an adjudication of delinquent conduct:~~

~~[(i) based on a violation of one of the offenses listed in Paragraph (A), (B), (C), (D), or (G) or, if the order in the hearing contains an affirmative finding that the victim or intended victim was younger than 17 years of age, one of the offenses listed in Paragraph (E); or~~

~~[(ii) for which two violations of the offense listed in Paragraph (F) are shown;~~

~~[(I) a deferred adjudication for an offense listed in:~~

~~[(i) Paragraph (A), (B), (C), (D), or (G); or~~

~~[(ii) Paragraph (E) if the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;~~

~~[(J) a violation of [conviction under] the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), or (G), but not if the violation results in a deferred adjudication; or~~

~~[(K) an adjudication of delinquent conduct under the laws of another state, federal law, or the laws of a foreign country based on a violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), or (G);~~

~~[(L) the second violation of [conviction under] the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication]; or~~

~~[(M) the second adjudication of delinquent conduct under the laws of another state, federal law, or the laws of a foreign country based on a violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure].~~

(6) "Sexually violent offense" means any of the following offenses committed by a person 17 years of age or older:

(A) an offense under Section 21.11(a)(1) (Indecency with a child), 22.011 (Sexual assault), or 22.021 (Aggravated sexual assault), Penal Code;

(B) an offense under Section 43.25 (Sexual performance by a child), Penal Code;

(C) an offense under Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually;

(D) an offense under Section 30.02 (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit a felony listed in Paragraph (A) or (C) of Subdivision (5); or

(E) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice if the offense contains elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), or (D).

(7) "Residence" includes a residence established in this state by a person described by Article ~~62.152(e)~~ ~~[62.063(e)]~~.

(8) "Public or private institution of higher education" includes a college, university, community college, or technical or trade institute.

(9) "Authority for campus security" means the authority with primary law enforcement jurisdiction over property under the control of a public or private institution of higher education, other than a local law enforcement authority.

(10) "Extrajurisdictional registrant" means a person who:

(A) is required to register as a sex offender under:

(i) the laws of another state with which the department has entered into a reciprocal registration agreement;

(ii) federal law or the Uniform Code of Military Justice; or

(iii) the laws of a foreign country; and

(B) is not otherwise required to register under this chapter because:

(i) the person does not have a reportable conviction for an offense under the laws of the other state, federal law, the laws of the foreign country, or the Uniform Code of Military Justice containing elements that are substantially similar to the elements of an offense requiring registration under this chapter; or

(ii) the person does not have a reportable adjudication of delinquent conduct based on a violation of an offense under the laws of the other state, federal law, or the laws of the foreign country containing elements that are substantially similar to the elements of an offense requiring registration under this chapter.

Art. 62.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a reportable conviction or adjudication occurring on or after September 1, 1970.

(b) Except as provided by Subsection (c), the duties imposed on a person required to register under this chapter on the basis of a reportable conviction or adjudication, and the corresponding duties and powers of other entities in relation to the person required to register on the basis of that conviction or adjudication, are not affected by:

- (1) an appeal of the conviction or adjudication; or
- (2) a pardon of the conviction or adjudication.

(c) If a conviction or adjudication that is the basis of a duty to register under this chapter is set aside on appeal by a court or if the person required to register under this chapter on the basis of a conviction or adjudication receives a pardon on the basis of subsequent proof of innocence, the duties imposed on the person by this chapter and the corresponding duties and powers of other entities in relation to the person are terminated.

Art. 62.003 [62.0101]. DETERMINATION REGARDING SUBSTANTIALLY SIMILAR ELEMENTS OF OFFENSE. (a) For the purposes of this chapter, the [The] department is responsible for determining [for the purposes of this chapter] whether an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice contains elements that are substantially similar to the elements of an offense under the laws of this state.

(b) The department annually shall provide or make available to each prosecuting attorney's office in this state:

- (1) the criteria used in making a determination under Subsection (a);
and
- (2) any existing record or compilation of offenses under the laws of another state, federal law, the laws of a foreign country, and the Uniform Code of Military Justice that the department has already determined to contain elements that are substantially similar to the elements of offenses under the laws of this state.

(c) An appeal of a determination made under this article shall be brought in a district court in Travis County.

Art. 62.004 [62.0102]. DETERMINATION REGARDING PRIMARY REGISTRATION AUTHORITY. (a) For each person subject to registration under this chapter, the department shall determine which local law enforcement authority serves as the person's primary registration authority based on the municipality or county in which the person resides or, as provided by Article 62.152 [62.061, as added by Chapters 1193 and 1415, Acts of the 76th Legislature, Regular Session, 1999], the municipality or county in which the person works or attends school.

(b) The department shall notify each person subject to registration under this chapter of the person's primary registration authority in a timely manner.

Art. 62.005. CENTRAL DATABASE; PUBLIC INFORMATION. (a) The department shall maintain a computerized central database containing the information required for registration under this chapter. The department may include in the computerized central database the numeric risk level assigned to a person under this chapter.

(b) The information contained in the database, including the numeric risk level assigned to a person under this chapter, is public information, with the exception of any information:

- (1) regarding the person's social security number, driver's license number, or telephone number;

(2) that is required by the department under Article 62.051(c)(7); or

(3) that would identify the victim of the offense for which the person is subject to registration.

(c) Notwithstanding Chapter 730, Transportation Code, the department shall maintain in the database, and shall post on any department website related to the database, any photograph of the person that is available through the process for obtaining or renewing a personal identification certificate or driver's license under Section 521.103 or 521.272, Transportation Code. The department shall update the photograph in the database and on the website annually or as the photograph otherwise becomes available through the renewal process for the certificate or license.

(d) A local law enforcement authority shall release public information described under Subsection (b) to any person who requests the information from the authority. The authority may charge the person a fee not to exceed the amount reasonably necessary to cover the administrative costs associated with the authority's release of information to the person under this subsection.

(e) The department shall provide a licensing authority with notice of any person required to register under this chapter who holds or seeks a license that is issued by the authority. The department shall provide the notice required by this subsection as the applicable licensing information becomes available through the person's registration or verification of registration.

(f) On the written request of a licensing authority that identifies an individual and states that the individual is an applicant for or a holder of a license issued by the authority, the department shall release any information described by Subsection (a) to the licensing authority.

(g) For the purposes of Subsections (e) and (f):

(1) "License" means a license, certificate, registration, permit, or other authorization that:

(A) is issued by a licensing authority; and

(B) a person must obtain to practice or engage in a particular business, occupation, or profession.

(2) "Licensing authority" means a department, commission, board, office, or other agency of the state or a political subdivision of the state that issues a license.

(h) Not later than the third day after the date on which the applicable information becomes available through the person's registration or verification of registration or under Article 62.058, the department shall send notice of any person required to register under this chapter who is or will be employed, carrying on a vocation, or a student at a public or private institution of higher education in this state to:

(1) for an institution in this state:

(A) the authority for campus security for that institution; or

(B) if an authority for campus security for that institution does not exist, the local law enforcement authority of:

(i) the municipality in which the institution is located; or

(ii) the county in which the institution is located, if the institution is not located in a municipality; or

(2) for an institution in another state, any existing authority for campus security at that institution.

(i) On the written request of an institution of higher education described by Subsection (h) that identifies an individual and states that the individual has applied to work or study at the institution, the department shall release any information described by Subsection (a) to the institution.

Art. 62.006. INFORMATION PROVIDED TO PEACE OFFICER ON REQUEST. The department shall establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a driver's license number, personal identification certificate number, or license plate number is automatically provided information as to whether the person to whom the driver's license or personal identification certificate is issued is required to register under this chapter or whether the license plate number is entered in the computerized central database under Article 62.005 as assigned to a vehicle owned or driven by a person required to register under this chapter.

Art. 62.007. RISK ASSESSMENT REVIEW COMMITTEE; SEX OFFENDER SCREENING TOOL. (a) The Texas Department of Criminal Justice shall establish a risk assessment review committee composed of at least seven members, each of whom serves on the review committee in addition to the member's other employment-related duties. The review committee, to the extent feasible, must include at least:

- (1) one member having experience in law enforcement;
- (2) one member having experience working with juvenile sex offenders;
- (3) one member having experience as a sex offender treatment provider;
- (4) one member having experience working with victims of sex offenses;
- (5) the executive director of the Council on Sex Offender Treatment;
and
- (6) one sex offender treatment provider registered under Chapter 110, Occupations Code, and selected by the executive director of the Council on Sex Offender Treatment to serve on the review committee.

(b) The risk assessment review committee functions in an oversight capacity. The committee shall:

- (1) develop or select, from among existing tools or from any tool recommended by the Council on Sex Offender Treatment, a sex offender screening tool to be used in determining the level of risk of a person subject to registration under this chapter;
- (2) ensure that staff is trained on the use of the screening tool;
- (3) monitor the use of the screening tool in the state; and
- (4) analyze other screening tools as they become available and revise or replace the existing screening tool if warranted.

(c) The sex offender screening tool must use an objective point system under which a person is assigned a designated number of points for each of various factors. In developing or selecting the sex offender screening tool, the risk assessment review committee shall use or shall select a screening tool that may be adapted to use the following general guidelines:

- (1) level one (low): a designated range of points on the sex offender screening tool indicating that the person poses a low danger to the community and will not likely engage in criminal sexual conduct;

(2) level two (moderate): a designated range of points on the sex offender screening tool indicating that the person poses a moderate danger to the community and might continue to engage in criminal sexual conduct; and

(3) level three (high): a designated range of points on the sex offender screening tool indicating that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct.

(d) The risk assessment review committee, the Texas Department of Criminal Justice, the Texas Youth Commission, or a court may override a risk level only if the entity:

(1) believes that the risk level assessed is not an accurate prediction of the risk the offender poses to the community; and

(2) documents the reason for the override in the offender's case file.

(e) Notwithstanding Chapter 58, Family Code, records and files, including records that have been sealed under Section 58.003 of that code, relating to a person for whom a court, the Texas Department of Criminal Justice, or the Texas Youth Commission is required under this article to determine a level of risk shall be released to the court, department, or commission, as appropriate, for the purpose of determining the person's risk level.

(f) Chapter 551, Government Code, does not apply to a meeting of the risk assessment review committee.

(g) The numeric risk level assigned to a person using the sex offender screening tool described by this article is not confidential and is subject to disclosure under Chapter 552, Government Code.

Art. 62.008. GENERAL IMMUNITY. The following persons are immune from liability for good faith conduct under this chapter:

(1) an employee or officer of the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, the Department of Public Safety, the Board of Pardons and Paroles, or a local law enforcement authority;

(2) an employee or officer of a community supervision and corrections department or a juvenile probation department;

(3) a member of the judiciary; and

(4) a member of the risk assessment review committee established under Article 62.007.

Art. 62.009. IMMUNITY FOR RELEASE OF PUBLIC INFORMATION.

(a) The department, a penal institution, a local law enforcement authority, or an authority for campus security may release to the public information regarding a person required to register under this chapter only if the information is public information under this chapter.

(b) An individual, agency, entity, or authority is not liable under Chapter 101, Civil Practice and Remedies Code, or any other law for damages arising from conduct authorized by Subsection (a).

(c) For purposes of determining liability, the release or withholding of information by an appointed or elected officer of an agency, entity, or authority is a discretionary act.

(d) A private primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education may release to the public information regarding a person required to register under this chapter only if the information is public information under this chapter and is released to the administrator under Article 62.005, 62.053, 62.054, 62.055, or 62.153. A private

primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education is not liable under any law for damages arising from conduct authorized by this subsection.

Art. 62.010. RULEMAKING AUTHORITY. The Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and the department may adopt any rule necessary to implement this chapter.

SUBCHAPTER B. REGISTRATION AND VERIFICATION
REQUIREMENTS; RELATED NOTICE

~~[Art. 62.0105. EXEMPTION FROM REGISTRATION FOR CERTAIN SEX OFFENDERS. (a) If eligible under Subsection (b) or (c), a person required to register under this chapter may petition the court having jurisdiction over the case for an order exempting the person from registration under this chapter at any time after the person's sentencing or after the person is placed on deferred adjudication community supervision.~~

~~[(b) A person is eligible to petition the court as described by Subsection (a) if:~~

~~[(1) the person is required to register only as a result of a single reportable conviction or adjudication, other than an adjudication of delinquent conduct; and~~

~~[(2) the court has entered in the appropriate judgment or has filed with the appropriate papers a statement of an affirmative finding described by Article 42.017 or Section 5(g), Article 42.12.~~

~~[(c) A defendant who before September 1, 2001, is convicted of or placed on deferred adjudication community supervision for an offense under Section 21.11, 22.011, 22.021, or 43.25, Penal Code, is eligible to petition the court as described by Subsection (a). The court may consider the petition only if the petition states and the court finds that the defendant would have been entitled to the entry of an affirmative finding under Article 42.017 or Section 5(g), Article 42.12, as appropriate, had the conviction or placement on deferred adjudication community supervision occurred after September 1, 2001.~~

~~[(d) After a hearing on the petition described by Subsection (a), the court may issue an order exempting the person from registration under this chapter if it appears by a preponderance of the evidence:~~

~~[(1) as presented by a registered sex offender treatment provider, that the exemption does not threaten public safety; and~~

~~[(2) that the person's conduct did not occur without the consent of the victim or intended victim as described by Section 22.011(b), Penal Code.~~

~~[(e) An order exempting the person from registration under this chapter does not expire, but the court shall withdraw the order if after the order is issued the person receives a reportable conviction or adjudication under this chapter.~~

~~[Art. 62.011. WORKERS OR STUDENTS. (a) A person is employed or carries on a vocation for purposes of this chapter if the person works or volunteers on a full time or part time basis for a consecutive period exceeding 14 days or for an aggregate period exceeding 30 days in a calendar year. A person works for purposes of this subsection regardless of whether the person works for compensation or for governmental or educational benefit.~~

~~[(b) A person is a student for purposes of this chapter if the person enrolls on a full time or part time basis in any educational facility, including:~~

~~[(1) a public or private primary or secondary school, including a high school or alternative learning center, or~~

~~[(2) a public or private institution of higher education.]~~

Art. 62.051 [~~62.02~~]. REGISTRATION: GENERAL. (a) A person who has a reportable conviction or adjudication or who is required to register as a condition of parole, release to mandatory supervision, or community supervision shall register or, if the person is a person for whom registration is completed under this chapter, verify registration as provided by Subsection (f) [~~(d)~~], with the local law enforcement authority in any municipality where the person resides or intends to reside for more than seven days. If the person does not reside or intend to reside in a municipality, the person shall register or verify registration in any county where the person resides or intends to reside for more than seven days. The person shall satisfy the requirements of this subsection not later than the later of:

(1) the seventh day after the person's arrival in the municipality or county; or

(2) the first date the local law enforcement authority of the municipality or county by policy allows the person to register or verify registration, as applicable.

(b) The department shall provide the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and each local law enforcement authority, authority for campus security, county jail, and court with a form for registering persons required by this chapter to register.

(c) The registration form shall require:

(1) the person's full name, each alias, date of birth, sex, race, height, weight, eye color, hair color, social security number, driver's license number, shoe size, and home address;

(2) a recent color photograph or, if possible, an electronic digital image of the person and a complete set of the person's fingerprints;

(3) the type of offense the person was convicted of, the age of the victim, the date of conviction, and the punishment received;

(4) an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision;

(5) an indication of each license, as defined by Article 62.005(g) [~~62.08(g)~~], that is held or sought by the person;

(6) an indication as to whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in this state or another state, and the name and address of that institution; and

(7) any other information required by the department.

(d) The registration form must contain a statement and description of any registration duties the person has or may have under this chapter.

(e) [(e)] Not later than the third day after a person's registering, the local law enforcement authority with whom the person registered shall send a copy of the registration form to the department and, if the person resides on the campus of a public or private institution of higher education, to any authority for campus security for that institution.

(f) [(f)] A person for whom registration is completed under this chapter shall report to the applicable local law enforcement authority to verify the information in the registration form received by the authority under this chapter.

The authority shall require the person to produce proof of the person's identity and residence before the authority gives the registration form to the person for verification. If the information in the registration form is complete and accurate, the person shall verify registration by signing the form. If the information is not complete or not accurate, the person shall make any necessary additions or corrections before signing the form.

(g) [(e)] A person who is required to register or verify registration under this chapter shall ensure that the person's registration form is complete and accurate with respect to each item of information required by the form in accordance with Subsection (c) [(b)].

(h) [(f)] If a person subject to registration under this chapter does not move to an intended residence by the end of the seventh day after the date on which the person is released or the date on which the person leaves a previous residence, the person shall:

(1) report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person by not later than the seventh day after the date on which the person is released or the date on which the person leaves a previous residence, as applicable, and provide the officer with the address of the person's temporary residence; and

(2) continue to report to the person's supervising officer not less than weekly during any period of time in which the person has not moved to an intended residence and provide the officer with the address of the person's temporary residence.

(i) [(g)] If the other state has a registration requirement for sex offenders, a person who has a reportable conviction or adjudication, who resides in this state, and who is employed, carries on a vocation, or is a student in another state shall, not later than the 10th day after the date on which the person begins to work or attend school in the other state, register with the law enforcement authority that is identified by the department as the authority designated by that state to receive registration information. If the person is employed, carries on a vocation, or is a student at a public or private institution of higher education in the other state and if an authority for campus security exists at the institution, the person shall also register with that authority not later than the 10th day after the date on which the person begins to work or attend school.

Art. 62.052 [62.021]. REGISTRATION: EXTRAJURISDICTIONAL [OUT OF STATE] REGISTRANTS. (a) An extrajurisdictional registrant [~~This article applies to a person who:~~

~~(1) is required to register as a sex offender under:~~

~~[(A) the laws of another state with which the department has entered into a reciprocal registration agreement;~~

~~[(B) federal law or the Uniform Code of Military Justice; or~~

~~[(C) the laws of a foreign country; and~~

~~(2) is not otherwise required to register under this chapter because:~~

~~[(A) the person does not have a reportable conviction for an offense under the laws of the other state, federal law, the laws of the foreign country, or the Uniform Code of Military Justice containing elements that are substantially similar to an offense requiring registration under this chapter; or~~

~~[(B) the person does not have a reportable adjudication of delinquent conduct based on a violation of an offense under the laws of the other state, federal law, or the laws of the foreign country containing elements that are substantially similar to an offense requiring registration under this chapter.~~

~~(b)~~ A person described by Subsection (a) is required to comply with the annual verification requirements of Article 62.058 ~~[62.06]~~ in the same manner as a person who is required to verify registration on the basis of a reportable conviction or adjudication.

~~(b)~~ ~~(e)~~ The duty to register for an extrajurisdictional registrant ~~[a person described by Subsection (a)]~~ expires on the date the person's duty to register would expire under the laws of the other state or foreign country had the person remained in that state or foreign country, under federal law, or under the Uniform Code of Military Justice, as applicable.

~~(c)~~ ~~(d)~~ The department may negotiate and enter into a reciprocal registration agreement with any other state to prevent residents of this state and residents of the other state from frustrating the public purpose of the registration of sex offenders by moving from one state to the other.

Art. 62.053 ~~[62.03]~~. PRERELEASE NOTIFICATION. (a) Before a person who will be subject to registration under this chapter is due to be released from a penal institution, the Texas Department of Criminal Justice or the Texas Youth Commission shall determine the person's level of risk to the community using the sex offender screening tool developed or selected under Article 62.007 ~~[62.035]~~ and assign to the person a numeric risk level of one, two, or three. Before releasing the person, an official of the penal institution shall:

(1) inform the person that:

(A) not later than the later of the seventh day after the date on which the person is released or after the date on which the person moves from a previous residence to a new residence in this state or not later than the later of the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, the person must~~[-~~

~~(+)~~ register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to reside;

(B) not later than the seventh day after the date on which the person is released or the date on which the person moves from a previous residence to a new residence in this state, the person must, ~~(e)~~

~~(ii)~~ if the person has not moved to an intended residence, report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;

~~(C)~~ ~~(B)~~ not later than the seventh day before the date on which the person moves to a new residence in this state or another state, the person must report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;

~~(D)~~ ~~(C)~~ not later than the 10th day after the date on which the person arrives in another state in which the person intends to reside, the person must register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information, if the other state has a registration requirement for sex offenders;

~~(E)~~ ~~(D)~~ not later than the 30th day after the date on which the person is released, the person must apply to the department in person for the issuance of an original or renewal driver's license or personal identification

certificate and a failure to apply to the department as required by this paragraph results in the automatic revocation of any driver's license or personal identification certificate issued by the department to the person; and

(F) ~~(E)~~ the person must notify appropriate entities of any change in status as described by Article 62.057 ~~[62.05]~~;

(2) require the person to sign a written statement that the person was informed of the person's duties as described by Subdivision (1) or Subsection (g) ~~(h)~~ or, if the person refuses to sign the statement, certify that the person was so informed;

(3) obtain the address where the person expects to reside on the person's release and other registration information, including a photograph and complete set of fingerprints; and

(4) complete the registration form for the person.

(b) On the seventh day before the date on which a person who will be subject to registration under this chapter is due to be released from a penal institution, or on receipt of notice by a penal institution that a person who will be subject to registration under this chapter is due to be released in less than seven days, an official of the penal institution shall send the person's completed registration form and numeric risk level to the department and to:

(1) the applicable local law enforcement authority in the municipality or county in which the person expects to reside, if the person expects to reside in this state; or

(2) the law enforcement agency that is identified by the department as the agency designated by another state to receive registration information, if the person expects to reside in that other state and that other state has a registration requirement for sex offenders.

(c) If a person who is subject to registration under this chapter receives an order deferring adjudication, placing the person on community supervision or juvenile probation ~~[or community supervision]~~, or imposing only a fine, the court pronouncing the order or sentence shall make a determination of the person's numeric risk level using the sex offender screening tool developed or selected under Article 62.007 ~~[62.035]~~, assign to the person a numeric risk level of one, two, or three, and ensure that the prerelease notification and registration requirements specified in this article are conducted on the day of entering the order or sentencing. If a community supervision and corrections department representative is available in court at the time a court pronounces a sentence of deferred adjudication or community supervision, the representative shall immediately obtain the person's numeric risk level from the court and conduct the prerelease notification and registration requirements specified in this article. In any other case in which the court pronounces a sentence under this subsection, the court shall designate another appropriate individual to obtain the person's numeric risk level from the court and conduct the prerelease notification and registration requirements specified in this article.

(d) If a person who has a reportable conviction described by Article 62.001(5)(H) ~~[62.01(5)(J)]~~ or (I) ~~(L)~~ is placed under the supervision of the pardons and paroles division of the Texas Department of Criminal Justice or a community supervision and corrections department under Article 42.11, the division or community supervision and corrections department shall conduct the prerelease notification and registration requirements specified in this article on the date the person is placed under the supervision of the division or community supervision and corrections department. If a person who has a reportable

adjudication of delinquent conduct described by Article 62.001(5)(H) [~~62.01(5)(K)~~] or (I) [~~(M)~~] is, as permitted by Section 60.002, Family Code, placed under the supervision of the Texas Youth Commission, a public or private vendor operating under contract with the Texas Youth Commission, a local juvenile probation department, or a juvenile secure pre-adjudication or post-adjudication facility, the commission, vendor, probation department, or facility shall conduct the prerelease notification and registration requirements specified in this article on the date the person is placed under the supervision of the commission, vendor, probation department, or facility.

(e) Not later than the eighth day after receiving a registration form under Subsection (b), (c), or (d), the local law enforcement authority shall verify the age of the victim, the basis on which the person is subject to registration under this chapter, and the person's numeric risk level. [~~The authority shall immediately publish notice in English and Spanish in the newspaper of greatest paid circulation in the county in which the person subject to registration intends to reside or, if there is no newspaper of paid circulation in that county, in the newspaper of greatest general circulation in the county, except as provided by Article 62.031. If the authority publishes notice under this subsection, the authority shall publish a duplicate notice in the newspaper, with any necessary corrections, during the week immediately following the week of initial publication.~~] The local law enforcement authority shall [~~also~~] immediately provide notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside by mail to the office of the superintendent or administrator, as appropriate, in accordance with Article 62.054 [~~62.032~~]. On receipt of a notice under this subsection, the superintendent shall release the information contained in the notice to appropriate school district personnel, including peace officers and security personnel, principals, nurses, and counselors.

(f) [~~The local law enforcement authority shall include in the notice by publication in a newspaper the following information only:~~

~~(1) the person's full name, age, and gender;~~

~~(2) a brief description of the offense for which the person is subject to registration;~~

~~(3) the municipality, numeric street address or physical address, if a numeric street address is not available, and zip code number where the person intends to reside;~~

~~(4) either a recent photograph of the person or the Internet address of a website on which the person's photograph is accessible free of charge; and~~

~~(5) the person's numeric risk level assigned under this chapter and the guidelines used to determine a person's risk level generally.~~

~~(g)~~ The local law enforcement authority shall include in the notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district any information the authority determines is necessary to protect the public, except:

(1) the person's social security number, driver's license number, or telephone number; and

(2) any information that would identify the victim of the offense for which the person is subject to registration.

(g) ~~(h)~~ Before a person who will be subject to registration under this chapter is due to be released from a penal institution in this state, an official of the penal institution shall inform the person that:

(1) if the person intends to reside in another state and to work or attend school in this state, the person must, not later than the later of the seventh day after the date on which the person begins to work or attend school or the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to work or attend school;

(2) if the person intends to reside in this state and to work or attend school in another state and if the other state has a registration requirement for sex offenders, the person must:

(A) not later than the 10th day after the date on which the person begins to work or attend school in the other state, register with the law enforcement authority that is identified by the department as the authority designated by that state to receive registration information; and

(B) if the person intends to be employed, carry on a vocation, or be a student at a public or private institution of higher education in the other state and if an authority for campus security exists at the institution, register with that authority not later than the 10th day after the date on which the person begins to work or attend school; and

(3) regardless of the state in which the person intends to reside, if the person intends to be employed, carry on a vocation, or be a student at a public or private institution of higher education in this state, the person must:

(A) not later than the later of the seventh day after the date on which the person begins to work or attend school or the first date the applicable authority by policy allows the person to register, register with:

(i) the authority for campus security for that institution; or

(ii) except as provided by Article 62.153(e) ~~[62.064(e)]~~, if an authority for campus security for that institution does not exist, the local law enforcement authority of:

(a) the municipality in which the institution is located; or

(b) the county in which the institution is located, if the institution is not located in a municipality; and

(B) not later than the seventh day after the date the person stops working or attending school, notify the appropriate authority for campus security or local law enforcement authority of the termination of the person's status as a worker or student.

~~[(i) If a person who is subject to the newspaper publication requirements of Subsection (c) is not under community supervision, parole, or mandatory supervision, the local law enforcement authority obtaining publication of notice regarding the person as required by that subsection shall collect from the person an amount equal to the cost incurred by the authority in obtaining the publication. The cost of the publication of notice must be established by written receipt.~~

~~[Art. 62.031. LIMITATIONS ON NEWSPAPER PUBLICATION. (a) A local law enforcement authority may not publish notice in a newspaper under Article 62.03(e) or 62.04(f) if the basis on which the person is subject to registration is:~~

~~[(1) an adjudication of delinquent conduct; or~~

~~[(2) a conviction or a deferred adjudication for an offense under Section 25.02, Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under Section 25.02, Penal Code, if the victim was at the time of the offense a child younger than 17 years of age.~~

~~[(b) In addition to the prohibition on publication established under Subsection (a), a local law enforcement authority may not publish notice in a newspaper under Article 62.04(f) if the person subject to registration is assigned a numeric risk level of one.]~~

Art. 62.054 ~~[62.032]~~. CIRCUMSTANCES REQUIRING NOTICE TO SUPERINTENDENT OR SCHOOL ADMINISTRATOR. (a) A local law enforcement authority shall provide notice to the superintendent and each administrator under Article 62.053(e) ~~[62.03(e)]~~ or 62.055(f) ~~[62.04(f)]~~ only if:

(1) the victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;

(2) the person subject to registration is a student enrolled in a public or private secondary school; or

(3) the basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 43.25 or 43.26, Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under either of those sections.

(b) A local law enforcement authority may not provide notice to the superintendent or any administrator under Article 62.053(e) ~~[62.03(e)]~~ or 62.055(f) ~~[62.04(f)]~~ if the basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 25.02, Penal Code, or an offense under the laws of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense under that section.

~~[Art. 62.035. RISK ASSESSMENT REVIEW COMMITTEE; SEX OFFENDER SCREENING TOOL. (a) The Texas Department of Criminal Justice shall establish a risk assessment review committee composed of at least five members, each of whom is a state employee whose service on the review committee is in addition to the employee's regular duties. The review committee, to the extent feasible, should include at least:~~

~~[(1) one member having experience in law enforcement;~~

~~[(2) one member having experience working with juvenile sex offenders;~~

~~[(3) one member having experience as a sex offender treatment provider; and~~

~~[(4) one member having experience working with victims of sex offenses.~~

~~[(b) The risk assessment review committee functions in an oversight capacity. The committee shall:~~

~~[(1) develop or select from among existing tools a sex offender screening tool to be used in determining the level of risk of a person subject to registration under this chapter;~~

~~[(2) ensure that staff are trained on the use of the screening tool;~~

~~[(3) monitor the use of the screening tool in the state; and~~

~~[(4) analyze other screening tools as they become available and revise or replace the existing screening tool if warranted.~~

~~[(c) The sex offender screening tool must use an objective point system under which a person is assigned a designated number of points for each of various factors. In developing or selecting the sex offender screening tool, the risk assessment review committee shall use or shall select a screening tool that may be adapted to use the following general guidelines:~~

~~[(1) level one (low): a designated range of points on the sex offender screening tool indicating that the person poses a low danger to the community and will not likely engage in criminal sexual conduct;~~

~~[(2) level two (moderate): a designated range of points on the sex offender screening tool indicating that the person poses a moderate danger to the community and may continue to engage in criminal sexual conduct; and~~

~~[(3) level three (high): a designated range of points on the sex offender screening tool indicating that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct.~~

~~[(d) The risk assessment review committee, the Texas Department of Criminal Justice, the Texas Youth Commission, or a court may override a risk level only if the entity:~~

~~[(1) believes that the risk level assessed is not an accurate prediction of the risk the offender poses to the community; and~~

~~[(2) documents the reason for the override in the offender's case file.~~

~~[(e) Notwithstanding Chapter 58, Family Code, records and files, including records that have been sealed under Section 58.003 of that code, relating to a person for whom a court, the Texas Department of Criminal Justice, or the Texas Youth Commission is required under this article to determine a level of risk shall be released to the court, department, or commission, as appropriate, for the purpose of determining the person's risk level.~~

~~[(f) Chapter 551, Government Code, does not apply to a meeting of the risk assessment review committee.]~~

Art. 62.055 [62.04]. CHANGE OF ADDRESS. (a) If a person required to register under this chapter intends to change address, regardless of whether the person intends to move to another state, the person shall, not later than the seventh day before the intended change, report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person and provide the authority and the officer with the person's anticipated move date and new address. If a person required to register changes address, the person shall, not later than the later of the seventh day after changing the address or the first date the applicable local law enforcement authority by policy allows the person to report, report in person to the local law enforcement authority in the municipality or county in which the person's new residence is located and provide the authority with proof of identity and proof of residence.

(b) Not later than the third day after receipt of notice under Subsection (a), the person's juvenile probation officer, community supervision and corrections department officer, or parole officer shall forward the information provided under Subsection (a) to the local law enforcement authority designated as the person's primary registration authority by the department and, if the person intends to move to another municipality or county in this state, to the applicable local law enforcement authority in that municipality or county.

(c) If the person moves to another state that has a registration requirement for sex offenders, the person shall, not later than the 10th day after the date on which the person arrives in the other state, register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information.

(d) Not later than the third day after receipt of information under Subsection (a) or (b), whichever is earlier, the local law enforcement authority shall forward this information to the department and, if the person intends to move to another municipality or county in this state, to the applicable local law enforcement authority in that municipality or county.

(e) If a person who reports to a local law enforcement authority under Subsection (a) does not move on or before the anticipated move date or does not move to the new address provided to the authority, the person shall:

(1) not later than the seventh day after the anticipated move date, and not less than weekly after that seventh day, report to the local law enforcement authority designated as the person's primary registration authority by the department and provide an explanation to the authority regarding any changes in the anticipated move date and intended residence; and

(2) report to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person not less than weekly during any period in which the person has not moved to an intended residence.

(f) If the person moves to another municipality or county in this state, the department shall inform the applicable local law enforcement authority in the new area of the person's residence not later than the third day after the date on which the department receives information under Subsection (a). Not later than the eighth day after the date on which the local law enforcement authority is informed under Subsection (a) or under this subsection, the authority shall verify the age of the victim, the basis on which the person is subject to registration under this chapter, and the person's numeric risk level. ~~[The authority shall immediately publish notice in English and Spanish in the newspaper of greatest paid circulation in the county in which the person subject to registration intends to reside or, if there is no newspaper of paid circulation in that county, in the newspaper of greatest general circulation in the county, except as provided by Article 62.031. If the authority publishes notice under this subsection, the authority shall publish a duplicate notice in the newspaper, with any necessary corrections, during the week immediately following the week of initial publication.]~~ The local law enforcement authority shall ~~[also]~~ immediately provide notice to the superintendent of the public school district and to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside by mail to the office of the superintendent or administrator, as appropriate, in accordance with Article ~~62.054~~ ~~[62.032]~~. On receipt of a notice under this subsection, the superintendent shall release the information contained in the notice to appropriate school district personnel, including peace officers and security personnel, principals, nurses, and counselors.

(g) ~~[The local law enforcement authority shall include in the notice by publication in a newspaper the following information only:~~

~~[(1) the person's full name, age, and gender;~~

~~[(2) a brief description of the offense for which the person is subject to registration;~~

~~[(3) the municipality, numeric street address or physical address, if a numeric street address is not available, and zip code number where the person intends to reside;~~

~~[(4) either a recent photograph of the person or the Internet address of a website on which the person's photograph is accessible free of charge; and~~

~~[(5) the person's numeric risk level assigned under this chapter and the guidelines used to determine a person's risk level generally.~~

~~[(h)]~~ The local law enforcement authority shall include in the notice to the superintendent of the public school district and the administrator of any private primary or secondary school located in the public school district any information the authority determines is necessary to protect the public, except:

(1) the person's social security number, driver's license number, or telephone number; and

(2) any information that would identify the victim of the offense for which the person is subject to registration.

~~(h)~~ ~~[(+)]~~ If the person moves to another state, the department shall, immediately on receiving information under Subsection (d):

(1) inform the ~~[law enforcement]~~ agency that is designated by the other state to receive registration information, if that state has a registration requirement for sex offenders; and

(2) send to the Federal Bureau of Investigation a copy of the person's registration form, including the record of conviction and a complete set of fingerprints.

~~[(j) If a person who is subject to the newspaper publication requirements of Subsection (f) is not under community supervision, parole, or mandatory supervision, the local law enforcement authority obtaining publication of notice regarding the person as required by that subsection shall collect from the person an amount equal to the cost incurred by the authority in obtaining the publication. The cost of the publication of notice must be established by written receipt.~~

~~[Art. 62.041. AUTHORITY OF POLITICAL SUBDIVISION TO COLLECT COSTS OF CERTAIN NOTICE. (a) In this article, "utility service" means water, wastewater, sewer, gas, garbage, electricity, or drainage service.~~

~~[(b) A political subdivision served by a local law enforcement authority obtaining publication of notice under Article 62.03 or 62.04 may bill any unpaid amount under that article, identified separately, within a bill for a utility service provided by the political subdivision to the person who is the subject of the notice, and may suspend service of the utility to a person who is delinquent in payment of the amount until the delinquent claim is fully paid to the political subdivision.~~

~~[(c) The political subdivision shall remit an amount collected under this article to the local law enforcement authority.]~~

Art. 62.056 ~~[62.045]~~. ADDITIONAL PUBLIC NOTICE FOR CERTAIN OFFENDERS. (a) On receipt of notice under this chapter that a person subject to registration is due to be released from a penal institution, has been placed on community supervision or juvenile probation, or intends to move to a new residence in this state, the department shall verify the person's numeric risk level assigned under this chapter. If the person is assigned a numeric risk level of three, the department shall, not later than the seventh day after the date on which the person is released or the 10th day after the date on which the person moves, provide written notice mailed or delivered to at least each ~~[residential]~~ address, other than a post office box, within a one-mile radius, in an area that has not been

subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside. In providing written notice under this subsection, the department shall use employees of the department whose duties in providing the notice are in addition to the employees' regular duties.

(b) The department shall provide the notice in English and Spanish and shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.

(c) The department shall establish procedures for a person with respect to whom notice is provided under Subsection (a), other than a person subject to registration on the basis of an adjudication of delinquent conduct, to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.

(d) On receipt of notice under this chapter that a person subject to registration under this chapter is required to register or verify registration with a local law enforcement authority and has been assigned a numeric risk level of three, the local law enforcement authority may provide notice to the public in any manner determined appropriate by the local law enforcement authority, including publishing notice in a newspaper or other periodical or circular in circulation in the area where the person intends to reside, holding a neighborhood meeting, posting notices in the area where the person intends to reside, distributing printed notices to area residents, or establishing a specialized local website. The local law enforcement authority may include in the notice only ~~any~~ information that is public information under this chapter.

(e) An owner, builder, seller, or lessor of a single-family residential real property or any improvement to residential real property or that person's broker, salesperson, or other agent or representative in a residential real estate transaction does not have a duty to make a disclosure to a prospective buyer or lessee about registrants under this chapter. To the extent of any conflict between this subsection and another law imposing a duty to disclose information about registered sex offenders, this subsection controls.

~~[Art. 62.0451. ADDITIONAL PUBLIC NOTICE FOR INDIVIDUALS SUBJECT TO CIVIL COMMITMENT. (a) On receipt of notice under this chapter that a person subject to registration who is civilly committed as a sexually violent predator is due to be released from a penal institution or intends to move to a new residence in this state, the department shall, not later than the seventh day after the date on which the person is released or the 10th day after the date on which the person moves, provide written notice mailed or delivered to at least each residential address within a one mile radius, in an area that has not been subdivided, or a three block area, in an area that has been subdivided, of the place where the person intends to reside.~~

~~[(b) The department shall provide the notice in English and Spanish and shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.~~

~~[(c) The department shall establish procedures for a person with respect to whom notice is provided under this article to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.~~

~~[(d) The department's duty to provide notice under this article in regard to a particular person ends on the date on which a court releases the person from all requirements of the civil commitment process.]~~

Art. ~~62.057~~ [62.05]. STATUS REPORT BY SUPERVISING OFFICER OR LOCAL LAW ENFORCEMENT AUTHORITY [AGENCY]. (a) If the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising a person subject to registration under this chapter receives information to the effect that the person's status has changed in any manner that affects proper supervision of the person, including a change in the person's name, physical health, job or educational status, including higher educational status, incarceration, or terms of release, the supervising officer shall promptly notify the appropriate local law enforcement authority or authorities of that change. If the person required to register intends to change address, the supervising officer shall notify the local law enforcement authorities designated by Article ~~62.055(b)~~ [62.04(b)]. Not later than the seventh day after the date the supervising officer receives the relevant information, the supervising officer shall notify the local law enforcement authority of any change in the person's job or educational status in which the person:

(1) becomes employed, begins to carry on a vocation, or becomes a student at a particular public or private institution of higher education; or

(2) terminates the person's status in that capacity.

(b) Not later than the seventh day after the date of the change, a person subject to registration under this chapter shall report to the local law enforcement authority designated as the person's primary registration authority by the department any change in the person's name, physical health, or ~~in the person's~~ job or educational status, including higher educational status.

(c) For purposes of Subsection (b):

~~(1) [this subsection,] a person's job status changes if the person leaves employment for any reason, remains employed by an employer but changes the location at which the person works, or begins employment with a new employer;~~

~~(2) [-For purposes of this subsection,] a person's health status changes if the person is hospitalized as a result of an illness;~~

~~(3) [-For purposes of this subsection,] a change in a person's educational status includes the person's transfer from one educational facility to another; and~~

~~(4) regarding [-Regarding] a change of name, [the] notice of the [a] proposed name [change] provided to a local law enforcement authority as described by Sections 45.004 and 45.103, Family Code, is sufficient [for purposes of this subsection], except that the person shall promptly notify the authority of any denial of the person's petition for a change of name.~~

(d) Not later than the seventh day after the date the local law enforcement authority receives the relevant information, the local law enforcement authority shall notify the department of any change in the person's job or educational status in which the person:

(1) becomes employed, begins to carry on a vocation, or becomes a student at a particular public or private institution of higher education; or

(2) terminates the person's status in that capacity.

Art. ~~62.058~~ [62.06]. LAW ENFORCEMENT VERIFICATION OF REGISTRATION INFORMATION. (a) A person subject to registration under this chapter who has for a sexually violent offense been convicted two or more times, received an order of deferred adjudication two or more times, or been

convicted and received an order of deferred adjudication shall report to the local law enforcement authority designated as the person's primary registration authority by the department not less than once in each 90-day period following the date the person first registered under this chapter to verify the information in the registration form maintained by the authority for that person. A person subject to registration under this chapter who is not subject to the 90-day reporting requirement described by this subsection shall report to the local law enforcement authority designated as the person's primary registration authority by the department once each year not earlier than the 30th day before and not later than the 30th day after the anniversary of the person's date of birth to verify the information in the registration form maintained by the authority for that person. For purposes of this subsection, a person complies with a requirement that the person register within a 90-day period following a date if the person registers at any time on or after the 83rd day following that date but before the 98th day after that date.

(b) A local law enforcement authority designated as a person's primary registration authority by the department may direct the person to report to the authority to verify the information in the registration form maintained by the authority for that person. The authority may direct the person to report under this subsection once in each 90-day period following the date the person first registered under this chapter, if the person is required to report not less than once in each 90-day period under Subsection (a) or once in each year not earlier than the 30th day before and not later than the 30th day after the anniversary of the person's date of birth, if the person is required to report once each year under Subsection (a). A local law enforcement authority may not direct a person to report to the authority under this subsection if the person is required to report under Subsection (a) and is in compliance with the reporting requirements of that subsection.

(c) A local law enforcement authority with whom a person reports under this article shall require the person to produce proof of the person's identity and residence before the authority gives the registration form to the person for verification. If the information in the registration form is complete and accurate, the person shall verify registration by signing the form. If the information is not complete or not accurate, the person shall make any necessary additions or corrections before signing the form.

(d) A local law enforcement authority designated as a person's primary registration authority by the department may at any time mail a nonforwardable verification form to the last reported address of the person. Not later than the 21st day after receipt of a verification form under this subsection, the person shall:

- (1) indicate on the form whether the person still resides at the last reported address and, if not, provide on the form the person's new address;
- (2) complete any other information required by the form;
- (3) sign the form; and
- (4) return the form to the authority.

(e) For purposes of this article, a person receives multiple convictions or orders of deferred adjudication regardless of whether:

- (1) the judgments or orders are entered on different dates; or
- (2) the offenses for which the person was convicted or placed on deferred adjudication arose out of different criminal transactions.

~~[Art. 62.061. VERIFICATION OF INDIVIDUALS SUBJECT TO COMMITMENT. (a) Notwithstanding Article 62.06, if an individual subject to registration under this chapter is civilly committed as a sexually violent predator, the person shall report to the local law enforcement authority designated as the person's primary registration authority by the department not less than once in each 30 day period following the date the person first registered under this chapter to verify the information in the registration form maintained by the authority for that person. For purposes of this subsection, a person complies with a requirement that the person register within a 30-day period following a date if the person registers at any time on or after the 27th day following that date but before the 33rd day after that date.~~

~~(b) On the date that a court releases a person described by Subsection (a) from all requirements of the civil commitment process:~~

~~(1) the person's duty to verify registration as a sex offender is no longer imposed by this article; and~~

~~(2) the person is required to verify registration as provided by Article 62.06.]~~

Art. 62.059 [62.062]. REGISTRATION OF PERSONS REGULARLY VISITING LOCATION. (a) A person subject to this chapter who on at least three occasions during any month spends more than 48 consecutive hours in a municipality or county in this state, other than the municipality or county in which the person is registered under this chapter, before the last day of that month shall report that fact to:

(1) the local law enforcement authority of the municipality in which the person is a visitor; or

(2) if the person is a visitor in a location that is not a municipality, the local law enforcement authority of the county in which the person is a visitor.

(b) A person described by Subsection (a) shall provide the local law enforcement authority with:

(1) all information the person is required to provide under Article 62.051(c) [62.02(b)];

(2) the address of any location in the municipality or county, as appropriate, at which the person was lodged during the month; and

(3) a statement as to whether the person intends to return to the municipality or county during the succeeding month.

(c) This article does not impose on a local law enforcement authority requirements of public notification or notification to schools relating to a person about whom the authority is not otherwise required by this chapter to make notifications.

~~[Art. 62.063. REGISTRATION OF CERTAIN WORKERS OR STUDENTS. (a) A person is subject to this article and, except as otherwise provided by this article, to the other articles of this chapter if the person:~~

~~(1) has a reportable conviction or adjudication;~~

~~(2) resides in another state; and~~

~~(3) is employed, carries on a vocation, or is a student in this state.~~

~~(b) A person described by Subsection (a) is subject to the registration and verification requirements of Articles 62.02 and 62.06 and to the change of address requirements of Article 62.04, except that the registration and verification and the reporting of a change of address are based on the municipality or county in which the person works or attends school. The person is subject to the school~~

notification requirements of Articles 62.03 and 62.04, except that notice provided to the superintendent and any administrator is based on the public school district in which the person works or attends school.

~~[(e) A person described by Subsection (a) is not subject to Article 62.12 and the newspaper publication requirements of Articles 62.03 and 62.04.~~

~~[(d) The duty to register for a person described by Subsection (a) ends when the person no longer works or studies in this state, provides notice of that fact to the local law enforcement authority in the municipality or county in which the person works or attends school, and receives notice of verification of that fact from the authority. The authority must verify that the person no longer works or studies in this state and must provide to the person notice of that verification within a reasonable time.~~

~~[(e) Notwithstanding Subsection (a), this article does not apply to a person who has a reportable conviction or adjudication, who resides in another state, and who is employed, carries on a vocation, or is a student in this state if the person establishes another residence in this state to work or attend school in this state. However, that person remains subject to the other articles of this chapter based on that person's residence in this state.~~

~~[Art. 62.064. REGISTRATION OF WORKERS OR STUDENTS AT INSTITUTIONS OF HIGHER EDUCATION. (a) Not later than the seventh day after the date on which the person begins to work or attend school, a person required to register under Article 62.061, as added by Chapters 1193 and 1415, Acts of the 76th Legislature, Regular Session, 1999, or any other provision of this chapter who is employed, carries on a vocation, or is a student at a public or private institution of higher education in this state shall report that fact to:~~

~~[(1) the authority for campus security for that institution; or~~

~~[(2) if an authority for campus security for that institution does not exist, the local law enforcement authority of:~~

~~[(A) the municipality in which the institution is located; or~~

~~[(B) the county in which the institution is located, if the institution is not located in a municipality.~~

~~[(b) A person described by Subsection (a) shall provide the authority for campus security or the local law enforcement authority with all information the person is required to provide under Article 62.02(b).~~

~~[(e) A person described by Subsection (a) shall notify the authority for campus security or the local law enforcement authority not later than the seventh day after the date of termination of the person's status as a worker or student at the institution.~~

~~[(d) The authority for campus security or the local law enforcement authority shall promptly forward to the administrative office of the institution any information received from the person under this article and any information received from the department under Article 62.08.~~

~~[(e) Subsection (a)(2) does not require a person to register at a local law enforcement authority if the person is otherwise required by this chapter to register at that authority.~~

~~[(f) This article does not impose the requirements of public notification or notification to public or private primary or secondary schools on:~~

~~[(1) an authority for campus security; or~~

~~[(2) a local law enforcement authority, if those requirements relate to a person about whom the authority is not otherwise required by this chapter to make notifications.~~

~~[(g) Notwithstanding Article 62.062, the requirements of this article supersede those of Article 62.062 for a person required to register under both this article and Article 62.062.]~~

Art. 62.060 ~~[62.065]~~. REQUIREMENTS RELATING TO DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE. (a) A person subject to registration under this chapter shall apply to the department in person for the issuance of, as applicable, an original or renewal driver's license under Section 521.272, Transportation Code, an original or renewal personal identification certificate under Section 521.103, Transportation Code, or an original or renewal commercial driver's license or commercial driver learner's permit under Section 522.033, Transportation Code, not later than the 30th day after the date:

(1) the person is released from a penal institution or is released by a court on community supervision or juvenile probation ~~[or community supervision]~~; or

(2) the department sends written notice to the person of the requirements of this article.

(b) The person shall annually renew in person each driver's license or personal identification certificate issued by the department to the person, including each renewal, duplicate, or corrected license or certificate, until the person's duty to register under this chapter expires.

Art. 62.061. DNA SPECIMEN. A person required to register under this chapter shall comply with a request for a DNA specimen made by a law enforcement agency under Section 411.1473, Government Code.

Art. 62.062. LIMITATION ON NEWSPAPER PUBLICATION. (a) Except as provided by Subsection (b), a local law enforcement authority may not publish notice in a newspaper or other periodical or circular concerning a person's registration under this chapter if the only basis on which the person is subject to registration is one or more adjudications of delinquent conduct.

(b) This article does not apply to a publication of notice under Article 62.056.

SUBCHAPTER C. EXPIRATION OF DUTY TO REGISTER; GENERAL PENALTIES FOR NONCOMPLIANCE

Art. 62.101. EXPIRATION OF DUTY TO REGISTER. (a) Except as provided by Subsection (b) and Subchapter I, the duty to register for a person ends when the person dies if the person has a reportable conviction or adjudication, other than an adjudication of delinquent conduct, for:

(1) a sexually violent offense;

(2) an offense under Section 25.02, 43.05(a)(2), or 43.26, Penal Code;

(3) an offense under Section 21.11(a)(2), Penal Code, if before or after the person is convicted or adjudicated for the offense under Section 21.11(a)(2), Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter;

(4) an offense under Section 20.02, 20.03, or 20.04, Penal Code, if:

(A) the judgment in the case contains an affirmative finding under Article 42.015 or, for a deferred adjudication, the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age; and

(B) before or after the person is convicted or adjudicated for the offense under Section 20.02, 20.03, or 20.04, Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter; or

(5) an offense under Section 43.23, Penal Code, that is punishable under Subsection (h) of that section.

(b) Except as provided by Subchapter I, the duty to register for a person otherwise subject to Subsection (a) ends on the 10th anniversary of the date on which the person is released from a penal institution or discharges community supervision or the court dismisses the criminal proceedings against the person and discharges the person, whichever date is later, if the person's duty to register is based on a conviction or an order of deferred adjudication in a cause that was transferred to a district court or criminal district court under Section 54.02, Family Code.

(c) Except as provided by Subchapter I, the duty to register for a person with a reportable conviction or adjudication for an offense other than an offense described by Subsection (a) ends:

(1) if the person's duty to register is based on an adjudication of delinquent conduct, on the 10th anniversary of the date on which the disposition is made or the person completes the terms of the disposition, whichever date is later; or

(2) if the person's duty to register is based on a conviction or on an order of deferred adjudication, on the 10th anniversary of the date on which the court dismisses the criminal proceedings against the person and discharges the person, the person is released from a penal institution, or the person discharges community supervision, whichever date is later.

~~[Art. 62.07. REMEDIES RELATED TO PUBLIC NOTICE. A person subject to registration under this chapter may petition the district court for injunctive relief to restrain a local law enforcement authority from publishing notice in a newspaper as required by Article 62.03 or 62.04. The court may issue a temporary restraining order under this article before notice is served and a hearing is held on the matter. After a hearing on the matter, the court may grant any injunctive relief warranted by the facts, including a restraining order or a temporary or permanent injunction, if the person subject to registration under this chapter proves by a preponderance of the evidence specific facts indicating that newspaper publication under Article 62.03 or 62.04 would place the person's health and well being in immediate danger.~~

~~[Art. 62.08. CENTRAL DATABASE; PUBLIC INFORMATION. (a) The department shall maintain a computerized central database containing only the information required for registration under this chapter.~~

~~[(b) The information contained in the database is public information, with the exception of any information:~~

~~[(1) regarding the person's social security number, driver's license number, or telephone number;~~

~~[(2) that is required by the department under Article 62.02(b)(7); or~~

~~[(3) that would identify the victim of the offense for which the person is subject to registration.~~

~~[(c) Notwithstanding Chapter 730, Transportation Code, the department shall maintain in the database, and shall post on any department website related to the database, any photograph of the person that is available through the process~~

~~for obtaining or renewing a personal identification certificate or driver's license under Section 521.103 or 521.272, Transportation Code. The department shall update the photograph in the database and on the website annually or as the photograph otherwise becomes available through the renewal process for the certificate or license.~~

~~[(d) A local law enforcement authority shall release public information described under Subsection (b) to any person who submits to the authority a written request for the information. The authority may charge the person a fee not to exceed the amount reasonably necessary to cover the administrative costs associated with the authority's release of information to the person under this subsection.~~

~~[(e) The department shall provide a licensing authority with notice of any person required to register under this chapter who holds or seeks a license that is issued by the authority. The department shall provide the notice required by this subsection as the applicable licensing information becomes available through the person's registration or verification of registration.~~

~~[(f) On the written request of a licensing authority that identifies an individual and states that the individual is an applicant for or a holder of a license issued by the authority, the department shall release any information described by Subsection (a) to the licensing authority.~~

~~[(g) For the purposes of Subsections (c) and (f):~~

~~[(1) "License" means a license, certificate, registration, permit, or other authorization that:~~

~~[(A) is issued by a licensing authority; and~~

~~[(B) a person must obtain to practice or engage in a particular business, occupation, or profession.~~

~~[(2) "Licensing authority" means a department, commission, board, office, or other agency of the state or a political subdivision of the state that issues a license.~~

~~[(h) Not later than the third day after the date on which the applicable information becomes available through the person's registration or verification of registration or under Article 62.05, the department shall send notice of any person required to register under this chapter who is or will be employed, carrying on a vocation, or a student at a public or private institution of higher education in this state to:~~

~~[(1) for an institution in this state:~~

~~[(A) the authority for campus security for that institution; or~~

~~[(B) if an authority for campus security for that institution does not exist, the local law enforcement authority of:~~

~~[(i) the municipality in which the institution is located; or~~

~~[(ii) the county in which the institution is located, if the institution is not located in a municipality; or~~

~~[(2) for an institution in another state, any existing authority for campus security at that institution.~~

~~[(i) On the written request of an institution of higher education described by Subsection (h) that identifies an individual and states that the individual has applied to work or study at the institution, the department shall release any information described by Subsection (a) to the institution.~~

~~[Art. 62.085. INFORMATION PROVIDED TO PEACE OFFICER. The department shall establish a procedure by which a peace officer or employee of a law enforcement agency who provides the department with a driver's license,~~

~~personal identification certificate, or license plate number is automatically provided information as to whether the person to whom the driver's license or personal identification certificate is issued is required to register under this chapter or whether the license plate number is entered in the computerized central database under Article 62.08 as assigned to a vehicle owned or driven by a person required to register under this chapter.~~

~~[Art. 62.09. IMMUNITY FOR RELEASE OF PUBLIC INFORMATION.~~

~~(a) The department, a penal institution, a local law enforcement authority, or an authority for campus security may release to the public information regarding a person required to register only if the information is public information under this chapter.~~

~~(b) An individual, agency, entity, or authority is not liable under Chapter 101, Civil Practice and Remedies Code, or any other law for damages arising from conduct authorized by Subsection (a).~~

~~(c) For purposes of determining liability, the release or withholding of information by an appointed or elected officer of an agency, entity, or authority is a discretionary act.~~

~~(d) A private primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education may release to the public information regarding a person required to register only if the information is public information under this chapter and is released to the administrator under Article 62.03, 62.04, 62.064, or 62.08. A private primary or secondary school, public or private institution of higher education, or administrator of a private primary or secondary school or public or private institution of higher education is not liable under any law for damages arising from conduct authorized by this subsection.~~

~~[Art. 62.091. GENERAL IMMUNITY. The following persons are immune from liability for good faith conduct under this chapter:~~

~~(1) an employee or officer of the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, or the Department of Public Safety;~~

~~(2) an employee or officer of a community supervision and corrections department or a juvenile probation department; and~~

~~(3) a member of the judiciary.]~~

~~Art. 62.102 [62.10]. FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS. (a) A person commits an offense if the person is required to register and fails to comply with any requirement of this chapter.~~

~~(b) An offense under this article is:~~

~~(1) a state jail felony if the actor is a person whose duty to register expires under Article 62.101(b) or (c) [62.12(b)];~~

~~(2) a felony of the third degree if the actor is a person whose duty to register expires under Article 62.101(a) [62.12(a)] and who is required to verify registration once each year under Article 62.058 [62.06]; and~~

~~(3) a felony of the second degree if the actor is a person whose duty to register expires under Article 62.101(a) [62.12(a)] and who is required to verify registration once each 90-day period under Article 62.058 [62.06].~~

(c) If it is shown at the trial of a person for an offense or an attempt to commit an offense under this article that the person has previously been convicted of an offense or an attempt to commit an offense under this article, the punishment for the offense or the attempt to commit the offense is increased to the punishment for the next highest degree of felony.

SUBCHAPTER D. PROVISIONS APPLICABLE TO CERTAIN WORKERS AND STUDENTS

Art. 62.151. DEFINITIONS. For purposes of this subchapter, a person:

(1) is employed or carries on a vocation if the person works or volunteers on a full-time or part-time basis for a consecutive period exceeding 14 days or for an aggregate period exceeding 30 days in a calendar year;

(2) works regardless of whether the person works for compensation or for governmental or educational benefit; and

(3) is a student if the person enrolls on a full-time or part-time basis in any educational facility, including:

(A) a public or private primary or secondary school, including a high school or alternative learning center; or

(B) a public or private institution of higher education.

Art. 62.152. REGISTRATION OF CERTAIN WORKERS OR STUDENTS. (a) A person is subject to this subchapter and, except as otherwise provided by this article, to the other subchapters of this chapter if the person:

(1) has a reportable conviction or adjudication;

(2) resides in another state; and

(3) is employed, carries on a vocation, or is a student in this state.

(b) A person described by Subsection (a) is subject to the registration and verification requirements of Articles 62.051 and 62.058 and to the change of address requirements of Article 62.055, except that the registration and verification and the reporting of a change of address are based on the municipality or county in which the person works or attends school. The person is subject to the school notification requirements of Articles 62.053-62.055, except that notice provided to the superintendent and any administrator is based on the public school district in which the person works or attends school.

(c) A person described by Subsection (a) is not subject to Article 62.101.

(d) The duty to register for a person described by Subsection (a) ends when the person no longer works or studies in this state, provides notice of that fact to the local law enforcement authority in the municipality or county in which the person works or attends school, and receives notice of verification of that fact from the authority. The authority must verify that the person no longer works or studies in this state and must provide to the person notice of that verification within a reasonable time.

(e) Notwithstanding Subsection (a), this article does not apply to a person who has a reportable conviction or adjudication, who resides in another state, and who is employed, carries on a vocation, or is a student in this state if the person establishes another residence in this state to work or attend school in this state. However, that person remains subject to the other articles of this chapter based on that person's residence in this state.

Art. 62.153. REGISTRATION OF WORKERS OR STUDENTS AT INSTITUTIONS OF HIGHER EDUCATION. (a) Not later than the later of the seventh day after the date on which the person begins to work or attend school or the first date the applicable authority by policy allows the person to register, a

person required to register under Article 62.152 or any other provision of this chapter who is employed, carries on a vocation, or is a student at a public or private institution of higher education in this state shall report that fact to:

(1) the authority for campus security for that institution; or

(2) if an authority for campus security for that institution does not exist, the local law enforcement authority of:

(A) the municipality in which the institution is located; or

(B) the county in which the institution is located, if the institution is not located in a municipality.

(b) A person described by Subsection (a) shall provide the authority for campus security or the local law enforcement authority with all information the person is required to provide under Article 62.051(c).

(c) A person described by Subsection (a) shall notify the authority for campus security or the local law enforcement authority not later than the seventh day after the date of termination of the person's status as a worker or student at the institution.

(d) The authority for campus security or the local law enforcement authority shall promptly forward to the administrative office of the institution any information received from the person under this article and any information received from the department under Article 62.005.

(e) Subsection (a)(2) does not require a person to register with a local law enforcement authority if the person is otherwise required by this chapter to register with that authority.

(f) This article does not impose the requirements of public notification or notification to public or private primary or secondary schools on:

(1) an authority for campus security; or

(2) a local law enforcement authority, if those requirements relate to a person about whom the authority is not otherwise required by this chapter to make notifications.

(g) Notwithstanding Article 62.059, the requirements of this article supersede those of Article 62.059 for a person required to register under both this article and Article 62.059.

SUBCHAPTER E. PROVISIONS APPLICABLE TO PERSONS

SUBJECT TO CIVIL COMMITMENT

Art. 62.201. ADDITIONAL PUBLIC NOTICE FOR INDIVIDUALS SUBJECT TO CIVIL COMMITMENT. (a) On receipt of notice under this chapter that a person subject to registration who is civilly committed as a sexually violent predator is due to be released from a penal institution or intends to move to a new residence in this state, the department shall, not later than the seventh day after the date on which the person is released or the seventh day after the date on which the person moves, provide written notice mailed or delivered to at least each address, other than a post office box, within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside.

(b) The department shall provide the notice in English and Spanish and shall include in the notice any information that is public information under this chapter. The department may not include any information that is not public information under this chapter.

(c) The department shall establish procedures for a person with respect to whom notice is provided under this article to pay to the department all costs incurred by the department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.

(d) The department's duty to provide notice under this article in regard to a particular person ends on the date on which a court releases the person from all requirements of the civil commitment process.

Art. 62.202. VERIFICATION OF INDIVIDUALS SUBJECT TO COMMITMENT. (a) Notwithstanding Article 62.058, if an individual subject to registration under this chapter is civilly committed as a sexually violent predator, the person shall report to the local law enforcement authority designated as the person's primary registration authority by the department not less than once in each 30-day period following the date the person first registered under this chapter to verify the information in the registration form maintained by the authority for that person. For purposes of this subsection, a person complies with a requirement that the person register within a 30-day period following a date if the person registers at any time on or after the 27th day following that date but before the 33rd day after that date.

(b) On the date a court releases a person described by Subsection (a) from all requirements of the civil commitment process:

(1) the person's duty to verify registration as a sex offender is no longer imposed by this article; and

(2) the person is required to verify registration as provided by Article 62.058.

Art. 62.203 [62.104]. FAILURE TO COMPLY: INDIVIDUALS SUBJECT TO COMMITMENT. (a) A person commits an offense if the person, after commitment as a sexually violent predator but before the person is released from all requirements of the civil commitment process, fails to comply with any requirement of this chapter.

(b) An offense under this article [section] is a felony of the second degree.

SUBCHAPTER F. REMOVAL OF REGISTRATION INFORMATION

[Art. 62.11. APPLICABILITY. (a) This chapter applies only to a reportable conviction or adjudication occurring on or after September 1, 1970, except that the provisions of Articles 62.03 and 62.04 of this chapter relating to the requirement of newspaper publication apply only to a reportable conviction or adjudication occurring on or after:

(1) September 1, 1997, if the conviction or adjudication relates to an offense under Section 43.05, Penal Code; or

(2) September 1, 1995, if the conviction or adjudication relates to any other offense listed in Article 62.01(5).

[(b) Except as provided by Subsection (c), the duties imposed on a person required to register under this chapter on the basis of a reportable conviction or adjudication, and the corresponding duties and powers of other entities in relation to the person required to register on the basis of that conviction or adjudication, are not affected by:

(1) an appeal of the conviction or adjudication; or

(2) a pardon of the conviction or adjudication.

[(c) If a conviction or adjudication that is the basis of a duty to register under this chapter is set aside on appeal by a court or if the person required to register under this chapter on the basis of a conviction or adjudication receives a

pardon on the basis of subsequent proof of innocence, the duties imposed on the person by this chapter and the corresponding duties and powers of other entities in relation to the person are terminated.

~~[Art. 62.12. EXPIRATION OF DUTY TO REGISTER. (a) The duty to register for a person ends when the person dies if the person has a reportable conviction or adjudication, other than an adjudication of delinquent conduct, for:~~

~~[(1) a sexually violent offense;~~

~~[(2) an offense under Section 25.02, 43.05(a)(2), or 43.26, Penal Code;~~

~~[(3) an offense under Section 21.11(a)(2), Penal Code, if before or after the person is convicted or adjudicated for the offense under Section 21.11(a)(2), Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter; or~~

~~[(4) an offense under Section 20.02, 20.03, or 20.04, Penal Code, or an attempt, conspiracy, or solicitation to commit one of those offenses, if:~~

~~[(A) the judgment in the case contains an affirmative finding under Article 42.015 or, for a deferred adjudication, the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age; and~~

~~[(B) before or after the person is convicted or adjudicated for the offense under Section 20.02, 20.03, or 20.04, Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter.~~

~~[(b) The duty to register for a person with a reportable conviction or adjudication for an offense other than an offense described by Subsection (a) ends:~~

~~[(1) if the person's duty to register is based on an adjudication of delinquent conduct, on the 10th anniversary of the date on which the disposition is made or the person completes the terms of the disposition, whichever date is later; or~~

~~[(2) if the person's duty to register is based on a conviction or on an order of deferred adjudication, on the 10th anniversary of the date on which the court dismisses the criminal proceedings against the person and discharges the person, the person is released from county jail, or the person discharges community supervision, whichever date is later.~~

~~[Art. 62.13. HEARING TO DETERMINE NEED FOR REGISTRATION OF A JUVENILE. (a) A person who has an adjudication of delinquent conduct that would otherwise be reportable under Article 62.01(5) does not have a reportable adjudication of delinquent conduct for purposes of this chapter if the juvenile court enters an order under this article excusing compliance by the person with the registration requirements of this chapter.~~

~~[(b) During or after disposition of a case under Section 54.04, Family Code, for adjudication of an offense for which registration is required under this chapter, the juvenile court on motion of the respondent shall conduct a hearing to determine whether the interests of the public require registration under this chapter. The motion may be filed and the hearing held regardless of whether the respondent is under 18 years of age.~~

~~[(c) The hearing is without a jury and the burden of persuasion is on the respondent to show by a preponderance of evidence that the criteria of Subsection (c) have been met. The court at the hearing may make its determination based on:~~

~~[(1) the receipt of exhibits;
(2) the testimony of witnesses;
(3) representations of counsel for the parties; or
(4) the contents of a social history report prepared by the juvenile probation department that may include the results of testing and examination of the respondent by a psychologist, psychiatrist, or counselor.~~

~~[(d) All written matter considered by the court shall be disclosed to all parties as provided by Section 54.04(b), Family Code.~~

~~[(e) The court shall enter an order excusing compliance with the registration requirements of this chapter if the court determines:~~

~~[(1) that the protection of the public would not be increased by registration of the respondent under this chapter; or~~

~~[(2) that any potential increase in protection of the public resulting from registration is clearly outweighed by the anticipated substantial harm to the respondent and the respondent's family that would result from registration under this chapter.~~

~~[(f) The prosecuting attorney may waive the state's right to a hearing under this article and agree that registration under this chapter is not required. If the waiver is entered under a plea agreement, the court shall without a hearing enter an order excusing compliance with the registration requirements of this chapter or, under Section 54.03(j), Family Code, inform the respondent that the court believes a hearing under this article is required and give the respondent the opportunity to withdraw the respondent's plea of guilty, nolo contendere, or true or to affirm the respondent's plea and participate in the hearing. If the waiver is entered other than under a plea agreement, the court shall without a hearing enter an order excusing compliance with the registration requirements of this chapter. The waiver must state whether or not it is entered under a plea agreement. The respondent may as part of a plea agreement promise not to file a motion seeking an order excusing registration, in which case the court may not recognize the motion.~~

~~[(g) Notwithstanding Section 56.01, Family Code, on entry by a juvenile court of an order under Subsection (e) excusing registration under this chapter, the prosecuting attorney may appeal that order by giving notice of appeal within the time required under Rule 26.2(b), Texas Rules of Appellate Procedure. The appeal is civil and the standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in excusing compliance with registration. The appeal is limited to review of the order excusing compliance with registration and may not include any other issues in the case.~~

~~[(h) The respondent may under Section 56.01, Family Code, appeal the juvenile court's order requiring registration in the same manner as the appeal of any other legal issue in the case. The standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in not excusing compliance with registration.~~

~~[(i) If the juvenile court enters an order excusing registration, the respondent may not be required to register in this or any other state for the offense for which registration was excused.~~

~~[(j) After a hearing under Subsection (b) or under a plea agreement under Subsection (f), the juvenile court may enter an order deferring decision on requiring registration until the respondent has completed treatment for the respondent's sexual offense as a condition of probation or while committed to the~~

~~Texas Youth Commission. The court retains discretion to require or to excuse registration at any time during the treatment or on its successful or unsuccessful completion. During the period of deferral, registration may not be required. Following successful completion of treatment, registration is excused unless a hearing under this article is held on motion of the state and the court determines the interests of the public require registration. Not later than the 10th day after the date of the respondent's successful completion of treatment, the treatment provider shall notify the juvenile court and prosecuting attorney of the completion.~~

~~[(k) After a hearing under Subsection (b) or under a plea agreement under Subsection (f), the juvenile court may enter an order requiring the respondent to register as a sex offender but provide that the registration information is not public information and is restricted to use by law enforcement and criminal justice agencies and public or private institutions of higher education. Information obtained under this subsection may not be posted on the Internet or released to the public.~~

~~[(l) A person who has registered as a sex offender for an adjudication of delinquent conduct, regardless of when the delinquent conduct or the adjudication for the conduct occurred, may file a motion in the adjudicating juvenile court for a hearing seeking excusal from registration as provided by Subsection (e) or seeking under Subsection (k) an order that the registration become nonpublic.~~

~~[(m) The person may file a motion under Subsection (l) in the original juvenile case regardless of whether the person is at the time of filing 18 years of age or older. Notice of the motion shall be provided to the prosecuting attorney. A hearing on the motion shall be provided as in other cases under this article.~~

~~[(n) Only one motion may be filed under Subsection (l) if a previous motion under this article has been filed concerning that case.~~

~~[(o) To the extent feasible, the motion under Subsection (l) shall identify those public and private agencies and organizations, including public or private institutions of higher education, that possess sex offender registration information about the case.~~

~~[(p) The juvenile court, after a hearing, may:~~

~~[(1) deny the motion;~~

~~[(2) grant the motion to excuse all registration; or~~

~~[(3) grant the motion to change the registration from public to~~

~~nonpublic.~~

~~[(q) If the court grants the motion, the clerk of the court shall by certified mail, return receipt requested, send a copy of the order to the department, to each local law enforcement authority that the person has proved to the juvenile court has registration information about the person, and to each public or private agency or organization that the person has proved to the juvenile court has information about the person that is currently available to the public with or without payment of a fee. The clerk of the court shall by certified mail, return receipt requested, send a copy of the order to any other agency or organization designated by the person. The person shall identify the agency or organization and its address and pay a fee of \$20 to the court for each agency or organization the person designates.~~

~~[(q) If the court grants the motion, a copy of the court's order shall be sent to:~~

~~[(1) each public or private agency or organization that the court determines may be in possession of sex offender registration information pertaining to the person required to register under this chapter; and~~

~~[(2) at the request of the person required to register under this chapter, each public or private agency or organization that at any time following the initial dissemination of the order under Subdivision (1) gains possession of sex offender registration information pertaining to that person, if the agency or organization did not otherwise receive a copy of the order under Subdivision (1).~~

~~[(q) An order under Subsection (q) shall require the recipient to conform its records to the court's orders either by deleting the sex offender registration information or changing its status to nonpublic, as the order requires. A public or private institution of higher education may not be required to delete the sex offender registration information under this subsection.~~

~~[(r) A private agency or organization that possesses sex offender registration information it obtained from a state, county, or local governmental entity is required to conform its records to the court's order on or before the 30th day after the date of its entry. Failure to comply in that period automatically bars an agency or organization, other than a public or private institution of higher education, from obtaining sex offender registration information from any state, county, or local governmental entity in this state in the future.~~

~~[(s) A person required to register as a sex offender in this state because of an out of state adjudication of delinquent conduct may file in the juvenile court of the person's county of residence a petition under Subsection (a) for an order to excuse compliance with this chapter. If the person is already registered as a sex offender in this state because of an out of state adjudication of delinquent conduct, the person may file in the juvenile court of the person's county of residence a petition under Subsection (l) for an order removing the person from sex offender registries in this state. On receipt of a petition to excuse compliance or for removal, the juvenile court shall conduct a hearing and make rulings as in other cases under this article. An order entered under this subsection requiring removal of registration information applies only to registration information derived from registration in this state.]~~

Art. 62.251 ~~[62.14]~~. REMOVING ~~[JUVENILE]~~ REGISTRATION INFORMATION WHEN DUTY TO REGISTER EXPIRES. (a) When a person is no longer required to register as a sex offender under this chapter ~~[for an adjudication of delinquent conduct]~~, the department shall remove all information about the person from the sex offender registry.

(b) The duty to remove information under Subsection (a) arises if:

(1) the department has received notice from a local law enforcement authority under Subsection (c) or (d) that the person is no longer required to register or will no longer be required to renew registration and the department verifies the correctness of that information;

(2) the ~~[juvenile]~~ court having jurisdiction over ~~[that adjudicated]~~ the case for which registration is required requests removal and the department determines that the duty to register has expired; or

(3) the person or the person's representative requests removal and the department determines that the duty to register has expired.

(c) When a person required to register under this chapter ~~[for an adjudication of delinquent conduct]~~ appears before a local law enforcement authority to renew or modify registration information, the authority shall determine whether the duty to register has expired. If the authority determines

that the duty to register has expired, the authority shall remove all information about the person from the sex offender registry and notify the department that the person's duty to register has expired.

(d) When a person required to register under this chapter [~~for an adjudication of delinquent conduct~~] appears before a local law enforcement authority to renew registration information, the authority shall determine whether the renewal is the final annual renewal of registration required by law. If the authority determines that the person's duty to register will expire before the next annual renewal is scheduled, the authority shall automatically remove all information about the person from the sex offender registry on expiration of the duty to register and notify the department that the information about the person has been removed from the registry.

(e) When the department has removed information under Subsection (a), the department shall notify all local law enforcement authorities that have provided registration information to the department about the person of the removal. A local law enforcement authority that receives notice from the department under this subsection shall remove all registration information about the person from its registry.

(f) When the department has removed information under Subsection (a), the department shall notify all public and private agencies or organizations to which it has provided registration information about the person of the removal. On receiving notice, the public or private agency or organization shall remove all registration information about the person from any registry the agency or organization maintains that is accessible to the public with or without charge.

SUBCHAPTER G. EXEMPTION FROM REGISTRATION FOR CERTAIN YOUNG ADULT SEX OFFENDERS

Art. 62.301. EXEMPTION FROM REGISTRATION FOR CERTAIN YOUNG ADULT SEX OFFENDERS. (a) If eligible under Subsection (b) or (c), a person required to register under this chapter may petition the court having jurisdiction over the case for an order exempting the person from registration under this chapter at any time after the person's sentencing or after the person is placed on deferred adjudication community supervision.

(b) A person is eligible to petition the court as described by Subsection (a) if:

(1) the person is required to register only as a result of a single reportable conviction or adjudication, other than an adjudication of delinquent conduct; and

(2) the court has entered in the appropriate judgment or has filed with the appropriate papers a statement of an affirmative finding described by Article 42.017 or Section 5(g), Article 42.12.

(c) A defendant who before September 1, 2001, is convicted of or placed on deferred adjudication community supervision for an offense under Section 21.11, 22.011, 22.021, or 43.25, Penal Code, is eligible to petition the court as described by Subsection (a). The court may consider the petition only if the petition states and the court finds that the defendant would have been entitled to the entry of an affirmative finding under Article 42.017 or Section 5(g), Article 42.12, as appropriate, had the conviction or placement on deferred adjudication community supervision occurred after September 1, 2001.

(d) After a hearing on the petition described by Subsection (a), the court may issue an order exempting the person from registration under this chapter if it appears by a preponderance of the evidence:

(1) as presented by a registered sex offender treatment provider, that the exemption does not threaten public safety; and

(2) that the person's conduct did not occur without the consent of the victim or intended victim as described by Section 22.011(b), Penal Code.

(e) An order exempting the person from registration under this chapter does not expire, but the court shall withdraw the order if after the order is issued the person receives a reportable conviction or adjudication under this chapter.

SUBCHAPTER H. EXEMPTIONS FROM REGISTRATION FOR CERTAIN JUVENILES

Art. 62.351. MOTION AND HEARING GENERALLY. (a) During or after disposition of a case under Section 54.04, Family Code, for adjudication of an offense for which registration is required under this chapter, the juvenile court on motion of the respondent shall conduct a hearing to determine whether the interests of the public require registration under this chapter. The motion may be filed and the hearing held regardless of whether the respondent is under 18 years of age. Notice of the motion and hearing shall be provided to the prosecuting attorney.

(b) The hearing is without a jury and the burden of persuasion is on the respondent to show by a preponderance of evidence that the criteria of Article 62.352(a) have been met. The court at the hearing may make its determination based on:

(1) the receipt of exhibits;

(2) the testimony of witnesses;

(3) representations of counsel for the parties; or

(4) the contents of a social history report prepared by the juvenile probation department that may include the results of testing and examination of the respondent by a psychologist, psychiatrist, or counselor.

(c) All written matter considered by the court shall be disclosed to all parties as provided by Section 54.04(b), Family Code.

(d) If a respondent, as part of a plea agreement, promises not to file a motion seeking an order exempting the respondent from registration under this chapter, the court may not recognize a motion filed by a respondent under this article.

Art. 62.352. ORDER GENERALLY. (a) The court shall enter an order exempting a respondent from registration under this chapter if the court determines:

(1) that the protection of the public would not be increased by registration of the respondent under this chapter; or

(2) that any potential increase in protection of the public resulting from registration of the respondent is clearly outweighed by the anticipated substantial harm to the respondent and the respondent's family that would result from registration under this chapter.

(b) After a hearing under Article 62.351 or under a plea agreement described by Article 62.355(b), the juvenile court may enter an order:

(1) deferring decision on requiring registration under this chapter until the respondent has completed treatment for the respondent's sexual offense as a condition of probation or while committed to the Texas Youth Commission; or

(2) requiring the respondent to register as a sex offender but providing that the registration information is not public information and is restricted to use by law enforcement and criminal justice agencies, the Council on Sex Offender Treatment, and public or private institutions of higher education.

(c) If the court enters an order described by Subsection (b)(1), the court retains discretion and jurisdiction to require, or exempt the respondent from, registration under this chapter at any time during the treatment or on the successful or unsuccessful completion of treatment, except that during the period of deferral, registration may not be required. Following successful completion of treatment, the respondent is exempted from registration under this chapter unless a hearing under this subchapter is held on motion of the state, regardless of whether the respondent is 18 years of age or older, and the court determines the interests of the public require registration. Not later than the 10th day after the date of the respondent's successful completion of treatment, the treatment provider shall notify the juvenile court and prosecuting attorney of the completion.

(d) Information that is the subject of an order described by Subsection (b)(2) may not be posted on the Internet or released to the public.

Art. 62.353. MOTION, HEARING, AND ORDER CONCERNING PERSON ALREADY REGISTERED. (a) A person who has registered as a sex offender for an adjudication of delinquent conduct, regardless of when the delinquent conduct or the adjudication for the conduct occurred, may file a motion in the adjudicating juvenile court for a hearing seeking:

(1) exemption from registration under this chapter as provided by Article 62.351; or

(2) an order under Article 62.352(b)(2) that the registration become nonpublic.

(b) The person may file a motion under Subsection (a) in the original juvenile case regardless of whether the person, at the time of filing the motion, is 18 years of age or older. Notice of the motion shall be provided to the prosecuting attorney. A hearing on the motion shall be provided as in other cases under this subchapter.

(c) Only one subsequent motion may be filed under Subsection (a) if a previous motion under this article has been filed concerning the case.

(d) To the extent feasible, the motion under Subsection (a) shall identify those public and private agencies and organizations, including public or private institutions of higher education, that possess sex offender registration information about the case.

(e) The juvenile court, after a hearing, may:

(1) deny a motion filed under Subsection (a);

(2) grant a motion described by Subsection (a)(1); or

(3) grant a motion described by Subsection (a)(2).

(f) If the court grants a motion filed under Subsection (a), the clerk of the court shall by certified mail, return receipt requested, send a copy of the order to the department, to each local law enforcement authority that the person has proved to the juvenile court has registration information about the person, and to each public or private agency or organization that the person has proved to the juvenile court has information about the person that is currently available to the public with or without payment of a fee. The clerk of the court shall by certified mail, return receipt requested, send a copy of the order to any other agency or organization designated by the person. The person shall identify the agency or organization and its address and pay a fee of \$20 to the court for each agency or organization the person designates.

(g) In addition to disseminating the order under Subsection (f), at the request of the person, the clerk of the court shall by certified mail, return receipt requested, send a copy of the order to each public or private agency or organization that at any time following the initial dissemination of the order under Subsection (f) gains possession of sex offender registration information pertaining to that person, if the agency or organization did not otherwise receive a copy of the order under Subsection (f).

(h) An order under Subsection (f) must require the recipient to conform its records to the court's order either by deleting the sex offender registration information or changing its status to nonpublic, as applicable. A public or private institution of higher education may not be required to delete the sex offender registration information under this subsection.

(i) A private agency or organization that possesses sex offender registration information the agency or organization obtained from a state, county, or local governmental entity is required to conform the agency's or organization's records to the court's order on or before the 30th day after the date of the entry of the order. Unless the agency or organization is a public or private institution of higher education, failure to comply in that period automatically bars the agency or organization from obtaining sex offender registration information from any state, county, or local governmental entity in this state in the future.

Art. 62.354. MOTION, HEARING, AND ORDER CONCERNING PERSON REQUIRED TO REGISTER BECAUSE OF OUT-OF-STATE ADJUDICATION. (a) A person required to register as a sex offender in this state because of an out-of-state adjudication of delinquent conduct may file in the juvenile court of the person's county of residence a petition under Article 62.351 for an order exempting the person from registration under this chapter.

(b) If the person is already registered as a sex offender in this state because of an out-of-state adjudication of delinquent conduct, the person may file in the juvenile court of the person's county of residence a petition under Article 62.353 for an order removing the person from sex offender registries in this state.

(c) On receipt of a petition under this article, the juvenile court shall conduct a hearing and make rulings as in other cases under this subchapter.

(d) An order entered under this article requiring removal of registration information applies only to registration information derived from registration in this state.

Art. 62.355. WAIVER OF HEARING. (a) The prosecuting attorney may waive the state's right to a hearing under this subchapter and agree that registration under this chapter is not required. A waiver under this subsection must state whether the waiver is entered under a plea agreement.

(b) If the waiver is entered under a plea agreement, the court, without a hearing, shall:

(1) enter an order exempting the respondent from registration under this chapter; or

(2) under Section 54.03(j), Family Code, inform the respondent that the court believes a hearing under this article is required and give the respondent the opportunity to:

(A) withdraw the respondent's plea of guilty, nolo contendere, or true; or

(B) affirm the respondent's plea and participate in the hearing.

(c) If the waiver is entered other than under a plea agreement, the court, without a hearing, shall enter an order exempting the respondent from registration under this chapter.

Art. 62.356. EFFECT OF CERTAIN ORDERS. (a) A person who has an adjudication of delinquent conduct that would otherwise be reportable under Article 62.001(5) does not have a reportable adjudication of delinquent conduct for purposes of this chapter if the juvenile court enters an order under this subchapter exempting the person from the registration requirements of this chapter.

(b) If the juvenile court enters an order exempting a person from registration under this chapter, the respondent may not be required to register in this or any other state for the offense for which registration was exempted.

Art. 62.357. APPEAL OF CERTAIN ORDERS. (a) Notwithstanding Section 56.01, Family Code, on entry by a juvenile court of an order under Article 62.352(a) exempting a respondent from registration under this chapter, the prosecuting attorney may appeal that order by giving notice of appeal within the time required under Rule 26.2(b), Texas Rules of Appellate Procedure. The appeal is civil and the standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in exempting the respondent from registration under this chapter. The appeal is limited to review of the order exempting the respondent from registration under this chapter and may not include any other issues in the case.

(b) A respondent may under Section 56.01, Family Code, appeal a juvenile court's order under Article 62.352(a) requiring registration in the same manner as the appeal of any other legal issue in the case. The standard of review in the appellate court is whether the juvenile court committed procedural error or abused its discretion in requiring registration.

SUBCHAPTER I. EARLY TERMINATION OF CERTAIN PERSONS' OBLIGATION TO REGISTER

Art. 62.401. DEFINITION. In this subchapter, "council" means the Council on Sex Offender Treatment.

Art. 62.402. DETERMINATION OF MINIMUM REQUIRED REGISTRATION PERIOD. (a) The council by rule shall determine the minimum required registration period under 42 U.S.C. Section 14071 (Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program) for each reportable conviction or adjudication under this chapter, if this state is to receive the maximum amount of federal money available to a state as described by that law.

(b) After determining the minimum required registration period for each reportable conviction or adjudication under Subsection (a), the council shall compile and publish a list of reportable convictions or adjudications for which a person must register under this chapter for a period that exceeds the minimum required registration period under federal law.

(c) To the extent possible, the council shall periodically verify with the Bureau of Justice Assistance or another appropriate federal agency the accuracy of the list of reportable convictions or adjudications described by Subsection (b).

Art. 62.403. INDIVIDUAL RISK ASSESSMENT. (a) The council by rule shall establish, develop, or adopt an individual risk assessment tool or a group of individual risk assessment tools that:

(1) evaluates the criminal history of a person required to register under this chapter; and

(2) seeks to predict:

(A) the likelihood that the person will engage in criminal activity that may result in the person receiving a second or subsequent reportable adjudication or conviction; and

(B) the continuing danger, if any, that the person poses to the community.

(b) On the written request of a person with a single reportable adjudication or conviction that appears on the list published under Article 62.402(b), the council shall:

(1) evaluate the person using the individual risk assessment tool or group of individual risk assessment tools established, developed, or adopted under Subsection (a); and

(2) provide to the person a written report detailing the outcome of an evaluation conducted under Subdivision (1).

(c) An individual risk assessment provided to a person under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code.

Art. 62.404. MOTION FOR EARLY TERMINATION. (a) A person required to register under this chapter who has requested and received an individual risk assessment under Article 62.403 may file with the trial court that sentenced the person for the reportable conviction or adjudication a motion for early termination of the person's obligation to register under this chapter.

(b) A motion filed under this article must be accompanied by:

(1) a written explanation of how the reportable conviction or adjudication giving rise to the movant's registration under this chapter qualifies as a reportable conviction or adjudication that appears on the list published under Article 62.402(b); and

(2) a certified copy of a written report detailing the outcome of an individual risk assessment evaluation conducted under Article 62.403(b)(1).

Art. 62.405. HEARING ON PETITION. (a) After reviewing a motion filed with the court under Article 62.404, the court may:

(1) deny without a hearing the movant's request for early termination;

or

(2) hold a hearing on the motion to determine whether to grant or deny the motion.

(b) The court may not grant a motion filed under Article 62.404 if:

(1) the motion is not accompanied by the documents required under Article 62.404(b); or

(2) the court determines that the reportable conviction or adjudication for which the movant is required to register under this chapter is not a reportable conviction or adjudication for which the movant is required to register for a period that exceeds the minimum required registration period under federal law.

Art. 62.406. COSTS OF INDIVIDUAL RISK ASSESSMENT AND OF COURT. A person required to register under this chapter who files a motion for early termination of the person's registration obligation under this chapter is responsible for and shall remit to the council and to the court, as applicable, all costs associated with and incurred by the council in providing the individual risk assessment or by the court in holding a hearing under this subchapter.

Art. 62.407. EFFECT OF ORDER GRANTING EARLY TERMINATION.

(a) If, after notice to the person and to the prosecuting attorney and a hearing, the court grants a motion filed under Article 62.404 for the early termination of a person's obligation to register under this chapter, notwithstanding Article 62.101, the person's obligation to register under this chapter ends on the later of:

- (1) the date the court enters the order of early termination; or
- (2) the date the person has paid each cost described by Section 62.406.

(b) If the court grants a motion filed under Article 62.404 for the early termination of a person's obligation to register under this chapter, all conditions of the person's parole, release to mandatory supervision, or community supervision shall be modified in accordance with the court's order.

Art. 62.408. NONAPPLICABILITY. This subchapter does not apply to a person without a reportable conviction or adjudication who is required to register as a condition of parole, release to mandatory supervision, or community supervision.

SECTION 1.02. Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.30 to read as follows:

Art. 13.30. FAILURE TO COMPLY WITH SEX OFFENDER REGISTRATION STATUTE. An offense under Chapter 62 may be prosecuted in:

- (1) any county in which an element of the offense occurs;
- (2) the county in which the person subject to Chapter 62 last registered, verified registration, or otherwise complied with a requirement of Chapter 62;
- (3) the county in which the person required to register under Chapter 62 has indicated that the person intends to reside; or
- (4) any county in which the person required to register under Chapter 62 is placed under custodial arrest for an offense subsequent to the person's most recent reportable conviction or adjudication under Chapter 62.

SECTION 1.03. Article 26.13(h), Code of Criminal Procedure, is amended to read as follows:

(h) The court must substantially comply with Subsection (a)(5). The failure of the court to comply with Subsection (a)(5) is not a ground for the defendant to set aside the conviction, sentence, or plea. ~~Before accepting a plea of guilty or nolo contendere from a defendant described by Subsection (a)(5), the court shall ascertain whether the attorney representing the defendant has advised the defendant regarding registration requirements under Chapter 62.~~

SECTION 1.04. Article 44.01, Code of Criminal Procedure, is amended by adding Subsection (l) to read as follows:

- (l) The state is entitled to appeal an order entered under:
- (1) Subchapter G or H, Chapter 62, that exempts a person from complying with the requirements of Chapter 62; and
 - (2) Subchapter I, Chapter 62, that terminates a person's obligation to register under Chapter 62.

SECTION 1.05. Subchapter G, Chapter 411, Government Code, is amended by adding Section 411.1473 to read as follows:

Sec. 411.1473. DNA RECORDS OF CERTAIN REGISTERED SEX OFFENDERS. (a) This section applies only to a person who is required to register under Chapter 62, Code of Criminal Procedure.

(b) The department by rule shall require a law enforcement agency serving as a person's primary registration authority under Chapter 62, Code of Criminal Procedure, to:

(1) take one or more specimens from a person described by Subsection (a) for the purpose of creating a DNA record; and

(2) preserve the specimen and maintain a record of the collection of the specimen.

(c) A law enforcement agency taking a specimen under this section may either send the specimen to the director or send to the director an analysis of the specimen performed by a laboratory chosen by the agency and approved by the director.

(d) A law enforcement agency is not required to take and a person is not required to provide a specimen under this section if the person is required to and has provided a specimen under this chapter or other law.

SECTION 1.06. Section 508.186, Government Code, is amended to read as follows:

Sec. 508.186. SEX OFFENDER REGISTRATION. ~~[(a)]~~ A parole panel shall require as a condition of parole or mandatory supervision that a releasee required to register as a sex offender under Chapter 62, Code of Criminal Procedure:

(1) register under that chapter; and

(2) ~~[pay to the releasee's supervising officer an amount equal to the cost, as evidenced by written receipt, incurred by the applicable local law enforcement authority for providing notice for publication to a newspaper as required by that chapter; and~~

~~[(3)]~~ submit a blood sample or other specimen to the Department of Public Safety under Subchapter G, Chapter 411, for the purpose of creating a DNA record of the releasee, unless the releasee has already submitted the required specimen under other state law.

~~[(a-1) A political subdivision served by the local law enforcement authority may bill any unpaid amount under Subsection (a)(2), identified separately, within a bill for a utility service provided by the political subdivision to the releasee and may suspend service of the utility to a releasee who is delinquent in payment of the amount until the delinquent claim is fully paid to the political subdivision. In this subsection, "utility service" means water, wastewater, sewer, gas, garbage, electricity, or drainage service.~~

~~[(b) The division or political subdivision, as applicable, shall remit an amount collected under this section to the applicable local law enforcement authority.~~

~~[(c) In a parole or mandatory supervision revocation hearing under Section 508.281 at which it is alleged only that the releasee failed to make a payment under this section, it is an affirmative defense to revocation that the releasee is unable to pay the amount as ordered by a parole panel. The releasee must prove the affirmative defense by a preponderance of the evidence.]~~

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Article 42.016, Code of Criminal Procedure, is amended to read as follows:

Art. 42.016. SPECIAL DRIVER'S LICENSE OR IDENTIFICATION REQUIREMENTS FOR CERTAIN SEX OFFENDERS. If a person is convicted of, receives a grant of deferred adjudication for, or is adjudicated as having engaged in delinquent conduct based on a violation of an offense for which a conviction or adjudication requires registration as a sex offender under Chapter 62, ~~[as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997,]~~ the court shall:

(1) issue an order requiring the Texas Department of Public Safety to include in any driver's license record or personal identification certificate record maintained by the department for the person an indication that the person is subject to the registration requirements of Chapter 62~~], as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997~~;

(2) require the person to apply to the Texas Department of Public Safety in person for an original or renewal driver's license or personal identification certificate not later than the 30th day after the date the person is released or the date the department sends written notice to the person of the requirements of Article 62.060 ~~[62.065]~~, as applicable, and to annually renew the license or certificate;

(3) notify the person of the consequence of the conviction or order of deferred adjudication as it relates to the order issued under this article; and

(4) send to the Texas Department of Public Safety a copy of the record of conviction, a copy of the order granting deferred adjudication, or a copy of the juvenile adjudication, as applicable, and a copy of the order issued under this article.

SECTION 2.02. Section 2(b), Article 42.22, Code of Criminal Procedure, is amended to read as follows:

(b) The state also has a restitution lien to secure the:

(1) amount of fines or costs entered against a defendant in the judgment in a felony criminal case;

(2) amount of reimbursement for costs of:

(A) confinement ordered under Article 42.038; or

(B) notice provided under Article 62.056 ~~[62.03]~~ or 62.201~~[62.04]~~;

and

(3) amount of damages incurred by the state as a result of the commission of an offense under Section 38.04, Penal Code, in which the defendant used a motor vehicle while the defendant was in flight.

SECTION 2.03. Article 60.051(f), Code of Criminal Procedure, is amended to read as follows:

(f) The department shall maintain in the computerized criminal history system any information the department maintains in the central database under Article 62.005 ~~[62.08]~~.

SECTION 2.04. Section 12.120(a), Education Code, is amended to read as follows:

(a) A person may not serve as a member of the governing body of a charter holder, as a member of the governing body of an open-enrollment charter school, or as an officer or employee of an open-enrollment charter school if the person:

(1) has been convicted of a felony or a misdemeanor involving moral turpitude;

(2) has been convicted of an offense listed in Section 37.007(a);

(3) has been convicted of an offense listed in Article 62.001(5) ~~[62.01(5)]~~, Code of Criminal Procedure; or

(4) has a substantial interest in a management company.

SECTION 2.05. Section 45.004(c), Family Code, is amended to read as follows:

(c) In this section, "local law enforcement authority" has the meaning assigned by Article 62.001 ~~[62.01]~~, Code of Criminal Procedure.

SECTION 2.06. Section 45.103(c), Family Code, is amended to read as follows:

(c) A court may order a change of name under this subchapter for a person subject to the registration requirements of Chapter 62, Code of Criminal Procedure, if, in addition to the requirements of Subsection (a), the person provides the court with proof that the person has notified the appropriate local law enforcement authority of the proposed name change. In this subsection, "local law enforcement authority" has the meaning assigned by Article 62.001 [~~62.01~~], Code of Criminal Procedure.

SECTION 2.07. Sections 54.051(g) and (h), Family Code, are amended to read as follows:

(g) If the juvenile court places the child on probation for an offense for which registration as a sex offender is required by Chapter 62, Code of Criminal Procedure, and defers the registration requirement until completion of treatment for the sex offense under Subchapter H, Chapter 62 [~~Article 62.13~~], Code of Criminal Procedure, the authority under that article to reexamine the need for registration on completion of treatment is transferred to the court to which probation is transferred.

(h) If the juvenile court places the child on probation for an offense for which registration as a sex offender is required by Chapter 62, Code of Criminal Procedure, and the child registers, the authority of the court to excuse further compliance with the registration requirement under Subchapter H, Chapter 62 [~~Articles 62.13(1) (r)~~], Code of Criminal Procedure, is transferred to the court to which probation is transferred.

SECTION 2.08. Section 411.0091(b), Government Code, is amended to read as follows:

(b) The sex offender compliance unit shall investigate and arrest individuals determined to have committed a sexually violent offense, as defined by Article 62.001 [~~62.01~~], Code of Criminal Procedure.

SECTION 2.09. Section 411.088(b), Government Code, is amended to read as follows:

(b) The department may not charge for processing an electronic inquiry for information described as public information under Article 62.005 [~~62.08~~], Code of Criminal Procedure, made through the use of the Internet.

SECTION 2.10. Section 109.001(2), Occupations Code, is amended to read as follows:

(2) "Local law enforcement authority" has the meaning assigned by Article 62.001 [~~62.01~~], Code of Criminal Procedure.

SECTION 2.11. Section 38.111(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if the person, while confined in a correctional facility after being charged with or convicted of an offense listed in Article 62.001(5) [~~62.01(5)~~], Code of Criminal Procedure, contacts by letter, telephone, or any other means, either directly or through a third party, a victim of the offense or a member of the victim's family, if:

(1) the victim was younger than 17 years of age at the time of the commission of the offense for which the person is confined; and

(2) the director of the correctional facility has not, before the person makes contact with the victim:

(A) received written and dated consent to the contact from:

(i) a parent of the victim;

(ii) a legal guardian of the victim;

(iii) the victim, if the victim is 17 years of age or older at the time of giving the consent; or
 (iv) a member of the victim's family who is 17 years of age or older; and

(B) provided the person with a copy of the consent.

SECTION 2.12. Section 521.101(h), Transportation Code, is amended to read as follows:

(h) The department shall automatically revoke each personal identification certificate issued by the department to a person who:

(1) is subject to the registration requirements of Chapter 62, Code of Criminal Procedure [~~as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997~~]; and

(2) fails to apply to the department for renewal of the personal identification certificate as required by Article 62.060 [~~62.065~~], Code of Criminal Procedure.

SECTION 2.13. Section 521.103(a), Transportation Code, is amended to read as follows:

(a) The department may issue an original or renewal personal identification certificate to a person whose driver's license or personal identification certificate record indicates that the person is subject to the registration requirements of Chapter 62, Code of Criminal Procedure, [~~as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997~~], only if the person:

(1) applies in person for the issuance of a certificate under this section; and

(2) pays a fee of \$20.

SECTION 2.14. Section 521.348(a), Transportation Code, is amended to read as follows:

(a) A driver's license is automatically revoked if the holder of the license:

(1) is subject to the registration requirements of Chapter 62, Code of Criminal Procedure [~~as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997~~]; and

(2) fails to apply to the department for renewal of the license as required by Article 62.060 [~~62.065~~], Code of Criminal Procedure.

ARTICLE 3. TRANSITIONS; EFFECTIVE DATE; REPEALERS

SECTION 3.01. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act in amending Chapter 62, Code of Criminal Procedure, apply to a person subject to Chapter 62, Code of Criminal Procedure, for an offense or conduct committed or engaged in before, on, or after the effective date of this Act.

(b) To the extent that the changes in law made by this Act to Chapter 62, Code of Criminal Procedure, change the elements of or punishment for conduct constituting a violation of Chapter 62, those changes apply only to conduct engaged in on or after the effective date of this Act. Conduct engaged in before the effective date of this Act is governed by the law in effect at the time the conduct was engaged in, and that law is continued in effect for that purpose.

SECTION 3.02. The change in law made by this Act in adding Article 13.30, Code of Criminal Procedure, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense

occurs on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and that law is continued in effect for that purpose.

SECTION 3.03. The change in law made by this Act in amending Article 26.13(h), Code of Criminal Procedure, applies only to a plea of guilty or a plea of nolo contendere that is entered on or after the effective date of this Act. A plea of guilty or a plea of nolo contendere that is entered before the effective date of this Act is governed by the law in effect at the time the plea was entered, and that law is continued in effect for that purpose.

SECTION 3.04. The change in law made by this Act in repealing Subsections (g) and (h), Section 19, Article 42.12, Code of Criminal Procedure, and in amending Section 508.186, Government Code, applies only to a person who is placed on community supervision or released on parole or mandatory supervision for an offense committed on or after the effective date of this Act. A person who is placed on community supervision or released on parole or mandatory supervision for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and that law is continued in effect for that purpose. For purposes of this section, an offense is committed on or after the effective date of this Act if any element of the offense occurs on or after the effective date of this Act.

SECTION 3.05. The change in law made by this Act in amending Article 44.01, Code of Criminal Procedure, applies only to an appeal brought by the state on or after the effective date of this Act.

SECTION 3.06. The change in law made by this Act in adding Section 411.1473, Government Code, applies only to a person who, for the first time, must register as a sex offender under Chapter 62, Code of Criminal Procedure, on or after the effective date of this Act.

SECTION 3.07. Subsections (g) and (h), Section 19, Article 42.12, Code of Criminal Procedure, are repealed.

SECTION 3.08. This Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 867** (Senate Committee Printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE __. STATE ASSISTANCE TO SEX OFFENDERS.

SECTION __.01. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.078 to read as follows:

Sec. 531.078. CERTAIN MEDICATION FOR SEX OFFENDERS PROHIBITED. (a) To the maximum extent allowable under federal law, the commission may not provide sexual performance enhancing medication under the Medicaid vendor drug program or any other health and human services program to a person required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) The executive commissioner of the health and human services commission may adopt rules as necessary to implement this section.

HB 1172 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative F. Brown called up with senate amendments for consideration at this time,

HB 1172, A bill to be entitled An Act relating to the tuition charged to resident undergraduate students of institutions of higher education for excess credit hours and to related formula funding.

Representative F. Brown moved to concur in the senate amendments to **HB 1172**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 878): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Coleman; Howard; Naishtat; Solomons.

STATEMENT OF VOTE

When Record No. 878 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

Senate Committee Substitute

CSHB 1172, A bill to entitled An Act relating to policies and measures to promote timely graduation of students from public institutions of higher education.

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

SECTION 1. Subchapter H, Chapter 51, Education Code, is amended by adding Section 51.4032 to read as follows:

Sec. 51.4032. REPORT OF EFFORTS CONCERNING TIMELY GRADUATION. (a) Not later than November 1 of each year, the president of each general academic teaching institution, as defined by Section 61.003, shall provide to the governing board of the institution a report for the preceding academic year that examines the institution's efforts concerning timely graduation of its undergraduate students.

(b) The report must:

(1) state, for each undergraduate degree program, the average number of semester credit hours attempted and the average number of fall and spring semesters attended by a student completing the program;

(2) state the specific efforts implemented by the institution to ensure that undergraduate students graduate in a timely manner and do not attempt an excessive number of semester credit hours beyond the minimum number required to complete the students' degree programs, including the institution's efforts to provide academic counseling concerning timely graduation, including the development of an online student degree progress report which compares the courses taken and credit received by a student to the courses completed and needed for degree and graduation requirements for each academic term, and to implement tuition policies that encourage timely graduation; and

(3) include any other information required by the Texas Higher Education Coordinating Board.

(c) An institution's report must be in the form prescribed by coordinating board rule adopted in consultation with general academic teaching institutions.

SECTION 2. Section 54.068, Education Code, is amended to read as follows:

Sec. 54.068. TUITION FOR REPEATED OR EXCESSIVE UNDERGRADUATE HOURS. (a) An institution of higher education may charge a resident undergraduate student tuition at a higher rate than the rate charged to other resident undergraduate students, not to exceed the rate charged to nonresident undergraduate students, if before the semester or other academic session begins the student has previously attempted a number of semester credit hours for courses taken at any institution of higher education while classified as a resident student for tuition purposes that exceeds by at least 30 ~~[45]~~ hours the number of semester credit hours required for completion of the degree program in which the student is enrolled. For purposes of this subsection, an undergraduate student who is not enrolled in a degree program is considered to be enrolled in a degree program or programs requiring a minimum of 120 semester credit hours, including minors and double majors, and for completion of any certificate or other special program in which the student is also enrolled, including a program with a study-abroad component. An institution of higher education that charges students tuition at a higher rate under this subsection may adopt a policy under which the institution exempts from the payment of that higher rate a student that is subject to the payment of the higher rate solely as a result of hardship as determined by the institution under the policy.

(b) Semester credit hours or other credit listed in Section 61.0595(d) is not counted in determining the number of semester credit hours previously attempted by a student for purposes of Subsection (a).

(c) Subsection (a) applies only ~~[does not apply]~~ to the tuition charged to a student who initially enrolled as an undergraduate student in an institution of higher education during or after ~~[before]~~ the 1999 fall semester, except that the institution of higher education may not require a student who initially enrolls as an undergraduate student in an institution of higher education before the 2006 fall semester to pay higher tuition as permitted by Subsection (a) until the number of semester credit hours previously attempted by the student as described by that subsection exceeds the number of semester credit hours required for the student's degree program by at least 45 hours.

(d) In its appropriations to institutions of higher education, the legislature shall compute the local funds available to each institution as if the tuition collected under Subsections [Subsection] (a) and (f) were not collected.

(e) Each institution of higher education shall inform each new undergraduate student enrolling at the institution in writing of the limitation provided by this section on the number of hours or type of courses that a Texas resident is entitled to complete while paying tuition at the rate provided for Texas residents.

(f) An institution of higher education may charge a resident undergraduate student tuition at a higher rate than the rate charged to other resident undergraduate students, not to exceed the rate charged to nonresident undergraduate students, for any course in which the student enrolls that is the same as or substantively identical to a course for which the student previously completed. The Texas Higher Education Coordinating Board shall adopt a rule that exempts a resident undergraduate student from this subsection if the student enrolls in a course that is the same as or substantially similar to a course that the student previously completed, solely as a result of a hardship or other good cause.

SECTION 3. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0515 to read as follows:

Sec. 61.0515. SEMESTER CREDIT HOURS REQUIRED FOR BACCALAUREATE DEGREE. (a) To earn a baccalaureate degree, a student may not be required by a general academic teaching institution to complete more than the minimum number of semester credit hours required for the degree by the Southern Association of Colleges and Schools or its successor unless the institution determines that there is a compelling academic reason for requiring completion of additional semester credit hours for the degree.

(b) The board may review one or more of an institution's baccalaureate degree programs to ensure compliance with this section.

(c) Subsection (a) does not apply to a baccalaureate degree awarded by an institution to a student enrolled in the institution before the 2008 fall semester. This subsection does not prohibit the institution from reducing the number of semester credit hours the student must complete to receive the degree.

SECTION 4. Section 61.0595, Education Code, is amended by amending Subsections (a) and (e) and adding Subsection (f) to read as follows:

(a) In the formulas established under Section 61.059, the board may not include funding for semester credit hours earned by a resident undergraduate student who before the semester or other academic session begins has previously attempted a number of semester credit hours for courses taken at any institution of higher education while classified as a resident student for tuition purposes that exceeds by a least 30 [45] hours the number of semester credit hours required for completion of the degree program or programs in which the student is enrolled, including minors and double majors, and for completion of any certificate or other special program in which the student is also enrolled, including a program with a study-abroad component.

(e) Subsection (a) applies only [does not apply] to funding for semester credit hours earned by a student who initially enrolled as an undergraduate student in any institution of higher education during or after [before] the 1999 fall semester, except that with respect to semester credit hours earned by a student who initially enrolls as an undergraduate student in any institution of higher education before the 2006 fall semester, the board may not reduce funding under

this section until the number of semester credit hours previously attempted by the student as described by this section exceeds the number of semester credit hours required for the student's degree program by at least 45 hours.

(f) In the formulas established under Section 61.059, the board shall include without consideration of Subsection (a) funding for semester credit hours earned by a student who initially enrolled as an undergraduate student in any institution of higher education before the 1999 fall semester [for those semester credit hours without consideration of Subsection (a)].

(g) To the extent practicable, the savings to the state resulting from the exclusion of funding for excess undergraduate semester credit hours from the funding formulas of the board as required by this section shall be used to finance the Toward EXcellence, Access, & Success (TEXAS) grant program under Subchapter M, Chapter 56.

SECTION 5. (a) The changes in law made by this Act to Sections 54.068 and 61.0595, Education Code, apply beginning with the 2005 fall semester.

(b) Not later than May 31, 2006, the Texas Higher Education Coordinating Board shall adopt the rules required by Section 61.0515, Education Code, as added by this Act, relating to the number of semester credit hours required for completion of a baccalaureate degree program at a general academic teaching institution.

(c) Not later than May 31, 2006, the Texas Higher Education Coordinating Board shall develop recommendations for the core curriculum to conform to the requirements of Section 61.822, Education Code, as amended by this Act. Each public institution of higher education in this state shall revise its core curriculum as necessary to conform to the requirements of Section 61.822, Education Code, as amended by this Act, and shall require students to comply with the institution's revised core curriculum beginning with the 2008 fall semester, except that an institution shall permit a student who was enrolled in the institution before the 2008 fall semester to comply with the core curriculum requirements applicable to that student before that semester. Each institution of higher education shall issue course catalogs that reflect the applicable core curriculum under Section 61.822, Education Code, consistent with this subsection. This subsection expires at the beginning of the 2010 fall semester.

(d) The change in law made by this Act to Subsection (c), Section 61.822, Education Code, applies to students who transfer between institutions of higher education beginning with the 2008 fall semester. Students who transfer between institutions of higher education before the 2008 fall semester are covered by Subsection (c), Section 61.822, Education Code, as that subsection existed before its amendment by this Act, and that law is continued in effect for that purpose.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1172** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 56.076, Education Code, is amended to read as follows:

Sec. 56.076. ELIGIBLE EMPLOYER. An eligible institution may enter into agreements with employers that participate in the work-study program. To be eligible to participate in the work-study program, an employer must:

(1) provide part-time employment to an eligible student in nonpartisan and nonsectarian activities;

(2) provide, insofar as is practicable, employment to an eligible student that is related to the student's academic interests;

(3) use Texas college work-study program positions only to supplement and not to supplant positions normally filled by persons not eligible to participate in the work-study program;

(4) provide from sources other than federal college work-study program funds a percentage ~~[not less than 30 percent]~~ of an employed student's wages that is equal to the percentage of a student's wages that the employer would be required to provide to the student in that academic year under the ~~[and 100 percent of other employee benefits for the employed student from sources other than]~~ federal college work-study program ~~[funds, if the employer is a nonprofit entity];~~ and

(5) provide from sources other than federal college work-study funds ~~[not less than 50 percent of an employed student's wages and]~~ 100 percent of other employee benefits for the employed student~~[, if the employer is a profit-making entity].~~

SECTION __. Subchapter E, Chapter 56, Education Code, is amended by adding Section 56.079 to read as follows:

Sec. 56.079. WORK-STUDY STUDENT MENTORSHIP PROGRAM.

(a) In this section, "general academic teaching institution" has the meaning assigned by Section 61.003.

(b) A general academic teaching institution may establish a work-study student mentorship program under which students who are enrolled in their junior or senior year at the institution and who meet the eligibility requirements for employment in the Texas college work-study program under Section 56.075 may be employed by the institution under the Texas college work-study program to mentor students who are on academic probation at the institution.

(c) A general academic teaching institution that has established a work-study student mentorship program under this section may require students who are on academic probation at the institution to be matched with a student mentor employed under the program.

(d) Not later than November 1 of each year, each general academic teaching institution that has established a work-study student mentorship program under this section shall submit to the Texas Higher Education Coordinating Board a report regarding the progress of the institution's program. The report must include the number of students employed by the institution as mentors under the program in the preceding academic year and information relating to the costs of the program and the academic progress of the students receiving mentoring under the program in that year.

(e) Each general academic teaching institution that has established a work-study student mentorship program under this section shall set aside a portion of the institution's Texas college work-study program funds to pay for the state's contribution toward the costs of the program.

(f) Notwithstanding Section 56.076, a general academic teaching institution that employs a student mentor under the work-study student mentorship program shall provide from sources other than federal college work-study funds:

- (1) not less than 10 percent of the employed student's wages; and
- (2) 100 percent of other employee benefits for the employed student.

SECTION __. Section 56.304, Education Code, is amended by amending Subsection (e) and adding Subsections (e-1) and (e-2) to read as follows:

(e) If a person is initially awarded a TEXAS grant before the 2005 fall semester, the [A] person's eligibility for a TEXAS grant ends on the sixth anniversary of the initial award of a TEXAS grant to the person and the person's enrollment in an eligible institution, unless the person is provided additional time during which the person may receive a TEXAS grant under Subsection (e-2) [this subsection].

(e-1) If a person is initially awarded a TEXAS grant during or after the 2005 fall semester, unless the person is provided additional time during which the person may receive a TEXAS grant under Subsection (e-2), the person's eligibility for a TEXAS grant ends on:

(1) the fifth anniversary of the initial award of a TEXAS grant to the person, if the person is enrolled in a degree or certificate program of four years or less; or

(2) the sixth anniversary of the initial award of a TEXAS grant to the person, if the person is enrolled in a degree program of more than four years.

(e-2) The coordinating board shall adopt rules to provide a person who is otherwise eligible to receive a TEXAS grant additional time during which the person may receive a TEXAS grant in the event of a hardship or other good cause shown that prevents the person from continuing the person's enrollment during the period the person would otherwise have been eligible to receive a TEXAS grant, including a showing of a severe illness or other debilitating condition or that the person is or was responsible for the care of a sick, injured, or needy person.

SECTION __. Section 56.305, Education Code, is amended by amending Subsections (e) and (g) and adding Subsection (e-1) to read as follows:

(e) For the purpose of this section, a person who is initially awarded a TEXAS grant before the 2005 fall semester makes satisfactory academic progress toward an undergraduate degree or certificate only if:

(1) in the person's first academic year the person meets the satisfactory academic progress requirements of the institution at which the person is enrolled; and

(2) in a subsequent academic year, the person:

(A) completes at least 75 percent of the semester credit hours attempted in the student's most recent academic year; and

(B) earns an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at institutions of higher education.

(e-1) For purposes of this section, a person who is initially awarded a TEXAS grant during or after the 2005 fall semester makes satisfactory academic progress toward an undergraduate degree or certificate only if:

(1) in the person's first academic year the person meets the satisfactory academic progress requirements of the institution at which the person is enrolled; and

(2) in a subsequent academic year, the person:

(A) completed at least 24 semester credit hours in the student's most recent academic year; and

(B) has earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at institutions of higher education.

(g) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or needy person and that the person's provision of care may affect the person's academic performance, to receive a TEXAS grant:

(1) while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(3); or

(2) if the student's grade point average or the student's completion rate or number of semester credit hours completed, as applicable, falls below the satisfactory academic progress requirements of Subsection (e) or (e-1).

SECTION __. Subchapter M, Chapter 56, Education Code, is amended by adding Section 56.3071 to read as follows:

Sec. 56.3071. EFFECT OF ELIGIBILITY FOR TUITION EQUALIZATION GRANT. (a) Notwithstanding Section 56.307, the total amount of financial aid that a student enrolled in a private or independent institution of higher education is eligible to receive in a state fiscal year from TEXAS grants awarded under this subchapter may not exceed the maximum amount the student may receive in tuition equalization grants in that fiscal year as determined under Subchapter F, Chapter 61.

(b) Notwithstanding any other law, a student enrolled in a private or independent institution of higher education may not receive a TEXAS grant under this subchapter and a tuition equalization grant under Subchapter F, Chapter 61, for the same semester or other term, regardless of whether the student is otherwise eligible for both grants during that semester or term. A student who but for this subsection would be awarded both a TEXAS grant and a tuition equalization grant for the same semester or other term is entitled to receive only the grant of the greater amount.

SECTION __. Section 56.462, Education Code, is amended to read as follows:

Sec. 56.462. LOAN FORGIVENESS. A student who receives a Texas B-On-time loan shall be forgiven the amount of the student's loan if the student is awarded an undergraduate certificate or degree at an eligible institution with a cumulative grade point average of at least 3.0 on a four-point scale or the equivalent:

(1) within:

(A) four calendar years after the date the student initially enrolled in the institution or another eligible institution if:

(i) the institution is a four-year institution; and

(ii) the student is awarded a degree other than a degree in engineering, architecture, or any other program determined by the coordinating board to require more than four years to complete;

(B) five calendar years after the date the student initially enrolled in the institution or another eligible institution if:

(i) the institution is a four-year institution; and

(ii) the student is awarded a degree in engineering, architecture, or any other program determined by the coordinating board to require more than four years to complete; or

(C) two years after the date the student initially enrolled in the institution or another eligible institution if the institution is a public junior college or public technical institute; or

(2) with a total number of semester credit hours, including transfer credit hours and excluding hours earned exclusively by examination, hours earned for a course for which the student received credit toward the student's high school academic requirements, and hours earned for developmental coursework that an institution of higher education required the student to take under Section 51.3062 or under the former provisions of Section 51.306, that is not more than six hours more than the minimum number of semester credit hours required to complete the certificate or degree.

SECTION __. Section 61.225, Education Code, is amended to read as follows:

Sec. 61.225. ELIGIBILITY [QUALIFICATIONS] FOR GRANT; PERSONS AWARDED GRANTS BEFORE 2005-2006 ACADEMIC YEAR.

(a) This section applies only to a person who initially received a tuition equalization grant before the 2005-2006 academic year.

(b) To be eligible for a tuition equalization grant, a person must:

(1) be a Texas resident as defined by the coordinating board and meet, at a minimum, the resident requirements defined by law for Texas resident tuition in fully state-supported institutions of higher education;

(2) be enrolled for at least one-half of a full course load conforming to an individual degree plan in an approved college or university;

(3) be required to pay more tuition than is required at a public college or university and be charged no less than the regular tuition required of all students enrolled at the institution;

(4) establish financial need in accordance with procedures and regulations of the coordinating board;

(5) not be a recipient of any form of athletic scholarship; and

(6) have complied with other requirements adopted by the coordinating board under this subchapter.

(c) A grant to a part-time student under this section shall be made on a pro rata basis of a full-time equivalent.

SECTION __. Subchapter F, Chapter 61, Education Code, is amended by adding Section 61.2251 to read as follows:

Sec. 61.2251. ELIGIBILITY FOR GRANT; PERSONS INITIALLY AWARDED GRANTS DURING OR AFTER 2005-2006 ACADEMIC YEAR.

(a) This section does not apply to a person who initially received a tuition equalization grant before the 2005-2006 academic year.

(b) To be eligible for a tuition equalization grant in the first academic year in which the person receives the grant, a person must:

(1) be a Texas resident as defined by the coordinating board and meet, at a minimum, the resident requirements defined by law for Texas resident tuition in fully state-supported institutions of higher education;

(2) be enrolled for a full course load conforming to an individual degree plan in an approved college or university;

(3) be required to pay more tuition than is required at a public college or university and be charged no less than the regular tuition required of all students enrolled at the institution;

(4) establish financial need in accordance with procedures and regulations of the coordinating board;

(5) not be a recipient of any form of athletic scholarship; and

(6) have complied with other requirements adopted by the coordinating board under this subchapter.

(c) After qualifying for a tuition equalization grant under Subsection (b), a person may receive a tuition equalization grant in a subsequent academic year in which the person is enrolled at an approved institution only if the person:

(1) meets the requirements of Subsection (b);

(2) completed at least:

(A) 24 semester credit hours in the person's most recent academic year, if the person is enrolled in an undergraduate degree or certificate program; or

(B) 18 semester credit hours in the person's most recent academic year, if the person is enrolled in a graduate or professional degree program; and

(3) has earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at public or private institutions of higher education.

(d) Notwithstanding Subsections (b) and (c), a person's eligibility for a tuition equalization grant ends on:

(1) the fifth anniversary of the initial award of a tuition equalization grant to the person, if the person is enrolled in an undergraduate degree or certificate program of four years or less; or

(2) the sixth anniversary of the initial award of a tuition equalization grant to the person, if the person is enrolled in an undergraduate degree program of more than four years.

(e) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a tuition equalization grant, in the event of a hardship or for other good cause shown, to receive a tuition equalization grant if the person does not:

(1) complete the semester credit hours required by Subsection (c)(2);

(2) maintain the grade point average required by Subsection (c)(3); or

(3) complete the person's certificate or degree program within the period prescribed by Subsection (d).

SECTION __. Section 61.227, Education Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) In no event shall a tuition equalization grant paid pursuant to this subchapter in behalf of any student during any one fiscal year exceed an amount equal to 50 percent of the average state appropriation in the biennium preceding the biennium in which the grant is made for a full-time student or the equivalent at public senior colleges and universities, as determined by the board. ~~[A grant to a part-time student shall be made on a pro-rata basis of a full-time equivalent.]~~

(d) Notwithstanding any other law, a student enrolled in a private or independent institution of higher education may not receive a tuition equalization grant under this subchapter and a TEXAS grant under Subchapter M, Chapter 56, for the same semester or other term, regardless of whether the student is otherwise eligible for both grants during that semester or term. A student who but

for this subsection would be awarded both a tuition equalization grant and a TEXAS grant for the same semester or other term is entitled to receive only the grant of the greater amount.

SECTION ___. Subsection (h), Section 56.307, Education Code, is repealed.

SECTION 11. (a) The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with the 2005-2006 academic year, but does not affect the amount of or entitlement to any grant awarded before the effective date of this Act.

(b) The changes in law made by this Act to Section 56.076, Education Code, apply only to an agreement entered into by an institution of higher education and an employer under that section on or after the effective date of this Act.

(c) The changes in law made by this Act to Section 56.462, Education Code, apply to a student who is awarded an undergraduate certificate or degree on or after the effective date of this Act, without regard to when the student is awarded a Texas B-On-time loan.

(d) The changes in law made by this Act by amending Sections 61.225 and 61.227, Education Code, and by adding Section 61.2251, Education Code, apply beginning with tuition equalization grants for the 2005-2006 academic year, but only for tuition equalization grants awarded on or after the effective date of this Act. A tuition equalization grant awarded before the effective date of this Act is governed by the law in effect immediately before the effective date, and the former law is continued in effect for that purpose.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 1172** by adding the following new SECTIONS to the bill, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ___. Subsection (c), Section 52.91, Education Code, is amended to read as follows:

(c) The board shall repay bonds issued by the board to fund the Texas B-On-time student loan program using legislative appropriations and money collected by the board as repayment for Texas B-On-time student loans awarded by the board. The board may use tuition set aside under Section 56.465 to repay bonds issued by the board for the Texas B-On-time student loan program. The board may not use money collected by the board as repayment for student loans awarded by the board under Subchapter C to repay bonds issued by the board for the Texas B-On-time student loan program under Section 56.464(b).

SECTION ___. Subsection (b), Section 56.463, Education Code, is amended to read as follows:

(b) Money in the Texas B-On-time student loan account may be used only to pay any costs of the coordinating board related to the operation of the Texas B-On-time loan program and as otherwise provided by this subchapter.

SECTION ___. Subsection (b), Section 56.465, Education Code, is amended to read as follows:

(b) The amount of tuition set aside under Subsection (a) shall be deposited to the credit of the Texas B-On-time student loan account established under Section 56.463 or to the interest and sinking fund established by the coordinating board under Section 52.91(b) in accordance with the resolution of the board establishing such fund.

SECTION _____. The Texas Higher Education Coordinating Board shall, as necessary, adopt rules consistent with Sections 52.91, 56.463, and 56.465, Education Code, as amended by this Act, as soon as practicable after this Act takes effect. For that purpose, the coordinating board may adopt the rules in the manner provided by law for emergency rules.

**HB 1053 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1053, A bill to be entitled An Act relating to the location of certain municipal solid waste landfills.

Representative Hope moved to concur in the senate amendments to **HB 1053**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 879): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Gonzales; Gonzalez Toureilles; King, P.; Morrison; Seaman.

STATEMENT OF VOTE

When Record No. 879 was taken, my vote failed to register. I would have voted yes.

Gonzales

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1053** by striking all below the enacting clause and substituting:
SECTION 1. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.123 to read as follows:

Sec. 361.123. LIMITATION ON LOCATION OF MUNICIPAL SOLID WASTE LANDFILLS. (a) This section applies to an application for a permit for a new Type I or new Type IV municipal solid waste landfill or for a permit or permit amendment authorizing the conversion of a Type IV municipal solid waste landfill to a Type I municipal solid waste landfill only if the landfill or proposed site for the new landfill is located in a county that is adjacent to a county with a population of more than 3.3 million and inside the boundaries of a national forest, as designated by the United States Forest Service, on public or private land.

(b) The commission may not issue a permit for a new Type I or new Type IV municipal solid waste landfill to be located as described by Subsection (a).

(c) The commission may not issue a permit or permit amendment authorizing the conversion of a Type IV municipal solid waste landfill located as described by Subsection (a) to a Type I municipal solid waste landfill.

(d) This section does not apply to an application for a permit or permit amendment authorizing an areal expansion of an existing Type I municipal solid waste landfill.

SECTION 2. Section 361.123, Health and Safety Code, as added by this Act, applies only to the issuance of a permit for a new municipal solid waste landfill or of a permit or permit amendment authorizing the conversion of a Type IV municipal solid waste landfill to a Type I municipal solid waste landfill, the application for which is received by the Texas Commission on Environmental Quality on or after September 1, 2005.

SECTION 3. This Act takes effect September 1, 2005.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend Floor Amendment No. 1 to **HB 1053** as follows:

1. On page 2, line 3, strike "September 1, 2005" and replace with "the effective date of this Act".

2. Strike SECTION 3 in its entirety, and substitute the following:

"SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005."

HB 1116 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 1116, A bill to be entitled An Act relating to the governmental entities subject to the sunset review process.

Representative Solomons moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1116**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1116**: Solomons, chair; Hamric; Truitt; Chisum; and B. Cook.

**HB 1611 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1611, A bill to be entitled An Act relating to the use of money for the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program; making an appropriation.

Representative Chisum moved to concur in the senate amendments to **HB 1611**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 880): 142 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Cook, B.(C); Talton.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Allen, R.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1611** (Senate Committee Printing) as follows:

Strike Section 5 of the bill and renumber the following sections accordingly.

**HB 1634 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1634, A bill to be entitled An Act relating to arson and arson investigation; creating offenses.

Representative R. Allen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1634**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1634**: R. Allen, chair; Keel; Talton; Hodge; and Uresti.

INTRODUCTION OF GUEST

Representative Nixon introduced Justice Priscilla R. Owen, recently confirmed to the 5th Circuit Court of Appeals. Justice Owen briefly addressed the house.

HB 1772 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

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

HB 1772, A bill to be entitled An Act relating to permitting a general-law municipality to annex land in certain circumstances.

Representative Miller moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1772**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1772**: Miller, chair; Rose; Mowery; Leibowitz; and Casteel.

HB 1823 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

CSHB 1823, A bill to be entitled An Act relating to the rights of parties to an executory contract for conveyance of real property and certain other real property transactions.

Representative Dutton moved to concur in the senate amendments to **HB 1823**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

HB 1823, A bill to be entitled An Act relating to the rights of a purchaser under an executory contract for conveyance of real property.

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

SECTION 1. Subsection (c), Section 212.0115, Local Government Code, is amended to read as follows:

(c) On the written request of an owner of land, a purchaser of real property under a contract for deed, executory contract, or other executory conveyance, an entity that provides utility service, or the governing body of the municipality, the municipal authority responsible for approving plats shall make the following determinations regarding the owner's land or the land in which the entity or governing body is interested that is located within the jurisdiction of the municipality:

(1) whether a plat is required under this subchapter for the land; and

(2) if a plat is required, whether it has been prepared and whether it has been reviewed and approved by the authority.

SECTION 2. Section 5.062, Property Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) This subchapter applies only to a transaction involving an executory contract for conveyance of real property used or to be used as the purchaser's residence or as the residence of a person related to the purchaser within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code. For purposes of this subchapter, and only for the purposes of this subchapter:

(1) [7] a lot measuring one acre or less is presumed to be residential property; and

(2) an option to purchase real property that includes or is combined or executed concurrently with a residential lease agreement, together with the lease, is considered an executory contract for conveyance of real property.

(e) Sections 5.066, 5.067, 5.071, 5.075, 5.081, and 5.082 do not apply to an executory contract described by Subsection (a)(2).

SECTION 3. Subchapter D, Chapter 5, Property Code, is amended by adding Section 5.0621 to read as follows:

Sec. 5.0621. CONSTRUCTION WITH OTHER LAW. (a) Except as provided by Subsection (b), if a residential lease of real property includes an option to purchase the property, the provisions of this subchapter and Chapter 92 apply to the lease.

(b) After a tenant exercises an option to purchase leased property under a residential lease described by Subsection (a), Chapter 92 no longer applies to the lease.

SECTION 4. Section 5.073, Property Code, is amended to read as follows:

Sec. 5.073. CONTRACT TERMS, CERTAIN WAIVERS PROHIBITED.

(a) A seller may not include as a term of the executory contract a provision that:

(1) imposes an additional late-payment fee that exceeds the lesser of:

(A) eight percent of the monthly payment under the contract; or

(B) the actual administrative cost of processing the late payment;

(2) prohibits the purchaser from pledging the purchaser's interest in the property as security to obtain a loan to place improvements, including utility improvements or fire protection improvements, on the property; ~~or~~

(3) imposes a prepayment penalty or any similar fee if the purchaser elects to pay the entire amount due under the contract before the scheduled payment date under the contract;

(4) forfeits an option fee or other option payment paid under the contract for a late payment; or

(5) increases the purchase price, imposes a fee or charge of any type, or otherwise penalizes a purchaser leasing property with an option to buy the property for requesting repairs or exercising any other right under Chapter 92.

(b) A provision of the executory contract that purports to waive a right or exempt a party from a liability or duty under this subchapter is void.

SECTION 5. Section 5.077, Property Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) A seller who conducts less than two transactions in a 12-month period under this section who fails to comply with Subsection (a) is liable to the purchaser for:

(1) liquidated damages in the amount of \$100 for each annual statement the seller fails to provide to the purchaser within the time required by Subsection (a); and

(2) reasonable attorney's fees.

(d) A seller who conducts two or more transactions in a 12-month period under this section who fails to comply with Subsection (a) is liable to the purchaser for:

(1) liquidated damages in the amount of \$250 a day for each day after January 31 that the seller fails to provide the purchaser with the statement, but not to exceed the fair market value of the property; and

(2) reasonable attorney's fees.

SECTION 6. Subchapter D, Chapter 5, Property Code, is amended by adding Sections 5.081 through 5.085 to read as follows:

Sec. 5.081. RIGHT TO CONVERT CONTRACT. (a) A purchaser, at any time and without paying penalties or charges of any kind, is entitled to convert the purchaser's interest in property under an executory contract into recorded, legal title in accordance with this section.

(b) If the purchaser tenders to the seller an amount of money equal to the balance of the total amount owed by the purchaser to the seller under the executory contract, the seller shall transfer to the purchaser recorded, legal title of the property covered by the contract.

(c) Subject to Subsection (d), if the purchaser delivers to the seller of property covered by an executory contract a promissory note that is equal in amount to the balance of the total amount owed by the purchaser to the seller under the contract and that contains the same interest rate, due dates, and late fees as the contract:

(1) the seller shall execute a deed containing any warranties required by the contract and conveying to the purchaser recorded, legal title of the property; and

(2) the purchaser shall simultaneously execute a deed of trust that:

(A) contains the same terms as the contract regarding the purchaser's and seller's duties concerning the property;

(B) secures the purchaser's payment and performance under the promissory note and deed of trust; and

(C) conveys the property to the trustee, in trust, and confers on the trustee the power to sell the property if the purchaser defaults on the promissory note or the terms of the deed of trust.

(d) On or before the 10th day after the date the seller receives a promissory note under Subsection (c) that substantially complies with that subsection, the seller shall:

(1) deliver to the purchaser a written explanation that legally justifies why the seller refuses to convert the purchaser's interest into recorded, legal title under Subsection (c); or

(2) communicate with the purchaser to schedule a mutually agreeable day and time to execute the deed and deed of trust under Subsection (c).

(e) A seller who violates this section is liable to the purchaser in the same manner and amount as a seller who violates Section 5.079 is liable to a purchaser. This subsection does not limit or affect any other rights or remedies a purchaser has under other law.

(f) On the last date that all of the conveyances described by Subsections (b) and (c) are executed, the executory contract:

(1) is considered completed; and

(2) has no further effect.

(g) The appropriate use of forms published by the Texas Real Estate Commission for transactions described by this section constitutes compliance with this section.

Sec. 5.082. REQUEST FOR BALANCE AND TRUSTEE. (a) A purchaser under an executory contract, on written request, is entitled to receive the following information from the seller:

(1) as of the date of the request or another date specified by the purchaser, the amount owed by the purchaser under the contract; and

(2) if applicable, the name and address of the seller's desired trustee for a deed of trust to be executed under Section 5.081.

(b) On or before the 10th day after the date the seller receives from the purchaser a written request for information described by Subsection (a), the seller shall provide to the purchaser a written statement of the requested information.

(c) If the seller does not timely respond to a request made under this section, the purchaser may:

(1) determine or pay the amount owed under the contract, including determining the amount necessary for a promissory note under Section 5.081; and

(2) if applicable, select a trustee for a deed of trust under Section 5.081.

(d) For purposes of Subsection (c)(2), a purchaser must select a trustee that lives or has a place of business in the same county where the property covered by the executory contract is located.

Sec. 5.083. RIGHT TO CANCEL CONTRACT FOR IMPROPER PLATTING. (a) Except as provided by Subsection (c), in addition to other rights or remedies provided by law, the purchaser may cancel and rescind an executory contract at any time if the purchaser learns that the seller has not properly subdivided or platted the property that is covered by the contract in accordance with state and local law. A purchaser canceling and rescinding a contract under this subsection must:

(1) deliver a signed, written notice of the cancellation and rescission to the seller in person; or

(2) send a signed, written notice of the cancellation and rescission to the seller by telegram or certified or registered mail, return receipt requested.

(b) If the purchaser cancels the contract as provided under Subsection (a), the seller, not later than the 10th day after the date the seller receives the notice of cancellation and rescission, shall:

(1) deliver in person or send by telegram or certified or registered mail, return receipt requested, to the purchaser a signed, written notice that the seller intends to subdivide or plat the property properly; or

(2) return to the purchaser all payments of any kind made to the seller under the contract and reimburse the purchaser for:

(A) any payments the purchaser made to a taxing authority for the property; and

(B) the value of any improvements made to the property by the purchaser.

(c) A purchaser may not exercise the purchaser's right to cancel and rescind an executory contract under this section if, on or before the 90th day after the date the purchaser receives the seller's notice under Subsection (b)(1), the seller:

(1) properly subdivides or plats the property; and

(2) delivers in person or sends by telegram or certified or registered mail, return receipt requested, to the purchaser a signed, written notice evidencing that the property has been subdivided or platted in accordance with state and local law.

(d) The seller may not terminate the purchaser's possession of the property covered by the contract being canceled and rescinded before the seller pays the purchaser any money to which the purchaser is entitled under Subsection (b).

Sec. 5.084. RIGHT TO DEDUCT. If a seller is liable to a purchaser under this subchapter, the purchaser, without taking judicial action, may deduct the amount owed to the purchaser by the seller from any amounts owed to the seller by the purchaser under the terms of an executory contract.

Sec. 5.085. FEE SIMPLE TITLE REQUIRED; MAINTENANCE OF FEE SIMPLE TITLE. (a) A potential seller may not execute an executory contract with a potential purchaser if the seller does not own the property in fee simple free from any liens or other encumbrances.

(b) Except as provided by this subsection, a seller, or the seller's heirs or assigns, must maintain fee simple title free from any liens or other encumbrances to property covered by an executory contract for the entire duration of the contract. This subsection does not apply to a lien or encumbrance placed on the property that is:

(1) placed on the property because of the conduct of the purchaser;

(2) agreed to by the purchaser as a condition of a loan obtained to place improvements on the property, including utility or fire protection improvements; or

(3) placed on the property by the seller prior to the execution of the contract in exchange for a loan used only to purchase the property if:

(A) the seller, not later than the third day before the date the contract is executed, notifies the purchaser in a separate written disclosure:

(i) of the name, address, and phone number of the lienholder or, if applicable, servicer of the loan;

(ii) of the loan number and outstanding balance of the loan;

(iii) of the monthly payments due on the loan and the due date of those payments; and

(iv) in 14-point type that, if the seller fails to make timely payments to the lienholder, the lienholder may attempt to collect the debt by foreclosing on the lien and selling the property at a foreclosure sale;

(B) the lien:

(i) is attached only to the property sold to the purchaser under the contract; and

(ii) secures indebtedness that, at no time, is or will be greater in amount than the amount of the total outstanding balance owed by the purchaser under the executory contract;

(C) the lienholder:

(i) does not prohibit the property from being encumbered by an executory contract; and

(ii) consents to verify the status of the loan on request of the purchaser and to accept payments directly from the purchaser if the seller defaults on the loan; and

(D) the following covenants are placed in the executory contract:

(i) a covenant that obligates the seller to make timely payments on the loan and to give monthly statements to the purchaser reflecting the amount paid to the lienholder, the date the lienholder receives the payment, and the information described by Paragraph (A);

(ii) a covenant that obligates the seller, not later than the third day the seller receives or has actual knowledge of a document or an event described by this subparagraph, to notify the purchaser in writing in 14-point type that the seller has been sent a notice of default, notice of acceleration, or notice of foreclosure or has been sued in connection with a lien on the property and to attach a copy of all related documents received to the written notice; and

(iii) a covenant that warrants that if the seller does not make timely payments on the loan or any other indebtedness secured by the property, the purchaser may, without notice, cure any deficiency with a lienholder directly and deduct from the total outstanding balance owed by the purchaser under the executory contract, without the necessity of judicial action, 150 percent of any amount paid to the lienholder.

(c) A violation of this section:

(1) is a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code, and is actionable in a public or private suit brought under Subchapter E, Chapter 17, Business & Commerce Code; and

(2) in addition to other rights or remedies provided by law, entitles the purchaser to cancel and rescind the executory contract and receive from the seller:

(A) the return of all payments of any kind made to the seller under the contract; and

(B) reimbursement for:

(i) any payments the purchaser made to a taxing authority for the property; and

(ii) the value of any improvements made to the property by the purchaser.

(d) A seller is not liable under this section if:

(1) a lien is placed on the property by a person other than the seller; and

(2) not later than the 30th day after the date the seller receives notice of the lien, the seller takes all steps necessary to remove the lien and has the lien removed from the property.

SECTION 7. (a) Section 5.062, Property Code, as amended by this Act, and Section 5.0621, Property Code, as added by this Act, apply to an executory contract for conveyance entered into on or after January 1, 2006.

(b) Section 5.073, Property Code, as amended by this Act, applies only to an executory contract for conveyance that was entered into on or after the effective date of this Act. An executory contract that was entered into before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(c) Sections 5.081 and 5.082, Property Code, as added by this Act, apply to a conversion of title initiated or a request for information made on or after the effective date of this Act, regardless of the date on which the purchaser and seller entered into the executory contract that is the subject of the conversion or request.

(d) Section 5.083, Property Code, as added by this Act, applies only to a seller's failure or refusal to subdivide or plat real property on or after the effective date of this Act, regardless of the date on which the purchaser and seller entered into the executory contract covering the property that is improperly subdivided or platted.

(e) Section 5.084, Property Code, as added by this Act, applies to the computation of any amount owed to the seller by the purchaser under the terms of an executory contract on or after the effective date of this Act, regardless of the date on which the purchaser and seller entered into the executory contract.

(f) Section 5.085, Property Code, as added by this Act, applies only to an executory contract for conveyance that is entered into on or after the effective date of this Act. An executory contract for conveyance that is entered into before the effective date of this Act is covered by the law in effect at the time the contract was entered into, and that law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1823** (Senate Committee Printing) as follows:

(1) In the recital to SECTION 2 of the bill (page 1, line 28), strike "Subsection (a)" and substitute "Subsections (a) and (b)".

(2) In SECTION 2 of the bill, between amended Subsection (a) and added Subsection (e), Section 5.062, Property Code (page 1, between lines 42 and 43), insert the following:

(b) This subchapter does not apply to the following transactions under an executory contract:

(1) [a transaction involving] the sale of state land;

(2) a sale of land by:

(A) the Veterans' Land Board;

(B) this state or a political subdivision of this state; or

(C) an instrumentality, public corporation, or other entity created to

act on behalf of this state or a political subdivision of this state, including an entity created under Chapter 303, 392, or 394, Local Government Code [under an executory contract].

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 1823** (Senate Committee Printing) as follows:

(1) In the recital to SECTION 2 of the bill (page 1, line 28), strike "Subsection (e)" and substitute "Subsections (e), (f), and (g)".

(2) In SECTION 2 of the bill, between added Subsection (e), Section 5.062, Property Code, and SECTION 3 of the bill (page 1, between lines 44 and 45), insert the following:

(f) Notwithstanding any other provision of this subchapter, only the following sections apply to an executory contract described by Subsection (a) (2) if the term of the contract is three years or less and the purchaser and seller, or the purchaser's or seller's assignee, agent, or affiliate, have not been parties to an executory contract to purchase the property covered by the executory contract for longer than three year:

(1) Sections 5.063-5.065;

(2) Section 5.073, except for Section 5.073(a)(2); and

(3) Sections 5.083 and 5.085.

(g) Except as provided by Subsection (b), if Subsection (f) conflicts with another provision of this subchapter, Subsection (f) prevails.

(3) In SECTION 3 of the bill, in added Subsection (a), Section 5.0621, Property Code (page 1, lines 48-50), strike "if a residential lease of real property includes an option to purchase the property, the provisions of this subchapter and Chapter 92 apply to the lease" and substitute "the provisions of this subchapter and Chapter 92 apply to the portion of an executory contract described by Section 5.062(a)(2) that is a residential lease agreement".

(4) In SECTION 6 of the bill, at the end of added Section 5.082, Property Code (page 3, between lines 44 and 45), insert the following:

(e) Not later than the 20th day after the date a seller receives notice of an amount determined by a purchaser under Subsection (c)(1), the seller may contest that amount by sending a written objection to the purchaser. An objection under this subsection must:

(1) be sent to the purchaser by regular and certified mail;

(2) include the amount the seller claims is the amount owed under the contract; and

(3) be based on written records kept by the seller or the seller's agent that were maintained and regularly updated for the entire term of the executory contract.

HB 2579 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2579, A bill to be entitled An Act relating to procedures to ensure the involvement of parents or guardians of children placed in certain institutions.

Representative Bonnen moved to concur in the senate amendments to **HB 2579**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 2579, A bill to be entitled An Act relating to procedures to ensure the involvement of parents or guardians of children placed in certain institutions.

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

SECTION 1. Subchapter D-1, Chapter 531, Government Code, is amended by adding Sections 531.1521, 531.1532, 531.1591, and 531.164-531.167 to read as follows:

Sec. 531.1521. PREADMISSION INFORMATION. (a) The executive commissioner by rule shall develop and implement a system by which the Department of Aging and Disability Services ensures that, for each child with respect to whom the department or a local mental retardation authority is notified of a request for placement in an institution, the child's parent or guardian is fully informed before the child is placed in the institution of all community-based

services and any other service and support options for which the child may be eligible. The system must be designed to ensure that the department provides the information through:

(1) a local mental retardation authority;

(2) any private entity that has knowledge and expertise regarding the needs of and full spectrum of care options available to children with disabilities as well as the philosophy and purpose of permanency planning; or

(3) a department employee.

(b) An institution in which a child's parent or guardian is considering placing the child may provide information required under Subsection (a), but the information must also be provided by a local mental retardation authority, private entity, or employee of the Department of Aging and Disability Services as required by Subsection (a).

(c) The Department of Aging and Disability Services shall develop comprehensive information consistent with the policy stated in Section 531.152 to explain to a parent or guardian considering placing a child in an institution:

(1) options for community-based services;

(2) the benefits to the child of living in a family or community setting;

(3) that the placement of the child in an institution is considered temporary in accordance with Section 531.159; and

(4) that an ongoing permanency planning process is required under this subchapter and other state law.

(d) Except as otherwise provided by this subsection and Subsection (e), the Department of Aging and Disability Services shall ensure that, not later than the 14th working day after the date the department is notified of a request for the placement of a child in an institution, the child's parent or guardian is provided the information described by Subsections (a) and (c). The department may provide the information after the 14th working day after the date the department is notified of the request if the child's parent or guardian waives the requirement that the information be provided within the period otherwise required by this subsection.

(e) The requirements of this section do not apply to a request for the placement of a child in an institution if the child:

(1) is involved in an emergency situation, as defined by rules adopted by the executive commissioner; or

(2) has been committed to an institution under Chapter 46B, Code of Criminal Procedure, or Chapter 55, Family Code.

Sec. 531.1532. REQUIREMENTS ON ADMISSIONS OF CHILDREN TO CERTAIN INSTITUTIONS. On the admission of a child to an institution described by Section 531.151(3)(A), (B), or (D), the Department of Aging and Disability Services shall require the child's parent or guardian to submit:

(1) an admission form that includes:

(A) the parent's or guardian's:

(i) name, address, and telephone number;

(ii) driver's license number and state of issuance or personal identification card number issued by the Department of Public Safety; and

(iii) place of employment and the employer's address and telephone number; and

(B) the name, address, and telephone number of a relative of the child or other person whom the department or institution may contact in an emergency, a statement indicating the relation between that person and the child, and at the parent's or guardian's option, that person's:

(i) driver's license number and state of issuance or personal identification card number issued by the Department of Public Safety; and

(ii) the name, address, and telephone number of that person's employer; and

(2) a signed acknowledgment of responsibility stating that the parent or guardian agrees to:

(A) notify the institution in which the child is placed of any changes to the information submitted under Subdivision (1)(A); and

(B) make reasonable efforts to participate in the child's life and in planning activities for the child.

Sec. 531.1591. ANNUAL REAUTHORIZATION OF PLANS OF CARE FOR CERTAIN CHILDREN. (a) The executive commissioner shall adopt rules under which the Department of Aging and Disability Services requires a nursing facility in which a child resides to request from the child's parent or guardian a written reauthorization of the child's plan of care.

(b) The rules adopted under this section must require that the written reauthorization be requested annually.

Sec. 531.164. DUTIES OF CERTAIN INSTITUTIONS. (a) This section applies only to an institution described by Section 531.151(3)(A), (B), or (D).

(b) An institution described by Section 531.151(3)(A) or (B) shall notify the local mental retardation authority for the region in which the institution is located of a request for placement of a child in the institution. An institution described by Section 531.151(3)(D) shall notify the Department of Aging and Disability Services of a request for placement of a child in the institution.

(c) An institution must make reasonable accommodations to promote the participation of the parent or guardian of a child residing in the institution in all planning and decision-making regarding the child's care, including participation in:

(1) the initial development of the child's permanency plan and periodic review of the plan;

(2) an annual review and reauthorization of the child's service plan;

(3) decision-making regarding the child's medical care;

(4) routine interdisciplinary team meetings; and

(5) decision-making and other activities involving the child's health and safety.

(d) Reasonable accommodations that an institution must make under this section include:

(1) conducting a meeting in person or by telephone, as mutually agreed upon by the institution and the parent or guardian;

(2) conducting a meeting at a time and, if the meeting is in person, at a location that is mutually agreed upon by the institution and the parent or guardian;

(3) if a parent or guardian has a disability, providing reasonable accommodations in accordance with the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), including providing an accessible meeting location or a sign language interpreter, as applicable; and

(4) providing a language interpreter, if applicable.

(e) Except as otherwise provided by Subsection (f):

(1) an ICF-MR must:

(A) attempt to notify the parent or guardian of a child who resides in the ICF-MR in writing of a periodic permanency planning meeting or annual service plan review and reauthorization meeting not later than the 21st day before the date the meeting is scheduled to be held; and

(B) request a response from the parent or guardian; and

(2) a nursing facility must:

(A) attempt to notify the parent or guardian of a child who resides in the facility in writing of an annual service plan review and reauthorization meeting not later than the 21st day before the date the meeting is scheduled to be held; and

(B) request a response from the parent or guardian.

(f) If an emergency situation involving a child residing in an ICF-MR or nursing facility occurs, the ICF-MR or nursing facility, as applicable, must:

(1) attempt to notify the child's parent or guardian as soon as possible;

and

(2) request a response from the parent or guardian.

(g) If a child's parent or guardian does not respond to a notice under Subsection (e) or (f), the ICF-MR or nursing facility, as applicable, must attempt to locate the parent or guardian by contacting another person whose information was provided by the parent or guardian under Section 531.1532(1)(B).

(h) Not later than the 30th day after the date an ICF-MR or nursing facility determines that it is unable to locate a child's parent or guardian for participation in activities listed under Subsection (e)(1) or (2), the ICF-MR or nursing facility must notify the Department of Aging and Disability Services of that determination and request that the department initiate a search for the child's parent or guardian.

Sec. 531.165. SEARCH FOR PARENT OR GUARDIAN OF A CHILD.

(a) The Department of Aging and Disability Services shall develop and implement a process by which the department, on receipt of notification under Section 531.164(h) that a child's parent or guardian cannot be located, conducts a search for the parent or guardian. If, on the first anniversary of the date the department receives the notification under Section 531.164(h), the department has been unsuccessful in locating the parent or guardian, the department shall refer the case to:

(1) the child protective services division of the Department of Family and Protective Services if the child is 17 years of age or younger; or

(2) the adult protective services division of the Department of Family and Protective Services if the child is 18 years of age or older.

(b) On receipt of a referral under Subsection (a)(1), the child protective services division of the Department of Family and Protective Services shall exercise intense due diligence in attempting to locate the child's parent or guardian. If the division is unable to locate the child's parent or guardian, the department shall file a suit affecting the parent-child relationship requesting an order appointing the department as the child's temporary managing conservator.

(c) A child is considered abandoned for purposes of the Family Code if the child's parent or guardian cannot be located following the exercise of intense due diligence in attempting to locate the parent or guardian by the Department of Family and Protective Services under Subsection (b).

(d) On receipt of a referral under Subsection (a)(2), the adult protective services division of the Department of Family and Protective Services shall notify the court that appointed the child's guardian that the guardian cannot be located.

Sec. 531.166. TRANSFER OF CHILD BETWEEN INSTITUTIONS. (a) This section applies only to an institution described by Section 531.151(3)(A), (B), or (D) in which a child resides.

(b) Before transferring a child who is 17 years of age or younger, or a child who is at least 18 years of age and for whom a guardian has been appointed, from one institution to another institution, the institution in which the child resides must attempt to obtain consent for the transfer from the child's parent or guardian unless the transfer is in response to an emergency situation, as defined by rules adopted by the executive commissioner.

Sec. 531.167. COLLECTION OF INFORMATION REGARDING INVOLVEMENT OF CERTAIN PARENTS AND GUARDIANS. (a) The Department of Aging and Disability Services shall collect and maintain aggregate information regarding the involvement of parents and guardians of children residing in institutions described by Sections 531.151(3)(A), (B), and (D) in the lives of and planning activities relating to those children. The department shall obtain input from stakeholders concerning the types of information that are most useful in assessing the involvement of those parents and guardians.

(b) The Department of Aging and Disability Services shall make the aggregate information available to the public on request.

SECTION 2. Not later than September 1, 2006:

(1) the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Sections 531.1521(a) and (e) and 531.166(b), Government Code, as added by this Act; and

(2) the Department of Aging and Disability Services shall:

(A) develop the information required by Section 531.1521(c), Government Code, as added by this Act; and

(B) develop and implement the process for conducting a search for a child's parent or guardian required by Section 531.165, Government Code, as added by this Act.

SECTION 3. Section 531.1521, Government Code, as added by this Act, applies only to a child for whom the Department of Aging and Disability Services or a local mental retardation authority is notified of a request for placement in an institution on or after September 1, 2006. A child with respect to whom the department or a local mental retardation authority is notified of a request for placement in an institution before September 1, 2006, is governed by the law in effect on the date the notification was received, and the former law is continued in effect for that purpose.

SECTION 4. (a) Sections 531.1532, 531.1591, and 531.164-531.166, Government Code, as added by this Act, apply only with respect to a child who is admitted to an institution on or after September 1, 2006.

(b) Notwithstanding Subsection (a), an institution in which a child resides shall, as part of the annual service plan meeting regarding the child, encourage the child's parent or guardian to provide the information required on an admission form under Section 531.1532(1), Government Code, as added by this Act, and a signed acknowledgment of responsibility under Section 531.1532(2), Government Code, as added by this Act. Notwithstanding Subsection (a) of this section, if the parent or guardian of a child for whom the Department of Aging and Disability Services is required to develop a permanency plan provides the

information and acknowledgment of responsibility as a result of the annual service plan meeting as provided by this subsection, Sections 531.164-531.166, Government Code, as added by this Act, apply with respect to the child, regardless of the date on which the child was admitted to an institution.

SECTION 5. This Act takes effect September 1, 2005.

**HB 2753 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2753, A bill to be entitled An Act relating to the powers, duties, and functions of the Legislative Budget Board.

Representative Bonnen moved to concur in the senate amendments to **HB 2753**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 881): 131 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Allen, R.; Alonzo; Anderson; Bailey; Baxter; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Dunnam; Farrar; Herrero; Leibowitz; Martinez.

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

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Bohac; Burnam; Coleman; Jackson; Merritt; Rose.

Senate Committee Substitute

CSHB 2753, A bill to be entitled An Act relating to the powers, duties, and functions of the Legislative Budget Board.

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

SECTION 1. Article 60.03, Code of Criminal Procedure, is amended to read as follows:

Art. 60.03. INTERAGENCY COOPERATION; CONFIDENTIALITY. (a) Criminal justice agencies, the Legislative Budget Board, and the council are entitled to access to the data bases of the Department of Public Safety, the Texas Juvenile Probation Commission, the Texas Youth Commission, and the Texas

Department of Criminal Justice in accordance with applicable state or federal law or regulations. The access granted by this subsection does not grant an agency, the Legislative Budget Board, or the council the right to add, delete, or alter data maintained by another agency.

(b) The council or the Legislative Budget Board may submit to the Department of Public Safety, the Texas Juvenile Probation Commission, the Texas Youth Commission, and the Texas Department of Criminal Justice an annual request for a data file containing data elements from the departments' systems. The Department of Public Safety, the Texas Juvenile Probation Commission, the Texas Youth Commission, and the Texas Department of Criminal Justice shall provide the council and the Legislative Budget Board with that data file for the period requested, in accordance with state and federal law and regulations. If the council submits data file requests other than the annual data file request, the director of the agency maintaining the requested records must approve the request. The Legislative Budget Board may submit data file requests other than the annual data file request without the approval of the director of the agency maintaining the requested records.

(c) Neither a criminal justice agency, ~~nor~~ the council, ~~nor~~ the Legislative Budget Board may disclose to the public information in an individual's criminal history record if the record is protected by state or federal law or regulation.

SECTION 2. Section 42.007(b), Education Code, is amended to read as follows:

(b) Before each regular session of the legislature, the board shall, as determined by the board, report the equalized funding elements to the commissioner and the legislature.

SECTION 3. Sections 322.003(d) and (e), Government Code, are amended to read as follows:

(d) As an exception to Chapter 551 and other law, if a meeting is located in Austin and the joint chairs of the board are physically present at the [a] meeting, then any number of the other members of the board may attend the [a] meeting [of the board] by use of telephone conference call, video conference call, or other similar telecommunication device. This subsection applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a member of the board to otherwise fully participate in any meeting of the board. This subsection applies without exception with regard to the subject of the meeting or topics considered by the members.

(e) A meeting held by use of telephone conference call, video conference call, or other similar telecommunication device:

- (1) is subject to the notice requirements applicable to other meetings;
- (2) must specify in the notice of the meeting the location in Austin of the meeting at which the joint chairs will be physically present;
- (3) must be open to the public and shall be audible to the public at the location in Austin specified in the notice of the meeting as the location of the meeting at which the joint chairs will be physically present; and
- (4) must provide two-way audio communication between all members of the board attending the meeting during the entire meeting, and if the two-way audio communication link with any member attending the meeting is disrupted at any time, the meeting may not continue until the two-way audio communication link is reestablished.

SECTION 4. Section 322.005, Government Code, is amended to read as follows:

Sec. 322.005. PERSONNEL. (a) The director~~[, with the approval of the board,]~~ may employ ~~[necessary clerical and stenographic]~~ personnel as necessary to perform the functions of the board.

(b) The director ~~[board]~~ shall set the salaries of the personnel employed by the director.

SECTION 5. Section 322.016, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Until the board has completed a review under this section, all information, documentary or otherwise, prepared or maintained in conducting the review or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

SECTION 6. Section 322.0165, Government Code, is amended by adding Subsection (g) to read as follows:

(g) Until the board has completed a review under this section, all information, documentary or otherwise, prepared or maintained in conducting the review or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

SECTION 7. Section 322.017, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Until the board has completed a review and analysis under this section, all information, documentary or otherwise, prepared or maintained in conducting the review and analysis or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Section 552.116. This subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure under a law other than Section 552.116.

SECTION 8. Chapter 322, Government Code, is amended by adding Section 322.019 to read as follows:

Sec. 322.019. CRIMINAL JUSTICE POLICY ANALYSIS. (a) The board may develop and perform functions to promote a more effective and cohesive state criminal justice system.

(b) The board may serve as the statistical analysis center for the state and as the liaison for the state to the United States Department of Justice on criminal justice issues of interest to the state and federal government relating to data, information systems, and research if an executive branch agency or institution of higher education is not designated by the governor to perform those functions.

(c) The director may consult the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each standing committee of the senate and house of representatives having primary jurisdiction over matters relating to criminal justice and state finance or appropriations from the state treasury.

(d) The Department of Public Safety, the Texas Department of Criminal Justice, the Texas Juvenile Probation Commission, and the Texas Youth Commission shall provide the board with data relating to a criminal justice policy analysis under this section in the manner requested.

SECTION 9. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.146 to read as follows:

Sec. 552.146. EXCEPTION: CERTAIN COMMUNICATIONS WITH ASSISTANT OR EMPLOYEE OF LEGISLATIVE BUDGET BOARD. (a) All written or otherwise recorded communications, including conversations, correspondence, and electronic communications, between a member of the legislature or the lieutenant governor and an assistant or employee of the Legislative Budget Board are excepted from the requirements of Section 552.021.

(b) Memoranda of a communication between a member of the legislature or the lieutenant governor and an assistant or employee of the Legislative Budget Board are excepted from the requirements of Section 552.021 without regard to the method used to store or maintain the memoranda.

(c) This section does not except from required disclosure a record or memoranda of a communication that occurs in public during an open meeting or public hearing conducted by the Legislative Budget Board.

SECTION 10. (a) Section 109.0015, Civil Practice and Remedies Code, is repealed.

(b) Section 42.007(d), Education Code, is repealed.

(c) The subchapter headings to Subchapter B, Chapter 319, Government Code, and to Subchapter A, Chapter 322, Government Code, are repealed.

(d) Subchapter A, Chapter 319, Government Code, is repealed.

(e) Sections 322.006, 656.105, 668.002, and 2152.064, Government Code, are repealed.

SECTION 11. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

HB 2806 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2806, A bill to be entitled An Act relating to the regulation of career schools and colleges.

Representative Morrison moved to concur in the senate amendments to **HB 2806**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2806** (senate committee printing) as follows:

(1) In SECTION 6 of the bill, in the introductory language (page 3, line 45), strike "Subsections (j) and (k)" and substitute "Subsection (j)".

(2) In SECTION 6 of the bill, strike added Subsection (j), Section 132.061, Education Code (page 5, lines 37-47).

(3) In SECTION 6 of the bill, in added Subsection (j), Section 132.061, Education Code (page 5, line 48), strike "(k)" and substitute "(j)".

(4) In SECTION 7 of the bill, in added Section 132.065, Education Code (page 5, line 52), between "ATTENDANCE." and "A", insert "(a)".

(5) In SECTION 7 of the bill, in added Section 132.065, Education Code (page 5, between lines 56 and 57), insert the following:

(b) Before a student begins a program offered by a career school or college to which Subsection (a) applies, the school or college shall provide to the student written notice of all policies related to program interruption occurring before the student's completion of the program. The career school or college shall also notify each student in writing that if the student withdraws from the program, it is the student's responsibility to inform the school or college of the student's withdrawal.

(c) A student attending a program offered by a career school or college to which Subsection (a) applies may not be required to pay tuition to the school or college during the first week of the program. Except as otherwise provided by this subsection, the career school or college shall verify the student's enrollment in the program by documenting the student's participation in an academically related activity of the program at the end of the first week of each semester or other academic term of the program, at the end of the first month each semester or other academic term of the program, at the midpoint of each semester or other academic term of the program, and at the end of each semester or other academic term of the program. If the career school or college is unable to verify the student's enrollment in the program at any of those times, the student is considered to have withdrawn from the program. The date on which the career school or college was first unable to verify the student's enrollment in the program is the date of the student's withdrawal for refund purposes, and the school or college is not required to verify the student's enrollment in the program after that date.

HB 2958 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2958, A bill to be entitled An Act relating to the creation of freight rail districts; authorizing a tax; granting authority to issue bonds or other similar obligations to create public debt; granting the power of eminent domain.

Representative Hamric moved to concur in the senate amendments to **HB 2958**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 882): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee;

Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Deshotel.

Senate Committee Substitute

CSHB 2958, A bill to be entitled An Act relating to the creation of freight rail districts; granting authority to issue bonds or other similar obligations to create public debt; granting the power of eminent domain.

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

SECTION 1. Title 5, Transportation Code, is amended by adding Subtitle I to read as follows:

SUBTITLE I. SPECIAL DISTRICTS
CHAPTER 171. FREIGHT RAIL DISTRICTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 171.001. DEFINITIONS. In this chapter:

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

(2) "Bonds" has the meaning assigned by Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes).

(3) "District" means a freight rail district created under this chapter.

(4) "Rail facilities" has the meaning assigned by Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes), except that the term includes property and interests necessary or convenient for the provision of a nonrural rail transportation system.

(5) "Revenues" has the meaning assigned by Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes).

Sec. 171.002. APPLICABILITY OF RURAL RAIL TRANSPORTATION DISTRICTS LAW. (a) Except as provided by this chapter, Sections 2-9, Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes), apply to a district as if the district were created under that chapter.

(b) For purposes of applying Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes), to a district created under this chapter, a reference to "rail facilities" in Chapter 623 means "rail facilities" as defined by Section 171.001.

(c) For purposes of applying Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes), to a district created under this chapter, a reference in Chapter 623 to "eligible county" means a county that created the district.

[Sections 171.003-171.050 reserved for expansion]

SUBCHAPTER B. CREATION

Sec. 171.051. APPLICABILITY TO CERTAIN COUNTIES. A district may be created only in a county with a population of 3.3 million or more and counties adjacent to such a county.

Sec. 171.052. CREATION BY COUNTIES AND MUNICIPALITIES. (a) The governing body of one or more counties and the most populous municipality in the most populous county may by concurrent order or ordinance create a district. At the time of creation, a district must include:

(1) a county with a population of 3.3 million or more; and

(2) that municipality.

(b) The order or ordinance creating the district:

(1) must specify:

(A) the number of district directors and who appoints the directors;

and

(B) the method of selecting the board's presiding officer; and

(2) may specify terms and conditions that are not expressly inconsistent with this chapter.

(c) If the most populous county in the district contains a countywide navigation district and the presiding officer of the navigation district is jointly appointed by that county and the most populous municipality in that county, the order or ordinance creating the district must specify that:

(1) the presiding officer of the navigation district is a director of the freight rail district; and

(2) at least one director must be jointly appointed by the mayors of the municipalities in the district, except for the mayor of the most populous municipality in the most populous county.

(d) The common law doctrine of incompatibility does not apply to a director serving under Subsection (c)(1) with regard to the director's service for the freight rail district or for the navigation district.

Sec. 171.053. INTERMUNICIPAL COMMUTER RAIL DISTRICT POWERS. The governing bodies of the county or counties and of the most populous municipality in the most populous county may provide that the district may exercise the powers of an intermunicipal commuter rail district created under Article 6550c-1, Revised Statutes, by specifying in the concurrent order or ordinance creating the district that those powers may be exercised by the district.

Sec. 171.054. DISTRICT TERRITORY. The district consists of the territory of each county that created the district and the territory of the most populous municipality in the most populous county if that municipality's territory is located in more than one county.

[Sections 171.055-171.100 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 171.101. COMPOSITION OF BOARD; PRESIDING OFFICER. The board consists of directors, including a presiding officer, as provided in the order or ordinance creating the district under Section 171.052(b).

Sec. 171.102. EX OFFICIO NONVOTING DIRECTOR; TEXAS TRANSPORTATION COMMISSION. The Texas Transportation Commission may appoint to the board a representative to serve as a nonvoting ex officio director.

Sec. 171.103. CONFLICT OF INTEREST. Chapter 171, Local Government Code, governs conflicts of interest for directors.

[Sections 171.104-171.150 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Sec. 171.151. REGIONAL MOBILITY AUTHORITY POWERS. A district may exercise the transportation project powers of a regional mobility authority under Chapter 370 for a transportation project that is a freight rail facility.

Sec. 171.152. GENERAL CONTRACT POWERS. A district may contract with any person, including:

(1) a county or municipality, including a county or municipality that created the district;

(2) this state or any political subdivision of this state;

(3) the United States; or

(4) a railroad.

Sec. 171.153. EXERCISE OF POWERS IN OTHER COUNTIES. The commissioners court of a county that is not in the district may authorize the district to exercise its powers in that county if that county is adjacent to a county that is in the district.

Sec. 171.154. INTERMUNICIPAL COMMUTER RAIL POWERS. (a) The district may exercise the powers of an intermunicipal commuter rail district created under Article 6550c-1, Revised Statutes, only if the concurrent order or ordinance creating the district specifies that the district may exercise those powers. The order or ordinance may not grant the district the power to impose a tax.

(b) In the event of a conflict between this chapter and a power granted by Article 6550c-1, Revised Statutes, this chapter controls. In the event of a conflict between Article 6550c-1 and Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes), Article 6550c controls over Article 6550c-1.

Sec. 171.155. COUNTY EXERCISE OF DISTRICT'S POWER OF EMINENT DOMAIN. The district's right to exercise the power of eminent domain may be exercised only by each commissioners court of the county in which the property to be condemned is located. On request by the board, the commissioners court may exercise that power on behalf of the district.

[Sections 171.156-171.200 reserved for expansion]

SUBCHAPTER E. RELATIONSHIP BETWEEN DISTRICT AND AFFECTED RAILROADS

Sec. 171.201. AGREEMENT WITH RAILROAD. (a) Before a district may undertake a freight or commuter rail project that materially affects the tracks, facilities, or other property of a railroad that owns track in the district, the district and railroad must enter into a written agreement regarding the scope, operational impact, financing, and other elements of the project. The district may not undertake the project unless the district and the railroad agree on these terms.

(b) The agreement may include provisions for the railroad's financial participation in the project according to the benefits the railroad derives from the project.

Sec. 171.202. PRESERVATION OF REGULATORY STRUCTURE AND OWNERSHIP RIGHTS. A district project may be conducted only in a manner that preserves the existing rail industry regulatory structure and railroad ownership rights.

Sec. 171.203. COMPETITIVE RELATIONSHIPS. The district may not undertake a project that changes the existing competitive relationships between and among railroads.

Sec. 171.204. SERVICE TO CUSTOMERS. The district may not undertake a project that negatively affects a railroad's present or future ability to provide consistent service to its customers.

Sec. 171.205. USE OF DISTRICT RAIL FACILITIES. This chapter does not prohibit the district from authorizing multiple freight railroads to operate on district rail facilities.

Sec. 171.206. LIMITATION ON EMINENT DOMAIN. The power of eminent domain may not be exercised under this chapter to condemn a right-of-way owned by a railroad.

Sec. 171.207. EXCEPTION; GRADE SEPARATION PROJECTS. This subchapter does not apply to a rail-roadway or rail-rail grade separation project.

[Sections 171.208-171.250 reserved for expansion]

SUBCHAPTER F. FINANCIAL PROVISIONS

Sec. 171.251. PLEDGE OF REVENUES. A district may secure and pledge revenues derived from any source to secure the payment of district bonds.

Sec. 171.252. PURCHASE CONTRACTS. Subchapter O, Chapter 60, Water Code, as added by Chapter 307, Acts of the 78th Legislature, Regular Session, 2003, applies to the district as if the district were a navigation district under that subchapter. For the purposes of applying that subchapter to the district under this section, "commission" means the board.

Sec. 171.253. AD VALOREM AND SALES AND USE TAXES PROHIBITED. A district may not impose an ad valorem tax or a sales and use tax.

Sec. 171.254. FEES CHARGED TO RAILROADS. (a) A district may not impose a fee or other charge on a railroad unless the railroad agrees to the fee or other charge.

(b) This section does not prohibit a railroad from voluntarily contributing to the cost of rail facilities or prohibit the district from charging for the use of a rail facility by a railroad or other person.

Sec. 171.255. PORT TERMINAL RAILROAD ASSOCIATION RAIL FACILITIES. The district may not spend money, including money from state or federal grants, to purchase a rail facility operated by a port terminal railroad.

[Sections 171.256-171.300 reserved for expansion]

SUBCHAPTER G. WITHDRAWAL; DISSOLUTION

Sec. 171.301. WITHDRAWAL. (a) A county or municipality that created the district may petition the board for approval to withdraw from the district. The board may approve the petition only if:

- (1) the district has no outstanding bonds; or
- (2) the district has debt other than bonds and the board finds that the withdrawal of the county or municipality will not materially affect the ability of the district to repay the debt.

(b) If the board approves the petition, the county or municipality that withdrew from the district is not entitled to appoint directors to the board. The remaining counties or municipality by concurrent order or ordinance shall allocate among themselves the authority of the withdrawing county or municipality to appoint directors to the board.

Sec. 171.302. DISSOLUTION. In addition to the dissolution procedures provided by Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes), the board may dissolve a district if:

(1) all district liabilities have been paid or adequate provision has been made for the payment of all liabilities;

(2) the district is not a party to any lawsuits or adequate provision has been made for the satisfaction of any judgment or order that may be entered against the district in a lawsuit to which the district is a party; and

(3) the district has commitments from other governmental entities to assume jurisdiction of all district rail facilities.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2958** (Senate committee printing) in Section 1 of the bill (page 3, lines 8-13), by striking added Section 171.155, Transportation Code, and substituting a new Section 171.155 to read as follows:

Sec. 171.155. MUNICIPAL LIMIT ON DISTRICT'S POWER OF EMINENT DOMAIN. If the property to be condemned is located in the corporate limits of one or more municipalities, the district may exercise the power of eminent domain to condemn the property only if each municipality in which the property is located consents to the exercise of that power.

HB 2653 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2653, A bill to be entitled An Act relating to the use of tax increment financing to pay certain costs associated with certain transportation or transit projects.

Representative Bonnen moved to concur in the senate amendments to **HB 2653**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 883): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales;

Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Jones, D.; Martinez.

Senate Committee Substitute

CSHB 2653, A bill to be entitled An Act relating to the use of tax increment financing to pay certain costs associated with certain transportation or transit projects.

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

SECTION 1. Chapter 311, Tax Code, is amended by adding Section 311.01005 to read as follows:

Sec. 311.01005. COSTS ASSOCIATED WITH TRANSPORTATION OR TRANSIT PROJECTS. (a) In this section:

(1) "Bus rapid transit project" means a mass transportation facility designed to give preferential treatment to buses on a roadway in order to reduce bus travel time, improve service reliability, increase the convenience of users, and increase bus ridership, including:

(A) a fixed guideway, high occupancy vehicle lane, bus way, or bus lane;

(B) a transit center or station;

(C) a maintenance facility; and

(D) other real property associated with a bus rapid transit operation.

(2) "Rail transportation project" means a passenger rail facility, including:

(A) tracks;

(B) a rail line;

(C) a depot;

(D) a maintenance facility; and

(E) other real property associated with a passenger rail operation.

(b) This section does not affect the power of the board of directors of a reinvestment zone or the governing body of the municipality that creates a reinvestment zone to enter into an agreement under Section 311.010(b) to dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay the costs of acquiring, constructing, operating, or maintaining property located in the zone.

(c) An agreement under Section 311.010(b) may dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay the costs of acquiring land, or the development rights or a conservation easement in land, located outside the reinvestment zone, if:

(1) the zone is or will be served by a rail transportation project or bus rapid transit project;

(2) the land or the development rights or conservation easement in the land is acquired for the purpose of preserving the land in its natural or undeveloped condition; and

(3) the land is located in the county in which the zone is located.

(d) The board of directors of a reinvestment zone, if all of the members of the board are appointed by the municipality that creates the zone, or the governing body of the municipality that creates a reinvestment zone may enter into an agreement described by Subsection (c) only if:

(1) the board or the governing body determines that the acquisition of the land, or the development rights or conservation easement in the land, located outside the zone benefits or will benefit the zone by facilitating the preservation of regional open space in order to balance the regional effects of urban development promoted by the rail transportation project or bus rapid transit project; and

(2) the municipality that creates the reinvestment zone and the county in which the zone is located pay the same portion of their tax increment into the tax increment fund for the zone.

(e) Property acquired under Subsection (c) may not be acquired through condemnation.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 2653**, on page 1, line 42, between "zone" and the period, by inserting the following:

"or to acquire or reimburse acquisition costs of real property outside the zone for right-of-way or easements necessary to construct public rights-of-way or infrastructure that benefits the zone."

HJR 80 - HOUSE CONCURS IN SENATE AMENDMENTS

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

HJR 80, A joint resolution proposing a constitutional amendment clarifying that certain economic development programs do not constitute a debt.

Representative Bonnen moved to concur in the senate amendments to **HJR 80**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 884): 134 Yeas, 9 Nays, 2 Present, not voting. (The vote was reconsidered later today, and the house refused to concur in senate amendments and requested a conference committee to adjust the differences between the two houses on **HJR 80** on May 27.)

Yeas — Allen, R.; Alonzo; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Castro; Chavez; Chisum; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Anchia; Coleman; Dunnam; Farrar; Herrero; Leibowitz; Martinez; Martinez Fischer.

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

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Pitts.

Absent — Casteel.

HB 1601 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1601, A bill to be entitled An Act relating to the use of interpreter services in a criminal case.

Representative Madden moved to concur in the senate amendments to **HB 1601**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1601** (Senate Committee Printing) in SECTION 1 of the bill, in proposed Subsection (a-1), Article 38.30, Code of Criminal Procedure (page 1, lines 34-36), by striking "In this subsection, "qualified telephone interpreter" means a telephone service that employs licensed court interpreters as defined by Section 57.001, Government Code." and substituting the following:
In this subsection, "qualified telephone interpreter" means a telephone service that employs:

- (1) licensed court interpreters as defined by Section 57.001, Government Code; or
- (2) federally certified court interpreters.

**HB 2129 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2129, A bill to be entitled An Act relating to energy-saving measures that reduce the emission of air contaminants.

Representative Bonnen moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2129**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2129**: Bonnen, chair; Ritter; Geren; Hamric; and West.

**HB 2218 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2218, A bill to be entitled An Act relating to the regulation of money services businesses; providing a penalty.

Representative McCall moved to concur in the senate amendments to **HB 2218**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 2218, A bill to be entitled An Act relating to the regulation of money services businesses; providing a penalty.

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

SECTION 1. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 151 to read as follows:

CHAPTER 151. REGULATION OF MONEY SERVICES BUSINESSES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 151.001. SHORT TITLE. This chapter may be cited as the Money Services Act.

Sec. 151.002. DEFINITIONS. (a) This section defines general terms that apply to an applicant for or holder of a money services license issued under this chapter, regardless of whether the license is a money transmission license or a currency exchange license. Additional terms that apply specifically to money transmission are defined in Section 151.301. Additional terms that apply specifically to currency exchange are defined in Section 151.501.

(b) In this chapter:

(1) "Applicant" means a person that files an application for a license under this chapter.

(2) "Authorized delegate" means a person a license holder appoints under Section 151.402 to conduct money transmission on behalf of the license holder.

(3) "Bank Secrecy Act" means the Bank Secrecy Act (31 U.S.C. Section 5311 et seq.), and its implementing regulations set forth at 31 C.F.R. Part 103.

(4) "Commission" means the Finance Commission of Texas.

(5) "Commissioner" means the Banking Commissioner of Texas or a person designated by the banking commissioner and acting under the banking commissioner's direction and authority.

(6) "Control" means ownership of, or the power to directly or indirectly vote, 25 percent or more of the outstanding voting interests of a license holder or applicant, and includes an individual whose ownership is through one or more legal entities.

(7) "Currency exchange" has the meaning assigned by Section 151.501.

(8) "Currency exchange license" means a license issued under Subchapter F.

(9) "Department" means the Texas Department of Banking.

(10) "Executive officer" means a president, a presiding officer of the executive committee, a treasurer or chief financial officer, or any other individual who performs similar functions.

(11) "License holder" means a person that holds a money transmission license or a currency exchange license.

(12) "Location" means a place at which activity regulated by this chapter occurs.

(13) "Material litigation" means any litigation that, according to generally accepted accounting principles, is considered significant to an applicant's or license holder's financial health and would be required to be referenced in that entity's audited financial statements, report to shareholders, or similar documents.

(14) "Money services" means money transmission or currency exchange.

(15) "Money transmission" has the meaning assigned by Section 151.301.

(16) "Money transmission license" means a license issued under Subchapter D.

(17) "Person" means an individual or legal entity.

(18) "Principal" means:

(A) with respect to a sole proprietorship, an owner; or

(B) with respect to a legal entity other than a sole proprietorship, an executive officer, director, general partner, trustee, or manager, as applicable.

(19) "Record" means information that is:

(A) inscribed on a tangible medium; or

(B) stored in an electronic or other medium and retrievable in perceivable form.

(20) "Responsible individual" means an individual who has direct control over or significant management policy and decision-making authority with respect to a license holder's ongoing, daily money services operations in this state.

(21) "USA PATRIOT ACT" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Pub. L. No. 107-56, 115 Stat. 272).

Sec. 151.003. EXCLUSIONS. The following persons are not required to be licensed under this chapter:

(1) the United States or an instrumentality of the United States, including the United States Post Office or a contractor acting on behalf of the United States Post Office;

(2) a state or an agency, political subdivision, or other instrumentality of a state;

(3) a federally insured financial institution, as that term is defined by Section 201.101, that is organized under the laws of this state, another state, or the United States;

(4) a foreign bank branch or agency in the United States established under the federal International Banking Act of 1978 (12 U.S.C. Section 3101 et seq.);

(5) a person acting as an agent for an entity excluded under Subdivision (3) or (4), to the extent of the person's actions in that capacity, provided that:

(A) the entity is liable for satisfying the money services obligation owed to the purchaser on the person's receipt of the purchaser's money; and

(B) the entity and person enter into a written contract that appoints the person as the entity's agent and the person acts only within the scope of authority conferred by the contract;

(6) a person that, on behalf of the United States or a department, agency, or instrumentality of the United States, or a state or county, city, or any other governmental agency or political subdivision of a state, provides electronic funds transfer services of governmental benefits for a federal, state, county, or local governmental agency;

(7) a person that acts as an intermediary on behalf of and at the direction of a license holder in the process by which the license holder, after receiving money or monetary value from a purchaser, either directly or through an authorized delegate, transmits the money or monetary value to the purchaser's designated recipient, provided that the license holder is liable for satisfying the obligation owed to the purchaser;

(8) an attorney or title company that in connection with a real property transaction receives and disburses domestic currency or issues an escrow or trust fund check only on behalf of a party to the transaction;

(9) a person engaged in the business of currency transportation who is both a registered motor carrier under Chapter 643, Transportation Code, and a licensed armored car company or courier company under Chapter 1702, Occupations Code, provided that the person does not engage in the money transmission or currency exchange business without a license issued under this chapter; and

(10) any other person, transaction, or class of persons or transactions exempted by commission rule or any other person or transaction exempted by the commissioner's order on a finding that the licensing of the person is not necessary to achieve the purposes of this chapter.

[Sections 151.004-151.100 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 151.101. ADMINISTRATION. The department shall administer this chapter.

Sec. 151.102. RULES. (a) The commission may adopt rules to administer and enforce this chapter, including rules necessary or appropriate to:

(1) implement and clarify this chapter;

(2) preserve and protect the safety and soundness of money services businesses;

(3) protect the interests of purchasers of money services and the public;

(4) protect against drug trafficking, terrorist funding, and money laundering, structuring, or a related financial crime; and

(5) recover the cost of maintaining and operating the department and the cost of administering and enforcing this chapter and other applicable law by imposing and collecting proportionate and equitable fees and costs for notices, applications, examinations, investigations, and other actions required to achieve the purposes of this chapter.

(b) The presence or absence of a specific reference in this chapter to a rule regarding a particular subject is not intended to and does not limit the general rulemaking authority granted to the commission by this section.

Sec. 151.103. COMMISSIONER'S GENERAL AUTHORITY. (a) Each power granted to the commissioner under this chapter is in addition to, and not in limitation of, each other power granted under this chapter. The fact that the commissioner possesses, or has exercised, a power under a provision of this chapter does not preclude the commissioner from exercising a power under any other provision of this chapter.

(b) Each power granted to the commissioner under this chapter is in addition to, and not in limitation of, powers granted to the commissioner under other law. The fact that the commissioner possesses, or has exercised, a power under any other provision of law does not preclude the commissioner from exercising any power under this chapter. The fact that the commissioner possesses, or has exercised, a power under a provision of this chapter does not preclude the commissioner from exercising a power under any other law.

(c) The commissioner may impose on any authority, approval, exemption, license, or order issued or granted under this chapter any condition the commissioner considers reasonably necessary or appropriate to carry out and achieve the purposes of this chapter.

Sec. 151.104. INVESTIGATIONS. (a) The commissioner may conduct investigations in or outside this state and the United States as the commissioner considers necessary or appropriate to administer and enforce this chapter, including investigations to:

(1) determine whether to approve an application for or renewal of a license or a request for approval or exemption filed under this chapter or a rule adopted or order issued under this chapter;

(2) determine whether a person has violated or is likely to violate this chapter or a rule adopted or order issued under this chapter;

(3) determine whether a license or authorized delegate designation should be revoked or suspended;

(4) otherwise aid in the enforcement of this chapter or a rule adopted or order issued under this chapter; and

(5) aid in the adoption of rules or issuance of orders under this chapter.

(b) For purposes of an investigation, examination, or other proceeding under this chapter, the commissioner may administer or cause to be administered oaths, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any document that the commissioner determines to be relevant to the inquiry.

(c) If a person refuses to obey a subpoena, a district court of Travis County, on application by the commissioner, may issue an order requiring the person to appear before the commissioner and produce documents or give evidence regarding the matter under investigation.

(d) The commissioner may employ a person or request the attorney general, the Department of Public Safety, or any other state, federal, or local law enforcement agency to assist in enforcing this chapter.

(e) The commissioner may recover the reasonable costs incurred in connection with an investigation conducted under this chapter from the person that is the subject of the investigation.

Sec. 151.105. REGULATORY COOPERATION. (a) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the commissioner may cooperate, coordinate, and share information with another state, federal, or foreign governmental agency that:

(1) regulates or supervises persons engaged in money services businesses or activities subject to this chapter; or

(2) is authorized to investigate or prosecute violations of a state, federal, or foreign law related to persons engaged in money services businesses or activities subject to this chapter, including a state attorney general's office.

(b) The commissioner, with respect to an agency described by and for the purposes set forth in Subsection (a), may:

(1) enter into a written cooperation, coordination, or information-sharing contract or agreement with the agency;

(2) share information with the agency, subject to the confidentiality provisions of Section 151.606(b)(3);

(3) conduct a joint or concurrent on-site examination or other investigation or enforcement action with the agency;

(4) accept a report of examination or investigation by, or a report submitted to, the agency, in which event the accepted report is an official report of the commissioner for all purposes;

(5) engage the services of the agency to assist the commissioner in performing or discharging a duty or responsibility imposed by this chapter or other law and pay a reasonable fee for the services;

(6) share with the agency any supervisory or examination fees assessed against a license holder or authorized delegate under this chapter and receive a portion of supervisory or examination fees assessed by the agency against a license holder or authorized delegate; and

(7) take other action as the commissioner considers reasonably necessary or appropriate to carry out and achieve the purposes of this chapter.

(c) The commissioner may not waive, and nothing in this section constitutes a waiver of, the commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this chapter or a rule adopted or order issued under this chapter to enforce compliance with applicable state or federal law.

(d) A joint examination or investigation, or acceptance of an examination or investigation report, does not waive an examination assessment provided for in this chapter.

(e) Chapter 2254, Government Code, does not apply to a contract or agreement entered into under this section.

Sec. 151.106. CONSENT TO SERVICE OF PROCESS. A license holder, an authorized delegate, or a person who knowingly engages in activities that are regulated and require a license under this chapter, with or without filing an application for a license or holding a license under this chapter, is considered to have consented to the jurisdiction of the courts of this state for all actions arising under this chapter.

[Sections 151.107-151.200 reserved for expansion]

SUBCHAPTER C. GENERAL QUALIFICATIONS AND PROVISIONS APPLICABLE TO MONEY SERVICES LICENSES

Sec. 151.201. SCOPE. This subchapter sets out the general qualifications and provisions that apply to a money services license, regardless of whether the license is a money transmission license or a currency exchange license. Subchapters D and E set forth the additional qualifications and provisions that apply specifically to a money transmission license. Subchapter F sets forth the additional qualifications and provisions that apply specifically to a currency exchange license.

Sec. 151.202. QUALIFICATIONS FOR LICENSE. (a) Subject to Subsections (b) and (c), to qualify for a license under this chapter, an applicant must demonstrate to the satisfaction of the commissioner that:

(1) the financial responsibility and condition, financial and business experience, competence, character, and general fitness of the applicant justify the confidence of the public and warrant the belief that the applicant will conduct business in compliance with this chapter and the rules adopted under this chapter and other applicable state and federal law;

(2) the issuance of the license is in the public interest;

(3) the applicant, a principal of the applicant, or a person in control of the applicant does not owe the department a delinquent fee, assessment, administrative penalty, or other amount imposed under this chapter or a rule adopted or order issued under this chapter;

(4) the applicant, if a partnership, and any partner that would generally be liable for the obligations of the partnership, does not owe a delinquent federal tax;

(5) the applicant, if a corporation:

(A) is in good standing and statutory compliance in the state or country of incorporation;

(B) is authorized to engage in business in this state; and

(C) does not owe any delinquent franchise or other taxes to this state;

(6) the applicant, if not a corporation, is properly registered under the laws of this state or another state or country and, if required, is authorized to engage in business in this state; and

(7) the applicant, a principal of the applicant, or a principal of a person in control of the applicant is not listed on the specifically designated nationals and blocked persons list prepared by the United States Department of the Treasury, or designated successor agency, as a potential threat to commit or fund terrorist acts.

(b) In determining whether an applicant has demonstrated satisfaction of the qualifications identified in Subsection (a)(1), the commissioner shall consider the financial responsibility and condition, financial and business experience, competence, character, and general fitness of each principal of, person in control of, principal of a person in control of, and proposed responsible individual of the applicant and may deny approval of the application on the basis that the applicant has failed to demonstrate satisfaction of the requisite qualifications with respect to one or more of those persons.

(c) The commissioner may not issue a license to an applicant if the applicant or one of the following persons has been convicted within the preceding 10 years of a criminal offense specified in Subsection (e):

(1) if the applicant is an individual, the spouse or proposed responsible individual or individuals of the applicant;

(2) if the applicant is an entity that is wholly owned, directly or indirectly, by a single individual, the spouse of the individual; or

(3) if the applicant is a person other than an individual, a principal of, person in control of, principal of a person in control of, or proposed responsible individual or individuals of the applicant.

(d) The commissioner, on a finding that the conviction does not reflect adversely on the present likelihood that the applicant will conduct business in compliance with this chapter, rules adopted under this chapter, and other applicable state and federal law, may waive a disqualification under Subsection (c) based on the conviction of a spouse or a corporate applicant or corporate person in control of an applicant.

(e) For purposes of Subsection (c), a disqualifying conviction is a conviction for a felony criminal offense:

(1) under state or federal law that involves or relates to:

(A) deception, dishonesty, or defalcation;

(B) money transmission or other money services, including a reporting, recordkeeping or registration requirement of the Bank Secrecy Act, the USA PATRIOT ACT, or Chapter 271;

(C) money laundering, structuring, or a related financial crime;

(D) drug trafficking; or

(E) terrorist funding; and

(2) under a similar law of a foreign country unless the applicant demonstrates to the satisfaction of the commissioner that the conviction was based on extenuating circumstances unrelated to the person's reputation for honesty and obedience to law.

(f) For purposes of Subsection (c), a person is considered to have been convicted of an offense if the person has been found guilty or pleaded guilty or nolo contendere to the charge or has been placed on probation or deferred adjudication without regard to whether a judgment of conviction has been entered by the court.

Sec. 151.203. APPLICATION FOR LICENSE. (a) An application for a license under this chapter must be made under oath and in the form and medium required by the commissioner. The application must contain:

(1) the legal name and residential and business address of the applicant and each principal of the applicant;

(2) the taxpayer identification number, social security number, driver's license number, or other identifying information the commissioner requires of the applicant and each principal of the applicant; and

(3) any other information or documentation the commissioner reasonably requires to determine whether the applicant qualifies for and should be issued the license for which application is made.

(b) The commissioner, at the time the application is submitted or in connection with an investigation of the application under Section 151.204, may require the applicant, the spouse of the applicant, a principal of, individual who is a person in control of, or proposed responsible individual of the applicant, or any other individual associated with the applicant and the proposed licensed activities, to provide the department a complete set of fingerprints for purposes of a criminal background investigation.

(c) An applicant must certify in writing on the application that the applicant and each principal of, person in control of, and proposed responsible individual of the applicant:

(1) is familiar with and agrees to fully comply with all applicable state and federal laws and regulations pertaining to the applicant's proposed money services business, including this chapter, relevant provisions of the Bank Secrecy Act, the USA PATRIOT ACT, and Chapter 271;

(2) has not within the preceding three years knowingly failed to file or evaded the obligation to file a report, including a currency transaction or suspicious activity report required by the Bank Secrecy Act, the USA PATRIOT ACT, or Chapter 271; and

(3) has not knowingly accepted money for transmission or exchange in which a portion of the money was derived from an illegal transaction or activity.

(d) The commissioner may waive an application requirement or permit the submission of substituted information in lieu of the information generally required in an application, either with respect to a specific applicant or a category of applicants, if the commissioner determines that the waiver or substitution of information is consistent with achievement of the purposes of this chapter.

Sec. 151.204. PROCESSING AND INVESTIGATION OF APPLICATION. (a) An application for a license under this chapter shall be processed and acted on according to the time periods established by commission rule.

(b) On receipt of an application that meets the requirements of Section 151.203 and Section 151.304 or 151.504, as applicable, the commissioner shall investigate the applicant to determine whether the prescribed qualifications have been met. The commissioner may:

(1) conduct an on-site investigation of the applicant;

(2) employ a screening service to assist with the investigation;

(3) to the extent the commissioner considers reasonably necessary to evaluate the application and the applicant's qualifications, investigate the financial responsibility and condition, financial and business experience, character and general fitness of each principal of, person in control of, principal of a person in control of, or proposed responsible individual of the applicant or any other person that is or will be associated with the applicant's licensed activities in this state; or

(4) require additional information and take other action the commissioner considers reasonably necessary.

(c) The commissioner may collect from the applicant the reasonable expenses of an on-site examination or third-party investigation. Additionally, depending on the nature and extent of the investigation required in connection with a particular application, the commissioner may require an applicant to pay a nonrefundable investigation fee in an amount established by commission rule.

(d) The commissioner may suspend consideration of an application for a license if the applicant or a principal of, person in control of, or proposed responsible individual of the applicant is the subject of a pending state or federal criminal prosecution, state or federal government enforcement action, or state or federal asset forfeiture proceeding until the conclusion of the prosecution, action, or proceeding.

Sec. 151.205. ISSUANCE OF LICENSE. (a) The commissioner shall issue a license if the commissioner, with respect to the license for which application has been made, finds that:

(1) the applicant meets the prescribed qualifications and it is reasonable to believe that the applicant's business will be conducted fairly and lawfully, according to applicable state and federal law, and in a manner commanding the public's trust and confidence;

(2) the issuance of the license is in the public interest;

(3) the documentation and forms required to be submitted by the applicant are acceptable; and

(4) the applicant has satisfied all requirements for licensure.

(b) If the commissioner finds that the applicant for any reason fails to possess the qualifications or satisfy the requirements for the license for which application is made, the commissioner shall inform the applicant in writing that the application is denied and state the reasons for the denial. The applicant may appeal the denial by filing a written request for a hearing with the commissioner not later than the 30th day after the date the notice is mailed. A hearing on the denial must be held not later than the 45th day after the date the commissioner receives the written request unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date. The hearing is considered a contested case hearing and is subject to Section 151.801.

Sec. 151.206. TRANSFER OR ASSIGNMENT OF LICENSE. A license issued under this chapter may not be transferred or assigned.

Sec. 151.207. RENEWAL OF LICENSE. (a) Regardless of the date on which a license under this chapter is issued, the license expires on August 15 of each year unless the license is renewed in accordance with this section or is previously surrendered by the license holder or suspended or revoked by the commissioner.

(b) As a condition of renewal, a license holder must continue to possess the qualifications and satisfy the requirements that apply to an applicant for a new money transmission license or currency exchange license, as applicable. Additionally, not later than July 1 of each year, a license holder must:

(1) pay an annual renewal fee in an amount established by commission rule; and

(2) submit a renewal report that is under oath, is in the form and medium required by the commissioner, and contains:

(A) if the license is a money transmission license, an audited unconsolidated financial statement dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year;

(B) if the license is a currency exchange license, a financial statement, audited or unaudited, dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year; and

(C) documentation and certification, or any other information the commissioner reasonably requires to determine the security, net worth, permissible investments, and other requirements the license holder must satisfy and whether the license holder continues to meet the qualifications and requirements for licensure.

(c) If the department does not receive a license holder's renewal fee and complete renewal report on or before July 1, the commissioner shall notify the license holder in writing that:

(1) the license holder has until August 15 to submit the renewal report and pay the renewal fee; and

(2) the license holder must pay a late fee, in an amount that is established by commission rule and not subject to appeal, for each business day after July 1 that the commissioner does not receive the completed renewal report and renewal fee.

(d) If the license holder fails to submit the completed renewal report and pay the renewal fee and any late fee due, the license expires effective 5 p.m. central daylight time on August 15, and the license holder must cease and desist from engaging in the business of money transmission or currency exchange, as applicable, as of that time. The expiration of a license is not subject to appeal.

(e) On timely receipt of a license holder's complete renewal report, renewal fee, and any late fee due, the department shall review the report and, if necessary, investigate the business and records of the license holder. On completion of the review and investigation, if any, the commissioner may:

(1) renew the license;

(2) impose conditions on the renewal of the license the commissioner may consider reasonably necessary or appropriate; or

(3) suspend or revoke the license on the basis of a ground specified in Section 151.703.

(f) On written application and for good cause shown, the commissioner may extend the time for filing the fee and report required under this section.

(g) The holder or principal of or the person in control of the holder of an expired license, or the holder or principal of or person in control of the holder of a license surrendered under Section 151.208, that wishes to conduct activities for which a license is required under this chapter must file a new license application and satisfy all requirements for licensure that apply at the time the new application is filed.

Sec. 151.208. SURRENDER OF LICENSE. (a) A license holder may surrender the license holder's license by delivering the original license to the commissioner along with a written notice of surrender that includes the location at which the license holder's records will be stored and the name, address, telephone number, and other contact information for an individual who is authorized to provide access to the records.

(b) A license holder shall surrender the license holder's license if the license holder becomes ineligible for a license under Section 151.202(c).

(c) The surrender of a license does not reduce or eliminate a license holder's civil or criminal liability arising from any acts or omissions before the surrender of the license, including any administrative action undertaken by the commissioner to deny the renewal of a license, to revoke or suspend a license, to

assess an administrative penalty, to order the payment of restitution, or to exercise any other authority under this chapter. Further, the surrender of a license does not release the security required of the license holder under Section 151.308 151.307 or 151.506.

Sec. 151.209. REFUNDS. A fee or cost paid under this chapter in connection with an application or renewal is not refundable.

[Sections 151.210-151.300 reserved for expansion]

SUBCHAPTER D. MONEY TRANSMISSION LICENSE

Sec. 151.301. DEFINITIONS. (a) This section defines terms that apply to an applicant for or holder of a money transmission license issued under this subchapter.

(b) In this subchapter:

(1) "Currency" means the coin and paper money of the United States or another country that is designated as legal tender and circulates and is customarily used and accepted as a medium of exchange in the country of issuance.

(2) "Electronic instrument" means a card or other tangible object for the transmission, transfer, or payment of money or monetary value, that contains an electronic chip or strip for the storage of information or that provides access to information.

(3) "Money" or "monetary value" means currency or a claim that can be converted into currency through a financial institution, electronic payments network, or other formal or informal payment system.

(4) "Money transmission" means the receipt of money or monetary value by any means in exchange for a promise to make the money or monetary value available at a later time or different location. The term:

(A) includes:

(i) selling or issuing stored value or payment instruments, including checks, money orders, and traveler's checks;

(ii) receiving money or monetary value for transmission, including by payment instrument, wire, facsimile, electronic transfer, or ACH debit;

(iii) providing third-party bill paying services; or

(iv) receiving currency or an instrument payable in currency to physically transport the currency or its equivalent from one location to another by motor vehicle or other means of transportation or through the use of the mail or a shipping, courier, or other delivery service; and

(B) does not include the provision solely of online or telecommunication services or connection services to the Internet.

(5) "Outstanding" means:

(A) with respect to a payment instrument or stored value, a payment instrument or stored value that has been issued and sold in the United States directly by the license holder, or sold by an authorized delegate of the license holder in the United States and reported to the license holder, that has not yet been paid by or for the license holder; or

(B) with respect to transmission, a money transmission for which the license holder, directly or through an authorized delegate of the license holder, has received money or monetary value from the customer for transmission, but has not yet completed the money transmission by delivering the money or monetary value to the person designated by the customer or refunded the money or monetary value to the customer.

(6) "Payment instrument" means a written or electronic equivalent of a check, draft, money order, traveler's check, or other written or electronic instrument, service, or device for the transmission or payment of money or monetary value, sold or issued to one or more persons, regardless of whether negotiable. The term does not include an instrument, service, or device that:

(A) transfers money directly from a purchaser to a creditor of the purchaser or to an agent of the creditor;

(B) is redeemed by the issuer in goods or services or a cash or credit refund under circumstances not designed to evade the obligations and responsibilities imposed by this chapter; or

(C) is a credit card voucher or letter of credit.

(7) "Receive" means to obtain possession of money or monetary value in a manner that cannot be reversed through the exercise of routine contractual or statutory rights.

(8) "Stored value" means monetary value evidenced by an electronic record that is prefunded and for which value is reduced on each use. The term does not include an electronic record that is:

(A) loaded with points, miles, or other nonmonetary value; or

(B) not sold to the public but distributed as a reward or charitable donation.

(9) "Unsafe or unsound act or practice" means a practice of or conduct by a license holder or an authorized delegate of the license holder that creates the likelihood of material loss, insolvency, or dissipation of the license holder's assets, or that otherwise materially prejudices the interests of the license holder or the license holder's customers.

Sec. 151.302. LICENSE REQUIRED. (a) A person may not engage in the business of money transmission or advertise, solicit, or hold itself out as a person that engages in the business of money transmission unless the person:

(1) is licensed under this subchapter;

(2) is an authorized delegate of a person licensed under this subchapter, appointed by the license holder in accordance with Section 151.402;

(3) is excluded from licensure under Section 151.003; or

(4) has been granted an exemption under Subsection (c).

(b) For purposes of this chapter:

(1) a person engages in the business of money transmission if the person conducts money transmission for persons located in this state and receives compensation or expects to receive compensation, directly or indirectly, for conducting the transmissions; and

(2) a person solicits, advertises, or holds itself out as a person that engages in the business of money transmission if the person represents that the person will conduct money transmission for persons located in this state.

(c) On application and a finding that the exemption is in the public interest, the commissioner may exempt a person that:

(1) incidentally engages in the money transmission business only to the extent reasonable and necessary to accomplish a primary business objective unrelated to the money transmission business;

(2) does not advertise or offer money transmission services to the public except to the extent reasonable and necessary to fairly advertise or offer the person's primary business services; and

(3) either transmits money exclusively in connection with commercial contracts in interstate commerce or does not charge a fee to transmit money or transmits money without a fee as an inducement for customer participation in the person's primary business.

(d) A license holder may engage in the money transmission business at one or more locations in this state owned, directly or indirectly by the license holder, or through one or more authorized delegates, or both, under a single license granted to the license holder.

Sec. 151.303. ADDITIONAL QUALIFICATIONS. In addition to the general qualifications for licensure set forth in Section 151.202, an applicant for a money transmission license must demonstrate to the satisfaction of the commissioner that:

(1) the applicant has and will maintain the minimum net worth required under Section 151.307;

(2) the applicant's financial condition will enable the applicant to safely and soundly engage in the business of money transmission; and

(3) the applicant does not engage in any activity or practice that adversely affects the applicant's safety and soundness.

Sec. 151.304. APPLICATION AND ACCOMPANYING FEE, STATEMENTS, AND SECURITY. (a) An applicant for a money transmission license must submit an application in accordance with Section 151.203.

(b) At the time an application for a money transmission license is submitted, an applicant must file with the department:

(1) an application fee in the amount established by commission rule;

(2) audited financial statements that are satisfactory to the commissioner for purposes of determining whether the applicant has the minimum net worth required under Section 151.307 and is likely to maintain the required minimum net worth if a license is issued; and

(3) security in the amount of \$300,000, that meets the requirements of Section 151.308, and an undertaking or agreement that the applicant will increase or supplement the security to equal the aggregate security required by the commissioner under that section before the issuance of the license and the start of operations.

Sec. 151.305. INVESTIGATION AND ACTION ON APPLICATION. The commissioner shall investigate the applicant and act on the application in accordance with Sections 151.204 and 151.205.

Sec. 151.306. TEMPORARY LICENSE. (a) The commissioner may issue a temporary license to a person that is engaging in money transmission, but has not obtained a license under this subchapter, if the person:

(1) certifies in writing that the person qualifies for the license and will submit a completed license application not later than the 60th day after the date the temporary license is issued;

(2) submits a recent financial statement acceptable to the commissioner that reflects the minimum net worth required under Section 151.307;

(3) provides security that meets the requirements of Section 151.308 in an amount specified by the commissioner, but not less than \$300,000;

(4) agrees in writing that, until a permanent license is issued, the person will engage only in activities being conducted at existing locations; and

(5) pays the application fee and a nonrefundable temporary license fee in the amount established by commission rule.

(b) The effective period for a temporary license may not exceed 90 days from the date the license is issued, provided that the commissioner may extend the period for not more than an additional 30 days if necessary to complete the processing of a timely filed application for which approval is likely.

Sec. 151.307. NET WORTH. (a) An applicant for a money transmission license must possess, and a money transmission license holder must maintain at all times, a minimum net worth computed in accordance with generally accepted accounting principles of:

(1) \$100,000, if business is proposed to be or is conducted, directly or through an authorized delegate, at four or fewer locations; or

(2) \$500,000, if business is proposed to be or is conducted, directly or through an authorized delegate, at five or more locations.

(b) The commissioner may increase the amount of net worth required of an applicant or license holder, up to a maximum of \$1 million, if the commissioner determines, with respect to the applicant or license holder, that a higher net worth is necessary to achieve the purposes of this chapter based on:

(1) the nature and volume of the projected or established business;

(2) the number of locations at or through which money transmission is or will be conducted;

(3) the amount, nature, quality, and liquidity of its assets;

(4) the amount and nature of its liabilities;

(5) the history of its operations and prospects for earning and retaining income;

(6) the quality of its operations;

(7) the quality of its management;

(8) the nature and quality of its principals and persons in control;

(9) the history of its compliance with applicable state and federal law;

and

(10) any other factor the commissioner considers relevant.

Sec. 151.308. SECURITY. (a) An applicant for a money transmission license must provide, and a money transmission license holder must maintain at all times, security consisting of a surety bond, an irrevocable letter of credit, or a deposit instead of a bond in accordance with this section.

(b) The amount of the required security is the greater of \$300,000 or an amount equal to one percent of the license holder's total yearly dollar volume of money transmission business in this state or the applicant's projected total volume of business in this state for the first year of licensure, up to a maximum of \$2 million. When the amount of the required security exceeds \$1 million, the applicant or license holder may, in the alternative, provide security in the amount of \$1 million, plus a dollar for dollar increase in the net worth of the applicant or license holder over the amount required under Section 151.307, up to a total amount of \$2 million.

(c) The security must:

(1) be in a form satisfactory to the commissioner;

(2) be payable to any claimant or to the commissioner, on behalf of a claimant or this state, for any liability arising out of the license holder's money transmission business in this state, incurred under, subject to, or by virtue of this chapter;

(3) be conditioned on the faithful compliance of the license holder or the principals, responsible individuals, employees and authorized delegates of the license holder with this chapter or any rule adopted or order issued under this chapter; and

(4) if the security is a bond, be issued by a qualified surety company authorized to engage in business in this state and acceptable to the commissioner or, if the security is an irrevocable letter of credit, be issued by a financial institution acceptable to the commissioner.

(d) A claimant may bring suit directly on the security, or the commissioner may bring suit on behalf of the claimant or the state, either in one action or in successive actions.

(e) The commissioner may collect from the security or proceeds of the security any delinquent fee, assessment, cost, penalty, or other amount imposed on and owed by a license holder. If the security is a surety bond, the commissioner shall give the surety reasonable prior notice of a hearing to impose an administrative penalty against the license holder, provided that a surety may not be considered an interested, aggrieved, or affected person for purposes of an administrative proceeding under Section 151.801 or Chapter 2001, Government Code.

(f) The security remains in effect until canceled, which may occur only after providing 30 days' written notice to the commissioner. Cancellation does not affect any liability incurred or accrued during the period covered by the security.

(g) The security shall cover claims for at least five years after the license holder surrenders its license or otherwise ceases to engage in activities for which a license is required under this subchapter. However, the commissioner may permit the amount of the security to be reduced or eliminated before that time to the extent that the amount of the license holder's obligations to the department and to purchasers in this state is reduced. The commissioner may permit a license holder to substitute another form of security when the license holder ceases to provide money transmission in this state.

(h) If the commissioner at any time reasonably determines that the required security is insecure, deficient in amount, or exhausted in whole or in part, the commissioner by written order shall require the license holder to file or make new or additional security to comply with this section.

(i) Instead of providing all or part of the amount of the security required by this section, an applicant or license holder may deposit, with a financial institution possessing trust powers that is authorized to conduct a trust business in this state and is acceptable to the commissioner, an aggregate amount of United States currency, certificates of deposit, or other cash equivalents that equals the total amount of the required security or the remaining part of the security. The deposit:

(1) must be held in trust in the name of and be pledged to the commissioner;

(2) must secure the same obligations as the security; and

(3) is subject to other conditions and terms the commissioner may reasonably require.

(j) The security is considered by operation of law to be held in trust for the benefit of this state and any individual to whom an obligation arising under this chapter is owed, and may not be considered an asset or property of the license holder in the event of bankruptcy, receivership, or a claim against the license holder unrelated to the license holder's obligations under this chapter.

Sec. 151.309. PERMISSIBLE INVESTMENTS. (a) A money transmission license holder must maintain at all times permissible investments that have an aggregate market value computed in accordance with generally accepted accounting principles in an amount not less than:

(1) if the license holder has a net worth of less than \$5 million, the aggregate face amount of the license holder's average outstanding money transmission obligations in the United States, computed in the manner prescribed by commission rule; or

(2) if the license holder has a net worth of \$5 million or more, 50 percent of the amount required by Subdivision (1).

(b) Except to the extent limited by Subsection (d), the following constitute a permissible investment for purposes of this section:

(1) 40 percent of the receivables due a license holder from authorized delegates resulting from money transmission under this chapter that is not past due or doubtful of collection;

(2) cash in demand or interest-bearing accounts with a federally insured depository institution, including certificates of deposit;

(3) certificates of deposit or senior debt obligations of a domestic federally insured depository institution that are readily marketable and insured by an agency of the federal government;

(4) investment grade bonds and other legally created general obligations of a state, an agency or political subdivision of a state, the United States, or an instrumentality of the United States;

(5) obligations that a state, an agency or political subdivision of a state, the United States, or an instrumentality of the United States has unconditionally agreed to purchase, insure, or guarantee and that bear a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

(6) shares in a money market mutual fund if the mutual fund, under the terms of the mutual fund's governing documents, is authorized to invest only in securities of the type described by Subdivisions (4) and (5) or permitted by commission rule; and

(7) other assets and investments permitted by rule of the commission or approved by the commissioner in writing, based on a determination that the assets or investments have a safety substantially equivalent to other permissible investments.

(c) In addition to investments listed in Subsection (b), a permissible investment for purposes of Subsection (a) includes:

(1) the security provided under Section 151.308;

(2) a surety bond or letter of credit in addition to the security provided under Section 151.308, if the additional surety bond or letter of credit satisfies the requirements of Section 151.308; and

(3) that portion of a surety bond maintained for the benefit of the purchasers of the license holder's outstanding money transmission obligations in another state that is not in excess of the amount of the outstanding obligations in that state, provided:

(A) the license holder maintains a surety bond or letter of credit or has on hand other permissible investments, or a combination of investments, in an amount sufficient to satisfy the requirements of Subsection (a) with respect to the outstanding money transmission obligations in this state; and

(B) the surety bond is issued by a surety rated within the top two rating categories of a nationally recognized United States rating service.

(d) The commissioner, with respect to a license holder, may limit or disallow for purposes of determining compliance with Subsection (a) an investment, surety bond, or letter of credit otherwise permitted by this section if the commissioner determines it to be unsatisfactory for investment purposes or to pose a significant supervisory concern.

(e) A permissible investment subject to this section, even if commingled with other assets of the license holder, is considered by operation of law to be held in trust for the benefit of any individual to whom an obligation arising under this chapter is owed, and may not be considered an asset or property of the license holder in the event of bankruptcy, receivership, or a claim against the license holder unrelated to any of the license holder's obligations under this chapter.

[Sections 151.310-151.400 reserved for expansion]

SUBCHAPTER E. CONDUCT OF MONEY TRANSMISSION BUSINESS

Sec. 151.401. LIABILITY OF LICENSE HOLDER. A money transmission license holder is liable for the payment of all money or monetary value received for transmission either directly or through an authorized delegate appointed in accordance with Section 151.402.

Sec. 151.402. CONDUCT OF BUSINESS THROUGH AUTHORIZED DELEGATE. (a) A money transmission license holder may conduct business regulated under this chapter through an authorized delegate appointed by the license holder in accordance with this section. A license holder is responsible for the acts of the authorized delegate, of which the license holder has or reasonably should have knowledge, that are conducted pursuant to the authority granted by the license holder and that relate to the license holder's money transmission business.

(b) Before a license holder is authorized to conduct business through an authorized delegate or allows a person to act as the license holder's authorized delegate, the license holder must:

(1) adopt, and update as necessary, written policies and procedures designed to ensure that the license holder's authorized delegate complies with applicable state and federal law;

(2) enter into a written contract that complies with Subsection (c); and

(3) conduct a reasonable risk-based background investigation sufficient for the license holder to determine whether the authorized delegate has complied with applicable state and federal law.

(c) The written contract required by Subsection (b)(2) must be signed by the license holder and the authorized delegate and, at a minimum, must:

(1) appoint the person signing the contract as the license holder's authorized delegate with the authority to conduct money transmission on behalf of the license holder;

(2) set forth the nature and scope of the relationship between the license holder and the authorized delegate and the respective rights and responsibilities of the parties;

(3) require the authorized delegate to certify that the delegate is familiar with and agrees to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including this chapter and rules adopted under this chapter, relevant provisions of the Bank Secrecy Act and the USA PATRIOT ACT, and Chapter 271;

(4) require the authorized delegate to remit and handle money and monetary value in accordance with Sections 151.403(b) and (c);

(5) impose a trust on money and monetary value received in accordance with Section 151.404;

(6) require the authorized delegate to prepare and maintain records as required by this chapter or a rule adopted under this chapter or as reasonably requested by the commissioner;

(7) acknowledge that the authorized delegate consents to examination or investigation by the commissioner;

(8) state that the license holder is subject to regulation by the commissioner and that, as part of that regulation, the commissioner may suspend or revoke an authorized delegate designation or require the license holder to terminate an authorized delegate designation;

(9) acknowledge receipt of the written policies and procedures required under Subsection (b)(1); and

(10) acknowledge that the authorized delegate has been provided regulatory website addresses through which the authorized delegate can access this chapter and rules adopted under this chapter and the Bank Secrecy Act, the USA PATRIOT ACT, and Chapter 271.

(d) A license holder must report to the commissioner the theft or loss of payment instruments or stored value from the license holder or an authorized delegate in this state if the total value of the instruments or stored value exceeds \$10,000. The license holder must make the report as soon as the license holder has knowledge of the theft or loss.

(e) A license holder must notify the license holder's authorized delegates and require the delegates to take any action required by the commissioner if the license holder:

(1) fails to renew the license holder's license; or

(2) is subject to an emergency or final order that affects the conduct of the license holder's business through an authorized delegate.

(f) A license holder must maintain a current list of authorized delegates located in this state that includes the name and business address of each delegate and must provide the list to the commissioner on request. A license holder that engages in business through 11 or more authorized delegates located in this state must include on the license holder's website a list of the names and addresses of the authorized delegates of the license holder located in this state and the delegates' business addresses. The license holder must update the list quarterly.

(g) The commission by rule may exempt from one or more of the requirements of this chapter an authorized delegate that is a federally insured financial institution excluded under Section 151.003(3) or a foreign bank branch or agency excluded under Section 151.003(4).

Sec. 151.403. AUTHORIZED DELEGATE CONDUCT. (a) An authorized delegate of a license holder:

(1) is under a duty to and must act only as authorized under the contract with the license holder and in strict compliance with the license holder's written policies and procedures;

(2) must not commit fraud or misrepresentation or make any fraudulent or false statement or misrepresentation to a license holder or the commissioner;

(3) must cooperate with an investigation or examination conducted by the commissioner and is considered to have consented to the commissioner's examination of the delegate's books and records;

(4) must not commit an unsafe or unsound act or practice or conduct business in an unsafe and unsound manner;

(5) must, on discovery, immediately report to the license holder the theft or loss of payment instruments or stored value;

(6) must prominently display on the form prescribed by the commissioner a notice that indicates that the person is an authorized delegate of the license holder under this subchapter; and

(7) must cease to provide money services as an authorized delegate of a license holder or take other required action immediately on receipt of notice from the commissioner or the license holder as provided by Section 151.402(e).

(b) An authorized delegate shall remit all money owed to the license holder:

(1) not later than the 10th business day after the date the authorized delegate receives the money;

(2) in accordance with the contract between the license holder and the authorized delegate; or

(3) as directed by the commissioner.

(c) Notwithstanding Subsection (b)(1), an authorized delegate may remit the money at a later date if the authorized delegate maintains on deposit with an office of a federally insured financial institution located in the United States an amount that:

(1) is in an account solely in the name of the license holder; and

(2) for each day by which the period before the remittance exceeds 10 business days, is not less than the outstanding obligations of the license holder routinely incurred by the authorized delegate on a daily basis.

(d) Any business for which a license is required under this subchapter that is conducted by an authorized delegate outside the scope of authority conferred in the contract between the authorized delegate and the license holder is unlicensed activity.

Sec. 151.404. TRUST IMPOSED. (a) A license holder shall hold in trust all money received for transmission directly or from an authorized delegate from the time of receipt until the time the transmission obligation is discharged. A trust resulting from the license holder's actions is in favor of the persons to whom the related money transmission obligations are owed.

(b) A license holder's authorized delegate shall hold in trust all money received for transmission by or for the license holder from the time of receipt until the time the money is remitted by the authorized delegate to the license holder. A trust resulting from the authorized delegate's actions is in favor of the license holder.

(c) A license holder's authorized delegate may not commingle the money received for transmission by or for the license holder with the authorized delegate's own money or other property, except to use in the ordinary course of the delegate's business for the purpose of making change, if the money is accounted for at the end of each business day.

(d) If a license holder or the license holder's authorized delegate commingles any money received for transmission with money or other property owned or controlled by the license holder or delegate, all commingled money and other property are impressed with a trust as provided by this section in an amount equal to the amount of money received for transmission, less the amount of fees paid for the transmission.

(e) If the commissioner revokes a license holder's license under Section 151.703, all money held in trust by the license holder and the license holder's authorized delegates is assigned to the commissioner for the benefit of the persons to whom the related money transmission obligations are owed.

(f) Money of a license holder or authorized delegate impressed with a trust under this section may not be considered an asset or property of the license holder or authorized delegate in the event of bankruptcy, receivership, or a claim against the license holder or authorized delegate unrelated to the license holder's or delegate's obligations under this chapter.

Sec. 151.405. DISCLOSURE REQUIREMENTS. (a) A license holder's name and mailing address or telephone number must be provided to the purchaser in connection with each money transmission transaction conducted by the license holder directly or through an authorized delegate.

(b) A license holder receiving currency or an instrument payable in currency for transmission must comply with Chapter 278.

[Sections 151.406-151.500 reserved for expansion]

SUBCHAPTER F. CURRENCY EXCHANGE LICENSE

Sec. 151.501. DEFINITIONS. (a) This section defines terms that apply specifically to an applicant for or holder of a currency exchange license issued under this subchapter.

(b) In this subchapter:

(1) "Currency" means the coin and paper money of the United States or any country that is designated as legal tender and circulates and is customarily used and accepted as a medium of exchange in the country of issuance.

(2) "Currency exchange" means exchanging the currency of one government for the currency of another government.

Sec. 151.502. LICENSE REQUIRED. (a) A person may not engage in the business of currency exchange or advertise, solicit, or hold itself out as providing currency exchange unless the person:

(1) is licensed under this subchapter;

(2) is licensed for money transmission under Subchapter D;

(3) is an authorized delegate of a person licensed for money transmission under Subchapter D;

(4) is excluded under Section 151.003; or

(5) has been granted an exemption under Subsection (d).

(b) For purposes of this chapter, a person engages in the business of currency exchange if the person exchanges currency and receives compensation or expects to receive compensation, directly or indirectly, for the currency exchange.

(c) A license holder may engage in the currency exchange business at one or more locations in this state owned, directly or indirectly by the license holder, under a single license.

(d) On application and a finding that the exemption is in the public interest, the commissioner may exempt a retailer, wholesaler, or service provider that in the ordinary course of business accepts currency of a foreign country or government as payment for goods or services, provided that a person is not eligible for the exemption if:

(1) the value of the goods or services purchased in a single transaction exceeds \$10,000;

(2) the change given or made as a result of the transaction exceeds \$100;

(3) an attempt is made to structure a transaction in a manner that evades the licensing requirements of this subchapter or avoids using a business licensed under this chapter;

(4) the person is engaged in the business of cashing checks, drafts, or other payment instruments for consideration and is not otherwise exempt from licensing under this chapter; or

(5) the person would not be eligible for a license under this chapter.

(e) In accordance with the investigation provisions of this chapter, the commissioner may examine a person to verify the person's exempt status under Subsection (d).

Sec. 151.503. QUALIFICATIONS. An applicant for a currency exchange license must have the qualifications set forth in Section 151.202.

Sec. 151.504. APPLICATION AND ACCOMPANYING FEE AND SECURITY. (a) An applicant for a currency exchange license must submit an application in accordance with Section 151.203.

(b) At the time an application for a currency exchange license is submitted, an applicant must file with the department:

(1) an application fee in the amount established by commission rule;
and

(2) security in the amount of \$2,500 that meets the requirements of Section 151.506.

Sec. 151.505. INVESTIGATION AND ACTION ON APPLICATION. The commissioner shall investigate the applicant and act on the application in accordance with Sections 151.204 and 151.205.

Sec. 151.506. SECURITY. An applicant for a currency exchange license must provide and a currency exchange license holder must maintain at all times security in the amount of \$2,500 that satisfies the requirements of and is subject to Sections 151.308(c)-(j).

[Sections 151.507-151.600 reserved for expansion]

SUBCHAPTER G. EXAMINATIONS, REPORTS, AND RECORDS

Sec. 151.601. EXAMINATIONS. (a) The commissioner may examine a license holder or authorized delegate of a license holder as reasonably necessary or appropriate to administer and enforce this chapter and rules adopted and orders issued under this chapter and other applicable law, including the Bank Secrecy Act, the USA PATRIOT ACT, and Chapter 271.

(b) The commissioner may:

(1) conduct an examination annually or at other times as the commissioner may reasonably require;

(2) conduct an on-site examination or an off-site review of records;

(3) conduct an examination in conjunction with an examination conducted by representatives of other state agencies or agencies of another state or of the federal government;

(4) accept the examination report of another state agency or an agency of another state or of the federal government, or a report prepared by an independent accounting firm, which on being accepted is considered for all purposes as an official report of the commissioner; and

(5) summon and examine under oath a principal, responsible individual, or employee of a license holder or authorized delegate of a license holder and require the person to produce records regarding any matter related to the condition and business of the license holder or authorized delegate.

(c) A license holder or authorized delegate of a license holder shall provide, and the commissioner shall have full and complete access to, all records the commissioner may reasonably require to conduct a complete examination. The records must be provided at the location and in the format specified by the commissioner.

(d) Unless otherwise directed by the commissioner, a license holder shall pay all costs reasonably incurred in connection with an examination of the license holder or the license holder's authorized delegate.

(e) Disclosure of information to the commissioner under an examination request does not waive or otherwise affect or diminish confidentiality or a privilege to which the information is otherwise subject. Information disclosed to the commissioner in connection with an examination is confidential under Section 151.606.

Sec. 151.602. RECORDS. (a) A license holder must prepare, maintain, and preserve the following books, accounts, and other records for at least five years or another period as may be prescribed by rule of the commission:

(1) a record of each money transmission transaction or currency exchange transaction, as applicable;

(2) a general ledger posted in accordance with generally accepted accounting principles containing all asset, liability, capital, income, and expense accounts, unless directed otherwise by the commissioner;

(3) bank statements and bank reconciliation records;

(4) all records and reports required by applicable state and federal law, including the reporting and recordkeeping requirements imposed by the Bank Secrecy Act, the USA PATRIOT ACT, and Chapter 271, and other federal and state laws pertaining to money laundering, drug trafficking, or terrorist funding; and

(5) any other records required by commission rule or reasonably requested by the commissioner to determine compliance with this chapter.

(b) The records required under this section may be:

(1) maintained in a photographic, electronic, or other similar form; and

(2) maintained at the license holder's principal place of business or another location as may be reasonably requested by the commissioner.

(c) An authorized delegate must prepare, maintain, and preserve the records required by commission rule or reasonably requested by the commissioner.

(d) The records required under this section are subject to inspection by the commissioner under Section 151.601.

(e) The records required under this section and the reports required under Section 151.603 must be in English and the financial information contained in the records and reports must be denominated in United States dollars.

Sec. 151.603. REPORTS. (a) An applicant or license holder shall file a written report with the commissioner not later than the 15th day after the date the applicant or license holder knows or has reason to know of a material change in the information reported in an application or renewal report. The report must describe the change and the anticipated impact of the change on the activities of the applicant or license holder in this state.

(b) A money transmission license holder shall prepare written reports and statements as follows:

(1) the renewal report required by Section 151.207(b)(2), including an audited unconsolidated financial statement that is dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year;

(2) a quarterly interim financial statement and report regarding the permissible investments required to be maintained under Section 151.309 that reflect the license holder's financial condition and permissible investments as of the last day of the calendar quarter to which the statement and report relate and that are prepared not later than the 45th day after the last day of the calendar quarter; and

(3) any other report required by rule of the commission or reasonably requested by the commissioner to determine compliance with this chapter.

(c) A currency exchange license holder shall prepare a written report or statement as follows:

(1) the renewal report required by Section 151.207(b)(2), including a financial statement that may be audited or unaudited and that is dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year;

(2) a quarterly interim financial statement and transaction report that reflects the license holder's financial condition and currency exchange business as of the last day of the calendar quarter to which the statement and report relate and that are prepared not later than the 45th day after the last day of the calendar quarter; and

(3) any other report required by rule of the commission or reasonably requested by the commissioner to determine compliance with this chapter.

(d) A license holder shall file the statements and reports required under this section with the commissioner as required by this chapter, by commission rule, or as requested by the commissioner.

(e) On written application and for good cause shown, the commissioner may extend the time for preparing or filing a statement or report required under this section.

Sec. 151.604. EXTRAORDINARY REPORTING REQUIREMENTS. (a) A license holder shall file a written report with the commissioner not later than the 15th day after the date the license holder knows or has reason to know of a material change in the information reported in an application or renewal report. The report must describe the change and the anticipated impact of the change on the license holder's activities in this state.

(b) A license holder must file a written report with the commissioner not later than 24 hours after the license holder knows or has reason to know of:

(1) the filing of a petition by or against the license holder for bankruptcy or reorganization;

(2) the filing of a petition by or against the license holder for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of the license holder's creditors;

(3) the institution of a proceeding to revoke or suspend the license holder's license, or to enjoin or otherwise require the license holder to cease and desist from engaging in an activity related to money transmission, by a state or country in which the license holder engages in business or is licensed;

(4) the felony indictment or conviction of the license holder or a principal of, person in control of, responsible individual of, or authorized delegate of the license holder for an offense identified in Section 151.202(e);

(5) the cancellation or other impairment of the license holder's security;

or

(6) the inability to meet the license holder's transmission obligations under this chapter for a period of 24 hours or longer.

Sec. 151.605. CHANGE OF CONTROL. (a) This section applies to a proposed change of control of a license holder that results in a person or group of persons acting in concert, a "proposed person in control," after consummation of the acquisition transaction, controlling the license holder or a person in control of a license holder.

(b) A person may not directly or indirectly acquire control of a license holder or a person in control of a license holder without the prior written approval of the commissioner, except as provided by this section.

(c) A license holder or proposed person in control shall:

(1) give the commissioner written notice of a proposed change of control at least 45 days before the date the proposed transaction is to be consummated;

(2) request approval of the proposed change of control; and

(3) submit a nonrefundable fee in an amount established by commission rule.

(d) A proposed person in control is subject to the same standards and qualifications that apply to a principal of an applicant for a new license under this chapter. The commissioner may require the license holder or proposed person in control to provide the same type of information, documentation, and certifications and may conduct the same type of investigation the commissioner requires and conducts in connection with a new license application.

(e) The commissioner shall approve a proposed change of control if the commissioner determines that the proposed person in control has the financial responsibility, financial condition, business experience, competence, character, and general fitness to warrant the belief that the business of the license holder will be conducted in compliance with this chapter, rules adopted under this chapter, and other applicable state and federal law and that the change of control will not jeopardize the public interest.

(f) If the commissioner determines that the proposed person in control fails to meet the qualifications, standards, and requirements of this chapter, the commissioner shall inform the license holder and the proposed person in control in writing that the application is denied and state the reasons for the denial. The license holder or the proposed person in control may appeal the denial by filing a written request for a hearing with the commissioner not later than the 30th day after the date the notice is mailed. A hearing on the denial must be held not later than the 45th day after the date the commissioner receives the written request unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date. The hearing is considered a contested case hearing and is subject to Section 151.801.

(g) The following persons are exempt from the requirements of Subsection (a), but the license holder must notify the commissioner not later than the 15th day after the date the change of control becomes effective:

(1) a person that acts as proxy for the sole purpose of voting at a designated meeting of the security holders or holders of voting interests of a license holder or controlling person;

(2) a person that acquires control of a license holder by devise or descent;

(3) a person that acquires control as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court or by operation of law;

(4) a person exempted in the public interest by rule of the commission or by order of the commissioner; and

(5) a person that has previously complied with and received approval under this chapter or that was identified as a person in control in a prior application filed with and approved by the commissioner.

(h) Subsection (b) does not apply to a public offering of securities.

(i) Before filing an application for approval of a proposed change of control, a license holder may submit a written request asking the commissioner to determine whether a person would be considered a proposed person in control of the license holder and whether the requirements of this section apply to the proposed transaction. The request must be accompanied by a fee in an amount established by commission rule and must correctly and fully represent the facts relevant to the person and the proposed transaction. If the commissioner determines that the person would not be a person in control of the license holder for purposes of this section, the commissioner shall advise the license holder in writing that this section does not apply to the proposed person and transaction.

Sec. 151.606. CONFIDENTIALITY. (a) Except as otherwise provided by Subsection (b) or by rule of the commission, all financial information and all other personal information obtained by the commissioner under this chapter through application, examination, investigation, or otherwise, and any related file or record of the department, is confidential and not subject to disclosure.

(b) The commissioner may disclose confidential information if:

(1) the applicant, license holder, or authorized delegate consents to the release of the information or has published the information contained in the release;

(2) the commissioner finds that release of the information is necessary to protect the public or purchasers or potential purchasers of money services from the license holder or authorized delegate from immediate and irreparable harm;

(3) the information is disclosed to an agency identified in Section 151.105(a), in which event the information remains confidential and the agency must take appropriate measures to maintain that confidentiality;

(4) the commissioner finds that release of the information is required for an administrative hearing; or

(5) the commissioner discloses the information to a person acting on behalf of or for the commissioner for regulatory or enforcement purposes, subject to an agreement that maintains the confidentiality of the information.

(c) This section does not prohibit the commissioner from disclosing to the public:

(1) a list of license holders or authorized delegates, including addresses and the names of contact individuals;

(2) the identity of a license holder or authorized delegate subject to an emergency or final order of the commissioner and the basis for the commissioner's action; or

(3) information regarding or included in a consumer complaint against a license holder or authorized delegate.

[Sections 151.607-151.700 reserved for expansion]

SUBCHAPTER H. ENFORCEMENT

Sec. 151.701. INJUNCTIVE RELIEF. (a) Whenever it appears that a person has violated, or that reasonable cause exists to believe that a person is likely to violate, this chapter or a rule adopted under this chapter, the following persons may bring an action for injunctive relief to enjoin the violation or enforce compliance with the provision:

(1) the commissioner, through the attorney general;

(2) the attorney general;

(3) the district attorney of Travis County; or

(4) the prosecuting attorney of the county in which the violation is alleged to have occurred.

(b) In addition to the authority granted to the commissioner under Subsection (a), the commissioner, through the attorney general, may bring an action for injunctive relief if the commissioner has reason to believe that a person has violated or is likely to violate an order of the commissioner issued under this chapter.

(c) An action for injunctive relief brought by the commissioner, the attorney general, or the district attorney of Travis County under Subsection (a), or brought by the commissioner under Subsection (b), must be brought in a district court in Travis County. An action brought by a prosecuting attorney under Subsection (a)(4) must be brought in a district court in the county in which all or part of the violation is alleged to have occurred.

(d) On a proper showing, the court may issue a restraining order, an order freezing assets, a preliminary or permanent injunction, or a writ of mandate, or may appoint a receiver for the defendant or the defendant's assets.

(e) A receiver appointed by the court under Subsection (d) may, with approval of the court, exercise all of the powers of the defendant's directors, officers, partners, trustees, or persons who exercise similar powers and perform similar duties.

(f) An action brought under this section may include a claim for ancillary relief, including a claim by the commissioner for costs or civil penalties authorized under this chapter, or for restitution or damages on behalf of the persons injured by the act constituting the subject matter of the action, and the court has jurisdiction to award that relief.

Sec. 151.702. UNLICENSED PERSONS. If the commissioner has reason to believe that an unlicensed person has engaged or is likely to engage in an activity for which a license is required under this chapter, the commissioner may order the person to cease and desist from the violation until the person is issued a license under this chapter. The commissioner's order is subject to Section 151.709, unless the order is issued as an emergency order. The commissioner may issue an emergency cease and desist order in accordance with Section 151.710 if the commissioner finds that the person's violation or likely violation threatens immediate and irreparable harm to the public.

Sec. 151.703. SUSPENSION AND REVOCATION OF LICENSE. (a) The commissioner must revoke a license if the commissioner finds that:

(1) the net worth of the license holder is less than the amount required under this chapter; or

(2) the license holder does not provide the security required under this chapter.

(b) The commissioner may suspend or revoke a license or order a license holder to revoke the designation of an authorized delegate if the commissioner has reason to believe that:

(1) the license holder has violated this chapter, a rule adopted or order issued under this chapter, a written agreement entered into with the department or commissioner, or any other state or federal law applicable to the license holder's money services business;

(2) the license holder has refused to permit or has not cooperated with an examination or investigation authorized by this chapter;

(3) the license holder has engaged in fraud, knowing misrepresentation, deceit, or gross negligence in connection with the operation of the license holder's money services business or any transaction subject to this chapter;

(4) an authorized delegate of the license holder has knowingly violated this chapter, a rule adopted or order issued under this chapter, or a state or federal anti-money-laundering or terrorist funding law, and the license holder knows or should have known of the violation and has failed to make a reasonable effort to prevent or correct the violation;

(5) the competence, experience, character, or general fitness of the license holder or an authorized delegate of the license holder, or a principal of, person in control of, or responsible person of a license holder or authorized delegate, indicates that it is not in the public interest to permit the license holder or authorized delegate to provide money services;

(6) the license holder has engaged in an unsafe or unsound act or practice or has conducted business in an unsafe or unsound manner;

(7) the license holder has suspended payment of the license holder's obligations, made a general assignment for the benefit of the license holder's creditors, or admitted in writing the license holder's inability to pay debts of the license holder as they become due;

(8) the license holder has failed to terminate the authority of an authorized delegate after the commissioner has issued and served on the license holder a final order finding that the authorized delegate has violated this chapter;

(9) a fact or condition exists that, if it had been known at the time the license holder applied for the license, would have been grounds for denying the application;

(10) the license holder has engaged in false, misleading, or deceptive advertising;

(11) the license holder has failed to pay a judgment entered in favor of a claimant or creditor in an action arising out of the license holder's activities under this chapter not later than the 30th day after the date the judgment becomes final or not later than the 30th day after the date the stay of execution expires or is terminated, as applicable;

(12) the license holder has knowingly made a material misstatement or has suppressed or withheld material information on an application, request for approval, report, or other document required to be filed with the department under this chapter; or

(13) the license holder has committed a breach of trust or of a fiduciary duty.

(c) In determining whether a license holder has engaged in an unsafe or unsound act or practice or has conducted business in an unsafe or unsound manner, the commissioner may consider factors that include:

(1) the size and condition of the license holder's provision of money services;

(2) the magnitude of the loss or potential loss;

(3) the gravity of the violation of this chapter or rule adopted or order issued under this chapter;

(4) any action taken against the license holder by this state, another state, or the federal government; and

(5) the previous conduct of the license holder.

(d) The commissioner's order suspending or revoking a license or directing a license holder to revoke the designation of an authorized delegate is subject to Section 151.709, unless the order is issued as an emergency order. The commissioner may issue an emergency order suspending a license or directing a license holder to revoke the designation of an authorized delegate in accordance with Section 151.710 if the commissioner finds that the factors identified in Section 151.710(b) exist.

Sec. 151.704. SUSPENSION AND REVOCATION OF AUTHORIZED DELEGATE DESIGNATION. (a) The commissioner may suspend or revoke the designation of an authorized delegate if the commissioner has reason to believe that:

(1) the authorized delegate has violated this chapter, a rule adopted or order issued under this chapter, a written agreement entered into with the commissioner or the department, or any other state or federal law applicable to a money services business;

(2) the authorized delegate has refused to permit or has not cooperated with an examination or investigation under this chapter;

(3) the authorized delegate has engaged in fraud, knowing misrepresentation, deceit, gross negligence, or an unfair or deceptive act or practice in connection with the operation of the delegate's business on behalf of the license holder or any transaction subject to this chapter;

(4) the competence, experience, character, or general fitness of the authorized delegate, or a principal of, person in control of, or responsible person of the authorized delegate, indicates that it is not in the public interest to permit the authorized delegate to provide money services;

(5) the authorized delegate has engaged in an unsafe or unsound act or practice or conducted business in an unsafe and unsound manner;

(6) the authorized delegate, or a principal or responsible person of the authorized delegate, is listed on the specifically designated nationals and blocked persons list prepared by the United States Department of the Treasury as a potential threat to commit terrorist acts or to fund terrorist acts; or

(7) the authorized delegate, or a principal or responsible person of the authorized delegate, has been convicted of a state or federal anti-money-laundering or terrorist funding law.

(b) In determining whether an authorized delegate has engaged in an unsafe or unsound act or practice or conducted business in an unsafe or unsound manner, the commissioner may consider factors that include:

(1) the size and condition of the authorized delegate's provision of money services;

(2) the magnitude of the loss or potential loss;

(3) the gravity of the violation of this chapter or rule adopted or order issued under this chapter;

(4) any action taken against the authorized delegate by this state, another state, or the federal government; and

(5) the previous conduct of the authorized delegate.

(c) The commissioner's order suspending or revoking the designation of an authorized delegate is subject to Section 151.709, unless the order is issued as an emergency order. The commissioner may issue an emergency order suspending the designation of an authorized delegate in accordance with Section 151.710 if the commissioner finds that the factors identified in Section 151.710(b) exist.

Sec. 151.705. CEASE AND DESIST ORDERS. (a) The commissioner may issue an order to cease and desist if the commissioner finds that:

(1) an action, violation, or condition listed in Section 151.703 or 151.704 exists with respect to a license holder or authorized delegate; and

(2) a cease and desist order is necessary to protect the interests of the license holder, the purchasers of the license holder's money services, or the public.

(b) A cease and desist order may require a license holder or authorized delegate to cease and desist from the action or violation or to take affirmative action to correct any condition resulting from or contributing to the action or violation, and the requirements of the order may apply to a principal or responsible person of the license holder or authorized delegate.

(c) The cease and desist order is subject to Section 151.709, unless the order is issued as an emergency order. The commissioner may issue an emergency cease and desist order in accordance with Section 151.710 if the commissioner finds that the factors identified in Section 151.710(b) exist.

Sec. 151.706. CONSENT ORDERS. (a) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter.

(b) A consent order must be signed by the person to whom the order is issued or by the person's authorized representative and must indicate agreement with the terms contained in the order. However, a consent order may provide that the order does not constitute an admission by a person that this chapter or a rule adopted or order issued under this chapter has been violated.

(c) A consent order is a final order and may not be appealed.

Sec. 151.707. ADMINISTRATIVE PENALTY. (a) After notice and hearing, the commissioner may assess an administrative penalty against a person that:

(1) has violated this chapter or a rule adopted or order issued under this chapter and has failed to correct the violation not later than the 30th day after the date the department sends written notice of the violation to the person;

(2) if the person is a license holder, has engaged in conduct specified in Section 151.703;

(3) has engaged in a pattern of violations; or

(4) has demonstrated wilful disregard for the requirements of this chapter, the rules adopted under this chapter, or an order issued under this chapter.

(b) A violation corrected after a person receives written notice from the department of the violation may be considered for purposes of determining whether a person has engaged in a pattern of violations under Subsection (a)(3) or demonstrated wilful disregard under Subsection (a)(4).

(c) The amount of the penalty may not exceed \$5,000 for each violation or, in the case of a continuing violation, \$5,000 for each day that the violation continues. Each transaction in violation of this chapter and each day that a violation continues is a separate violation.

(d) In determining the amount of the penalty, the commissioner shall consider factors that include the seriousness of the violation, the person's compliance history, and the person's good faith in attempting to comply with this chapter, provided that if the person is found to have demonstrated willful disregard under Subsection (a)(4), the trier of fact shall recommend that the commissioner impose the maximum administrative penalty permitted under Subsection (c).

(e) A hearing to assess an administrative penalty is considered a contested case hearing and is subject to Section 151.801.

(f) An order imposing an administrative penalty after notice and hearing becomes effective and is final for purposes of collection and appeal immediately on issuance.

(g) The commissioner may collect an administrative penalty assessed under this section:

(1) in the same manner that a money judgment is enforced in court; or

(2) if the penalty is imposed against a license holder or a license holder's authorized delegate, from the proceeds of the license holder's security in accordance with Section 151.308(e).

Sec. 151.708. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) intentionally makes a false statement, misrepresentation, or certification in a record or application filed with the department or required to be maintained under this chapter or a rule adopted or order issued under this chapter, or intentionally makes a false entry or omits a material entry in the record or application; or

(2) knowingly engages in an activity for which a license is required under Subchapter D or F without being licensed under this chapter.

(b) An offense under this section is a felony of the third degree.

(c) If the commissioner has reason to believe that a person has committed an offense under this section or any other state or federal law, the commissioner may file a criminal referral with the district attorney of Travis County or an appropriate prosecuting attorney of the county in which the offense is alleged to have been committed.

(d) Nothing in this section limits the power of the state to punish a person for an act that constitutes an offense under this or any other law.

Sec. 151.709. NOTICE, HEARING, AND OTHER PROCEDURES FOR NONEMERGENCY ORDERS. (a) This section applies to an order issued by the commissioner under this subchapter that is not an emergency order.

(b) An order to which this section applies becomes effective only after notice and an opportunity for hearing. The order must:

(1) state the grounds on which the order is based;

(2) to the extent applicable, state the action or violation from which the person subject to the order must cease and desist or the affirmative action the person must take to correct a condition resulting from the violation or that is otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address;

(4) state the effective date of the order, which may not be before the 21st day after the date the order is delivered or mailed; and

(5) include a notice that a person may file a written request for a hearing on the order with the commissioner not later than the 20th day after the date the order is delivered or mailed.

(c) Unless the commissioner receives a written request for hearing from the person against whom the order is directed not later than the 20th day after the date the order is delivered or mailed, the order takes effect as stated in the order and is final against and nonappealable by that person from that date.

(d) A hearing on the order must be held not later than the 45th day after the date the commissioner receives the written request for the hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

(e) An order that has been affirmed or modified after a hearing becomes effective and is final for purposes of enforcement and appeal immediately on issuance. The order may be appealed to the district court of Travis County as provided by Section 151.801(b).

Sec. 151.710. REQUIREMENTS AND NOTICE AND HEARING PROCEDURES FOR EMERGENCY ORDERS. (a) This section applies to an emergency order issued by the commissioner under this subchapter.

(b) The commissioner may issue an emergency order, without prior notice and an opportunity for hearing, if the commissioner finds that:

(1) the action, violation, or condition that is the basis for the order:

(A) has caused or is likely to cause the insolvency of the license holder;

(B) has caused or is likely to cause the substantial dissipation of the license holder's assets or earnings;

(C) has seriously weakened or is likely to seriously weaken the condition of the license holder; or

(D) has seriously prejudiced or is likely to seriously prejudice the interests of the license holder, a purchaser of the license holder's money services, or the public; and

(2) immediate action is necessary to protect the interests of the license holder, a purchaser of the license holder's money services, or the public.

(c) In connection with and as directed by an emergency order, the commissioner may seize the records and assets of a license holder or authorized delegate that relate to the license holder's money services business.

(d) An emergency order must:

(1) state the grounds on which the order is based;

(2) advise the person against whom the order is directed that the order takes effect immediately, and, to the extent applicable, require the person to immediately cease and desist from the conduct or violation that is the subject of the order or to take the affirmative action stated in the order as necessary to correct a condition resulting from the conduct or violation or as otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address; and

(4) include a notice that a person may request a hearing on the order by filing a written request for hearing with the commissioner not later than the 15th day after the date the order is delivered or mailed.

(e) An emergency order takes effect as soon as the person against whom the order is directed has actual or constructive knowledge of the issuance of the order.

(f) A license holder or authorized delegate against whom an emergency order is directed must submit a written certification to the commissioner, signed by the license holder or authorized delegate, and their principals and responsible individuals, as applicable, and each person named in the order, stating that each person has received a copy of and has read and understands the order.

(g) Unless the commissioner receives a written request for a hearing from a person against whom an emergency order is directed not later than the 15th day after the date the order is delivered or mailed, the order is final and nonappealable as to that person on the 16th day after the date the order is delivered or mailed.

(h) A request for a hearing does not stay an emergency order.

(i) A hearing on an emergency order takes precedence over any other matter pending before the commissioner, and must be held not later than the 10th day after the date the commissioner receives the written request for hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

(j) An emergency order that has been affirmed or modified after a hearing is final for purposes of enforcement and appeal. The order may be appealed to the district court of Travis County as provided in Section 151.801(b).

[Sections 151.711-151.800 reserved for expansion]

SUBCHAPTER I. ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 151.801. ADMINISTRATIVE PROCEDURES. (a) All administrative proceedings under this chapter must be conducted in accordance with Chapter 2001, Government Code, and Title 7, Chapter 9, Texas Administrative Code.

(b) A person affected by a final order of the commissioner issued under this chapter after a hearing may appeal the order by filing a petition for judicial review in a district court of Travis County. A petition for judicial review filed in the district court under this subsection does not stay or vacate the appealed order unless the court, after notice and hearing, specifically stays or vacates the order.

SECTION 2. SAVING AND TRANSITIONAL PROVISIONS. (a) A license issued under Chapter 152, Finance Code, or Chapter 153, Finance Code, that is in effect on September 1, 2005, remains in force as a license under Chapter 152, Finance Code, or Chapter 153, Finance Code, until August 15, 2006. The license expires on August 15, 2006, unless the license holder renews the license in accordance with this Act. Except as provided by this section, a license holder that seeks to renew its license must satisfy the net worth, security, permissible investment, and other substantive requirements for licensure established in Chapter 151, Finance Code, as added by this Act.

(b) A person licensed as of September 1, 2005, to engage in the business of currency transmission or currency transportation under Chapter 153, Finance Code, has until August 15, 2011, to satisfy the net worth and permissible investment requirements established in Chapter 151, Finance Code, as added by this Act. The Banking Commissioner of Texas may extend the period beyond that date on a year-by-year basis for good cause shown.

(c) A person licensed as of September 1, 2005, to engage in the business of currency transmission or currency transportation under Chapter 153, Finance Code, has until August 15, 2007, to satisfy the security requirements established in Chapter 151, Finance Code, as added by this Act.

(d) A contract between a license holder and an authorized delegate that is in effect on September 1, 2005, remains in effect until the earlier of the date the contract is renewed or December 31, 2006. A new or renewal contract entered into between a license holder and an authorized delegate after the effective date of this Act must satisfy the contract requirements established in Chapter 151, Finance Code, as added by this Act.

(e) The Finance Commission of Texas may adopt rules to further provide for the orderly transition to licensing and regulation under this Act.

SECTION 3. REPEALER. Chapters 152 and 153, Finance Code, are repealed.

SECTION 4. EFFECTIVE DATE. This Act takes effect September 1, 2005.

**HB 2421 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2421, A bill to be entitled An Act relating to the use of an employer assessment to fund the skills development program and authorizing the Texas Workforce Commission to develop new job incentive programs.

Representative Chavez moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2421**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2421**: Chavez, chair; Ritter; B. Cook; Morrison; and Seaman.

**HB 3434 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3434, A bill to be entitled An Act relating to testamentary and nontestamentary transfers of property and other benefits and the administration of those benefits.

HB 3434 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CASTEEL: Representative Hartnett, I have one question. When you give this immediate effect, this does not mean that this affects any cases that are currently pending. In other words, it's not retroactive?

REPRESENTATIVE HARTNETT: That's correct.

REMARKS ORDERED PRINTED

Representative Casteel moved to print remarks between Representative Hartnett and Representative Casteel.

The motion prevailed.

(Kolkhorst now present)

Representative Hartnett moved to concur in the senate amendments to **HB 3434**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 885): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, J.; Keel; Keffer, B.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused, Committee Meeting — Gattis; Pitts.

Absent — Chisum; Jones, D.; Keffer, J.; Puente.

Senate Committee Substitute

CSHB 3434, A bill to be entitled An Act relating to a testamentary and nontestamentary transfer of property and other benefits and the administration of those benefits.

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

SECTION 1. Section 131A(d), Texas Probate Code, is amended to read as follows:

(d) Not later than the third business day after [On] the date of the order, the appointee shall file with the county clerk a bond in the amount ordered by the court. In this subsection, "business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

SECTION 2. Section 248, Texas Probate Code, is amended to read as follows:

Sec. 248. APPOINTMENT OF APPRAISERS. At any time after the grant of letters testamentary or of administration, ~~[upon the application of any interested person or if the court shall deem necessary,]~~ the court for good cause on its own motion or on the motion of an interested party shall appoint not less than one nor more than three disinterested persons, citizens of the county in which letters were granted, to appraise the property of the estate. In such event

and when part of the estate is situated in a county other than the county in which letters were granted, if the court shall deem necessary it may appoint not less than one nor more than three disinterested persons, citizens of the county where such part of the estate is situated, to appraise the property of the estate situated therein.

SECTION 3. Subchapter A, Chapter 113, Property Code, is amended by adding Section 113.028 to read as follows:

Sec. 113.028. CERTAIN CLAIMS AND CAUSES OF ACTION PROHIBITED. (a) A trustee may not prosecute or assert a claim for damages in a cause of action against a party who is not a beneficiary of the trust if each beneficiary of the trust provides written notice to the trustee of the beneficiary's opposition to the trustee's prosecuting or asserting the claim in the cause of action.

(b) This section does not apply to a cause of action that is prosecuted by a trustee in the trustee's individual capacity.

(c) The trustee is not liable for failing to prosecute or assert a claim in a cause of action if prohibited by the beneficiaries under Subsection (a).

SECTION 4. (a) Sections 131A and 248, Texas Probate Code, as amended by this Act, apply only to the estate of a decedent who dies on or after the effective date of this Act. The estate of a decedent who dies before the effective date of this Act is governed by the law in effect on the date of the decedent's death, and the former law is continued in effect for that purpose.

(b) Section 113.028, Property Code, as added by this Act, applies only to a cause of action filed on or after the effective date of this Act. A cause of action filed before the effective date of this Act is governed by the law in effect on the date the cause of action was filed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3434** as follows:

(1) In SECTION 4 of the bill (committee printing page 1, line 49), strike "(a)".

(2) In SECTION 4 of the bill (committee printing page 1, lines 55-60), strike Subsection (b).

(3) Strike SECTION 5 of the bill (committee printing page 1, line 61) and substitute the following:

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

HJR 80 - VOTE RECONSIDERED

Representative Ritter moved to reconsider the vote by which the house concurred in senate amendments to **HJR 80**.

The motion to reconsider prevailed.

RESOLUTIONS ADOPTED

Representative Edwards moved to suspend all necessary rules in order to take up and consider at this time **HR 1983, HR 2037 - HR 2044, HR 2046 - HR 2048, HR 2053, HR 2055, HR 2057 - HR 2065, HR 2079, HR 2109, and HR 2117**.

The motion prevailed.

The following resolutions were laid before the house:

HR 1983 (by Edwards), Honoring Steve Shapiro of Houston for his 25 years of service as scoutmaster of Troop 806.

HR 2037 (by Zedler), Honoring Glen Huse for his exemplary service to the people of Texas.

HR 2038 (by Zedler), Honoring Chad Graybill of Arlington on attaining the rank of Eagle Scout.

HR 2039 (by Zedler), Honoring Wanda Walker of Burleson on the occasion of her retirement from the board of trustees of the Burleson Independent School District.

HR 2040 (by Zedler), Honoring Richard Brandon Kincaid of Fort Worth for his many accomplishments.

HR 2041 (by Zedler), Honoring the students, staff, and faculty of Deer Creek Elementary School in Crowley.

HR 2042 (by Bailey), Honoring the members of the Northline Terrace Civic Club in Houston for their contributions to their community.

HR 2043 (by Gattis), Commending Jack Stoessel for his service as a legislative intern in the office of State Representative Dan Gattis.

HR 2044 (by Gattis), Commending Elizabeth Davidson for her service as a legislative intern in the office of State Representative Dan Gattis.

HR 2046 (by B. Brown), Honoring Joe and Pat Hottinger of Terrell on their 50th wedding anniversary.

HR 2047 (by Bohac), Congratulating Boy Scouts Troop 604 of Houston on its 50th anniversary.

HR 2048 (by Bohac), Congratulating Michael Cedric Jeffery of Houston on attaining the rank of Eagle Scout.

HR 2053 (by Pena), Commending Richard Alejandro Longoria II for his many accomplishments.

HR 2055 (by Flynn), Honoring Jack Griggs of Greenville on his 100th birthday.

HR 2057 (by Escobar), Commemorating the 75th anniversary of St. Francis Xavier Parish in La Feria.

HR 2058 (by Hughes, Paxton), Honoring Baylor Law School's mock trial team on winning the Association of Trial Lawyers of America's 2005 National Student Trial Advocacy Competition.

HR 2059 (by Hughes), Honoring Wood County Sheriff Dwaine Daugherty and Chief Deputy Robert Cromley on being named special deputy U.S. marshals.

HR 2060 (by Hughes), Congratulating David Gannon of Mineola and his dog Skater on their showing in the 2005 International Crufts Obedience World Cup.

HR 2061 (by Hughes), Congratulating members of Pilgrim Rest No. 2 Baptist Church in Golden on the church's centennial.

HR 2062 (by Merritt), Honoring the staff of the Panther's Paw at Spring Hill High School for the school's award-winning newspaper.

HR 2063 (by Merritt), Congratulating the staff of the award-winning 2004 Spring Hill High School Panther yearbook.

HR 2064 (by Merritt), Honoring Deborah Bell of Gilmer for being named a Remarkable Woman by Johnson & Johnson.

HR 2065 (by Merritt), Honoring the Kilgore High School varsity band on earning first-division ratings in the Region IV UIL Concert and Sightreading competitions.

HR 2079 (by Herrero, Luna, and Seaman), Congratulating the current and former members of the Board of Directors of the RTA.

HR 2109 (by Vo), Honoring the Alief Family YMCA of Houston on the occasion of its 2005 Partners Campaign.

HR 2117 (by Vo), Congratulating Danny Vu and Sam Lutz of Alief for winning first place at the Skills USA competition in Fort Worth and recognizing instructor Lloyd Williams.

The resolutions were adopted.

HB 1644 - VOTE RECONSIDERED

Representative Callegari moved to reconsider the vote by which the house concurred in senate amendments to **HB 1644**.

The motion to reconsider prevailed.

HB 1644 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1644, A bill to be entitled An Act relating to the authority of a water control and improvement district or a municipal utility district to enter into a contract to convey property to another water district or water supply corporation and the authority of a conservation and reclamation district to acquire a certificate of convenience and necessity or to acquire a facility or a right to use a facility.

Representative Callegari moved to concur in the senate amendments to **HB 1644**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 886): 140 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes;

Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Veasey; Vo; West; Wong; Woolley; Zedler.

Nays — Burnam; Naishtat; Rodriguez; Thompson.

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

Absent, Excused, Committee Meeting — Gattis; Pitts.

Absent — Villarreal.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1644** by adding the following appropriately numbered sections to read as follows and by renumbering the subsequent sections of the bill accordingly:

SECTION _____. Subchapter L, Chapter 51, Water Code, is amended by adding Section 51.537 to read as follows:

Sec. 51.537. MUNICIPALITY'S AUTHORITY REGARDING DEFINED AREA. (a) A municipality may not annex a part of a defined area in a district that has adopted a plan for the defined area under this subchapter unless:

(1) 90 percent or more of all facilities and infrastructure described by the plan has been installed and completed; and

(2) the municipality:

(A) annexes all of the defined area that is within the municipality's extraterritorial jurisdiction; and

(B) assumes the pro rata share of the bonded indebtedness of the annexed area.

(b) After the annexation occurs:

(1) the annexed area is not eligible to be a defined area under this subchapter; and

(2) the district may not impose in the annexed area a tax authorized for a defined area under this subchapter.

SECTION _____. Subchapter J, Chapter 54, Water Code, is amended by adding Section 54.813 to read as follows:

Sec. 54.813. MUNICIPALITY'S AUTHORITY REGARDING DEFINED AREA. (a) A municipality may not annex a part of a defined area in a district that has adopted a plan for the defined area under this subchapter unless:

(1) 90 percent or more of all facilities and infrastructure described by the plan has been installed and completed; and

(2) the municipality:

(A) annexes all of the defined area that is within the municipality's extraterritorial jurisdiction; and

(B) assumes the pro rata share of the bonded indebtedness of the annexed area.

(b) After the annexation occurs:

(1) the annexed area is not eligible to be a defined area under this subchapter; and

(2) the district may not impose in the annexed area a tax authorized for a defined area under this subchapter.

SECTION _____. Sections 51.537 and 54.813, Water Code, as added by this Act, apply only to the annexation of an area:

(1) that is not included in a municipal annexation plan under Section 43.052, Local Government Code, before the effective date of this Act; and

(2) for which the first statutorily required hearing on the annexation is held on or after the effective date of this Act.

SECTION _____. Sections 51.537(b) and 54.813(b), Water Code, as added by this Act, apply only to taxes imposed for a tax year beginning on or after January 1, 2006.

Senate Amendment No. 2 (Senate Floor Amendment No. 1 - 3rd Reading)

Amend **HB 1644** on third reading as follows:

(1) In added Section 51.537, Water Code, insert a new Subsection (a) to read as follows, and renumber the remaining subsections of Section 51.537 accordingly:

(a) This section applies only to a municipality any portion of which is located in a county with a population of more than 800,000 and less than 1.3 million.

(2) In added Section 54.813, Water Code, insert a new Subsection (a) to read as follows, and renumber the remaining subsections of Section 54.813 accordingly:

(a) This section applies only to a municipality any portion of which is located in a county with a population of more than 800,000 and less than 1.3 million.

HB 916 - VOTE RECONSIDERED

Representative Woolley moved to reconsider the vote by which the house concurred in senate amendments to **HB 916**.

The motion to reconsider prevailed.

RESOLUTIONS ADOPTED

Representative Edwards moved to suspend all necessary rules in order to take up and consider at this time **HR 1699, HR 1833, HR 1922, HR 2010, HR 2021 - HR 2023, HR 2025, HR 2026, HR 2029 - HR 2032, HR 2035, HR 2098, HR 2110, HR 2119, HR 2126, HR 2139, HR 2148 - HR 2152, HCR 216, HCR 223, HCR 224**.

The motion prevailed.

The following resolutions were laid before the house:

HR 1922 (by Taylor), Honoring James Truman Taylor and Arlene Weyer Taylor of Friendswood on the occasion of their 50th wedding anniversary.

HR 2010 (by Edwards), Requesting the Texas Education Agency to determine whether overly sexually suggestive performances are occurring at school-sponsored events.

HR 2021 (by Casteel), Honoring Hannah Maenius of Fredericksburg High School for winning gold at the 2005 state track meet.

HR 2022 (by Casteel), Honoring Lucille H. Rochs of Fredericksburg on the occasion of her 90th birthday on June 27, 2005.

HR 2023 (by Martinez), Honoring former state district judge Fernando Mancias of McAllen.

HR 2026 (by Peña), Commending Maricela De Leon for her many accomplishments.

HR 2029 (by Escobar), Honoring Juan and Consuelo Salas of Harlingen for their civic service.

HR 2030 (by Escobar), Honoring Maria de la Luz Trevino Salinas of Falfurrias for 50 years of service as a teacher.

HR 2031 (by Craddick), Honoring Refugio and Sofia Morales of Lamesa on their 50th anniversary.

HR 2032 (by Craddick), Honoring Edward and Evelyn Greer of Midland on their 50th wedding anniversary.

HR 2035 (by Hilderbran), Honoring Marilyn and Lanny Leinweber and their family on the occasion of the Leinweber Ranch earning acceptance into the Family Land Heritage Program.

HR 2098 (by Escobar), Congratulating Justin Munoz on his outstanding performance at the 2005 UIL State Academic Championships.

HR 2110 (by Hilderbran), Honoring Texas game wardens for 110 years of service to the Lone Star State and commending them for their efforts to safeguard the natural resources of Texas.

HR 2119 (by Gallego), Honoring the members of the Moreno/Rangel Legislative Leadership Program Class of 2005.

HR 2126 (by Keel), Honoring Alvin Shaw of Austin for his 30 years of public service.

HR 2139 (by Dutton), Honoring Pastor L. A. Kennedy of the New Community Baptist Church of Houston on his 45 years of service as a minister.

HR 2148 (by Solis), Congratulating Eliseo Garza, Jr., on his graduation from The University of Texas-Pan American.

HR 2149 (by Solis), Congratulating Gabriella Jael Baez of Edinburg on her graduation from kindergarten.

HR 2150 (by Solis), Congratulating Alexandra Aleeza Baez of Edinburg on her completion of the first grade.

HR 2151 (by Solis), Honoring Elizabeth Garza of Edinburg for her contributions as a special education teacher.

HR 2152 (by Solis), Honoring Eliseo and Maria Garza of Edinburg on their 43rd wedding anniversary.

HCR 216 (by Craddick), Honoring U.S. Marine Corps Captain Van Taylor of Dallas for his service to his country.

HCR 223 (by Homer), Honoring the sesquicentennial of Sulphur Springs.

HCR 224 (by Homer), Congratulating Eddie Almond on his retirement as director of the Regional Controlled Substance Apprehension Program Drug Task Force.

The resolutions were adopted.

The following memorial resolutions were laid before the house:

HR 1699 (by Laney), In memory of Dell Wayne Watson, Jr., of Round Rock.

HR 1833 (by Laney), In memory of Staff Sergeant Jimmie Doyle of Lamesa, who gave his life in service to this country during World War II.

HR 2025 (by Peña), In memory of Frank Cyril Kohoutek of Austin.

The resolutions were unanimously adopted by a rising vote.

**HR 2146 - ADOPTED
(by Hilderbran)**

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 2146**.

The motion prevailed.

The following resolution was laid before the house:

HR 2146, Congratulating Coach Wes Kittley and the members of the men's and women's track teams at Texas Tech University on their performances at the 2005 Outdoor Big 12 Championships.

HR 2146 was adopted.

**HB 2614 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2614, A bill to be entitled An Act relating to the applicability of certain insurance laws to Lloyd's plans and reciprocal and interinsurance exchanges.

Representative Taylor moved to discharge the conferees and concur in the senate amendments to **HB 2614**.

The motion to discharge and concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

CSHB 2614, A bill to be entitled An Act relating to the applicability of certain insurance laws to Lloyd's plans and reciprocal and interinsurance exchanges.

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

SECTION 1. Section 38.001(b), Insurance Code, is amended to read as follows:

(b) The department may address a reasonable inquiry to any [an] insurance company, including a Lloyd's plan or reciprocal or interinsurance exchange, or an agent[;] or other holder of an authorization relating to:

(1) the person's business condition; or

(2) any matter connected with the person's transactions that the department considers necessary for the public good or for the proper discharge of the department's duties.

SECTION 2. Section 941.003(b), Insurance Code, is amended to read as follows:

- (b) A Lloyd's plan is subject to:
- (1) Section 5, Article 1.10;
 - (2) Article 1.15A;
 - (3) Subchapters A, Q, T, and U, Chapter 5;
 - (4) Articles 5.35, 5.38, 5.39, and 5.40~~[-, and 5.49]~~;
 - (5) Article ~~Articles 21.21 and~~ 21.49-8;
 - (6) Sections 822.203, 822.205, 822.210, and 822.212; ~~[and]~~
 - (7) Article 5.13-2, as provided by that article;
 - (8) Chapters 251, 252, and 541; and
 - (9) Section 38.001.

SECTION 3. Section 942.003(b), Insurance Code, is amended to read as follows:

- (b) An exchange is subject to:
- (1) Section 5, Article 1.10;
 - (2) Articles 1.15, 1.15A, and 1.16;
 - (3) Subchapters A, Q, T, and U, Chapter 5;
 - (4) Articles 5.35, 5.37, 5.38, 5.39, and 5.40;
 - (5) Article ~~Articles 21.21 and~~ 21.49-8;
 - (6) Sections 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), and 862.003; ~~[and]~~
 - (7) Article 5.13-2, as provided by that article;
 - (8) Chapter 541; and
 - (9) Section 38.001.

SECTION 4. Subchapter A, Chapter 551, Insurance Code, is amended by adding new Section 551.004 to read as follows:

Sec. 551.004. TRANSFER NOT CONSIDERED A REFUSAL TO RENEW. For purposes of this chapter and Articles 5.06-1 and 5.06-3 of this code, the transfer of a policyholder between admitted companies within the same insurance group is not considered a refusal to renew.

SECTION 5. Section 551.056, Insurance Code, is repealed.

SECTION 6. The change in law made by Section 38.001, Insurance Code, as amended by this Act, applies only to an inquiry made by the Texas Department of Insurance on or after the effective date of this Act. An inquiry made by the Texas Department of Insurance before the effective date of this Act is covered by the law in effect at the time the inquiry is made, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2005.

(Speaker in the chair)

RESOLUTIONS ADOPTED

Representative Edwards moved to suspend all necessary rules in order to take up and consider at this time **HR 2070 - HR 2072, HR 2075, HR 2076, HR 2084 - HR 2090, HR 2096, HR 2097, HR 2101 - HR 2103, HR 2105, HR 2107, HR 2112, HR 2115, HR 2116, HR 2118, HR 2120, HR 2123 - HR 2125, HR 2127 - HR 2133, HR 2140, HR 2141, HR 2143, HR 2144, HR 2147, HR 2154, HCR 217, HCR 219, and HCR 221.**

The motion prevailed.

The following resolutions were laid before the house:

HR 2070 (by Escobar), Honoring Martin Lopez, Jr., of Falfurrias for his work with the Coastal Bend Veteran of the Month program.

HR 2071 (by Swinford), Honoring the Texas A&M University Agricultural and National Resources Policy Internship Program on its 15th anniversary and commending the ANRP interns of the 79th Texas Legislature.

HR 2072 (by Swinford), Congratulating Steven V. Tays on his election as the FFA state officer for Area VII.

HR 2075 (by J. Jones), Honoring 91-year-old Bobbie Lois Person of Seagoville.

HR 2076 (by Zedler), Honoring Lorene Kraemer Rodgers of Burleson on her 100th birthday.

HR 2084 (by Quintanilla), Congratulating the Fortissimo flag team of Americas High School in El Paso for winning seventh place at the 2005 Winter Guard International World Championships.

HR 2085 (by Quintanilla), Honoring Wanda Guzman for being named the 2004-2005 Teacher of the Year at O'Donnell Elementary School.

HR 2086 (by Quintanilla), Congratulating Pilar Alexandra Rivera on her graduation from The University of Texas at El Paso.

HR 2087 (by Quintanilla), Honoring the El Paso County Sheriff's Officers Association.

HR 2088 (by Quintanilla), Honoring Michelle Lorio of El Paso on being named the 2004-2005 Teacher of the Year at Fabens Middle School.

HR 2089 (by Quintanilla), Congratulating Gail L. Gonzales of El Paso on being named Teacher of the Year for 2004-2005 at Risinger Primary School in Fabens.

HR 2090 (by Quintanilla), Honoring Maria G. Liming of El Paso on being named Teacher of the Year for 2004-2005 at Fabens Primary School.

HR 2096 (by Escobar), Honoring Jean Claire Turcotte for the contributions she has made as an educator and civic leader.

HR 2097 (by Escobar), Honoring Beto Leal of Kingsville for his remarkable work as the founder and leader of the Beto Leal Orchestra and as a mentor to countless young Texans.

HR 2101 (by Quintanilla), Honoring Ismael A. Salas on being named 2004-2005 Teacher of the Year at Fabens High School.

HR 2102 (by Otto), Congratulating Derrick L. Reescano of Hardin High School for winning three medals at the 2005 UIL state track and field championships.

HR 2103 (by Strama), Congratulating the 2004-2005 Science Olympiad team of Park Crest Middle School in Pflugerville on its achievements.

HR 2105 (by McReynolds), Honoring U.S. Army Captain Eric Crawford of Lufkin for his service to his country.

HR 2107 (by Martinez), Honoring U.S. Marine First Lieutenant Jeremiah Leibowitz for his service to this nation.

HR 2112 (by Peña), Honoring Raymundo S. Perez for his community service in the Rio Grande Valley.

HR 2115 (by Y. Davis), Honoring Jay O. Oji of Southlake on his receipt of an Outstanding Texan Award in the area of business from the Texas Legislative Black Caucus.

HR 2116 (by Giddings), Honoring The Dallas Weekly on the occasion of its 50th anniversary.

HR 2118 (by Morrison), Honoring the members of the Memorial High School Dance Team for their outstanding season.

HR 2120 (by Menendez), Honoring Bexar County's University Health System on its 50th anniversary.

HR 2123 (by P. King), Honoring Center Point Baptist Church in Weatherford on its centennial.

HR 2124 (by Escobar), Honoring Mary Suarez Tijerina of Raymondville for her service to her community.

HR 2125 (by Craddick), Congratulating Rhonda Lacy of Midland on her retirement from Fannin Elementary School.

HR 2127 (by Naishtat), Recognizing the Jewish War Veterans of the United States of America and welcoming the organization's national commander, Louis Abramson, to Texas.

HR 2128 (by Naishtat), Commending Ersin Haspolatli, an AFS visiting teacher from Turkey, for his efforts to promote increased international understanding and harmony.

HR 2129 (by Anchia), Honoring Cecilia McKay on the occasion of her retirement from the Dallas Concilio.

HR 2130 (by Anchia), Honoring Ruth Lee of Farmers Branch for her community involvement.

HR 2131 (by Anchia), Honoring Laura V. Estrada of Dallas for her professional accomplishments and civic contributions.

HR 2132 (by Anchia), Honoring Matthew S. Murphy for his efforts in behalf of his Northwest Dallas neighborhood.

HR 2133 (by Anchia), Recognizing the Clements Center for Southwest Studies at Southern Methodist University in Dallas.

HR 2140 (by Peña), Honoring Kirby Warnock on the release of his 2005 documentary Border Bandits.

HR 2141 (by Herrero), Honoring Sergeant Ira Herrero of Corpus Christi for his outstanding service to this country.

HR 2143 (by Keel), Honoring Aaron Kyle Polanco of the U.S. Naval Academy.

HR 2144 (by Flores), Congratulating Teresa Estrada of McAllen on receiving her associate's degree from South Texas College.

HR 2147 (by Escobar), Congratulating Dr. Linda Wade of the Harlingen Consolidated Independent School District on receiving the Region One Education Service Center Superintendent of the Year award for 2005.

HR 2154 (by Wong), Honoring Grace A. Chen and Alvin Nemenó Alvarez on their engagement and forthcoming wedding.

HCR 217 (by Homer), Congratulating Carol Rhodes on earning the 2005 Texas Crime Victim Clearinghouse Award.

HCR 219 (by Farabee), Honoring Detective Deanna Tofte of the Wichita Falls Police Department on her receipt of the 2005 America's Most Wanted All Star Hero award.

HCR 221 (by Merritt), Congratulating Jacksonville native and Longview resident Neal McCoy on winning the 2005 Humanitarian Award at the 40th Annual Academy of Country Music Awards and designating October 1, 2005, as Neal McCoy Day in Texas.

The resolutions were adopted.

(Pitts now present)

**HB 3540 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3540, A bill to be entitled An Act relating to certain fiscal matters affecting governmental entities; providing penalties.

Representative Pitts moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3540**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3540**: Pitts, chair; Berman; Isett; Peña; and McClendon.

MESSAGE FROM THE SENATE

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

(B. Cook in the chair)

HB 840 - VOTE RECONSIDERED

Representative Riddle moved to reconsider the vote by which the house concurred in senate amendments to **HB 840**.

The motion to reconsider prevailed.

ADJOURNMENT

Representative Chisum moved that the house adjourn until 10 a.m. tomorrow in memory of Brad Bourland, Secretary of University Masonic Lodge of Austin.

The motion prevailed.

The house accordingly, at 5:11 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 52

HB 137, HB 833, HB 1038, HB 1044, HB 1480, HB 1609, HB 1708, HB 2647, HB 2651, HB 3041, HB 3147, HB 3181, HB 3423, HJR 79

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 26, 2005

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 10 Pitts SPONSOR: Ogden
Relating to making supplemental appropriations and reductions in appropriations.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 120 Dawson SPONSOR: Zaffirini
Relating to the creation of a donor education, awareness, and registry program, the establishment of an organ donor and tissue council, and anatomical gift donation.
(COMMITTEE SUBSTITUTE)

HB 183 Brown, Fred SPONSOR: Zaffirini
Relating to the prosecution of offenses involving the use of safety belts and child passenger safety seat systems.
(AMENDED)

HB 467 Bailey SPONSOR: Gallegos
Relating to the financing of water and sewer programs in disadvantaged areas.
(COMMITTEE SUBSTITUTE/AMENDED)

- HB 603** Eissler SPONSOR: Lindsay
Relating to the suspension, removal, or expulsion of a public school student.
(AMENDED)
- HB 607** Giddings SPONSOR: Ellis
Relating to the delivery of blank check forms; providing a civil penalty.
(COMMITTEE SUBSTITUTE)
- HB 925** Chavez SPONSOR: Lucio
Relating to creating an interagency work group on border issues.
(AMENDED)
- HB 1317** Driver SPONSOR: Armbrister
Relating to the licensing and regulation of certain electricians.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 1483** Frost SPONSOR: Eltife
Relating to the method of payment for a concealed handgun license and the fee for a duplicate or modified license.
(AMENDED)
- HB 1546** McClendon SPONSOR: Staples
Relating to the administration and use of the Texas rail relocation and improvement fund and the issuance of obligations for financing the relocation, construction, reconstruction, acquisition, improvement, rehabilitation, and expansion of certain rail facilities.
(AMENDED)
- HB 1687** Dutton SPONSOR: West, Royce
Relating to fees charged by a juvenile justice alternative education program.
- HB 1771** Delisi SPONSOR: Nelson
Relating to the Medicaid managed care delivery system.
(COMMITTEE SUBSTITUTE)
- HB 1867** Naishtat SPONSOR: Zaffirini
Relating to the transfer of money appropriated to provide care for certain persons in nursing facilities to provide community-based services to those persons.
(COMMITTEE SUBSTITUTE)
- HB 2145** Hupp SPONSOR: Deuell
Relating to prohibiting changes in certain prescription drug orders without the approval of the prescribing health care practitioner.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 2161** West, George "Buddy" SPONSOR: Seliger
Relating to the power of the Railroad Commission of Texas to adopt and enforce safety standards and practices applicable to the transportation by pipeline of certain substances and to certain pipeline facilities; imposing an administrative penalty.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 2199** Madden SPONSOR: Deuell
Relating to the salaries of a county elections administrator and the administrator's employees.

- HB 2201** Hughes SPONSOR: Estes
Relating to implementing a clean coal project in this state.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 2221** Luna SPONSOR: West, Royce
Relating to the territory of a public junior college district and to the provision of services by a junior college district to students residing outside the district.
(AMENDED)
- HB 2329** Morrison SPONSOR: Ogden
Relating to authorizing the issuance of revenue bonds or other obligations to fund capital projects at public institutions of higher education.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 2572** Truitt SPONSOR: Janek
Relating to the functions of local mental health and mental retardation authorities.
(AMENDED)
- HB 2667** Dutton SPONSOR: Gallegos
Relating to the election of a director of a municipal utility district.
(AMENDED)
- HB 2793** Bonnen SPONSOR: Jackson
Relating to the removal and collection of convenience switches from motor vehicles; providing penalties.
(AMENDED)
- HB 2795** Hartnett SPONSOR: Averitt
Relating to certain appointments made by the governor and the chief justice of the supreme court.
(AMENDED)
- HB 2815** Campbell SPONSOR: Madla
Relating to the Concho River Watermaster Program.
(AMENDED)
- HB 2876** Callegari SPONSOR: Armbrister
Relating to certificates of public convenience and necessity for water service and sewer service.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 2894** Phillips SPONSOR: Deuell
Relating to the marketing and sale of certain license plates by a private vendor.
(COMMITTEE SUBSTITUTE)
- HB 3001** Morrison SPONSOR: Duncan
Relating to the amount of the annual constitutional appropriation to certain agencies and institutions of higher education and to the allocation of those funds to those agencies and institutions.
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 3556** Brown, Betty SPONSOR: Deuell
Relating to the creation of Las Lomas Municipal Utility District No. 4 of Kaufman County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

(AMENDED)

HJR 54

McClendon

SPONSOR: Staples

Proposing a constitutional amendment creating the Texas rail relocation and improvement fund and authorizing grants of money and issuance of obligations for financing the relocation, construction, reconstruction, acquisition, improvement, rehabilitation, and expansion of certain rail facilities.

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 11

Senate Conferees: Staples - Chair/Ellis/Lindsay/Shapiro/Shapleigh

SB 409

Senate Conferees: Nelson - Chair/Estes/Fraser/Harris/Eltife

SB 419

Senate Conferees: Nelson - Chair/Deuell/Harris/Eltife/Zaffirini

SB 1830

Senate Conferees: Zaffirini - Chair/Averitt/Duncan/Ogden/Whitmire

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 26, 2005 - 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 154

Pitts

SPONSOR: Averitt

Designating the Lake Whitney area as the Getaway Capital of Texas.

HCR 172

Escobar

SPONSOR: Zaffirini

Designating Jim Hogg County as the official Vaquero Capital of Texas.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 26, 2005 - 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 GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 167

Senate Conferees: Jackson, Mike - Chair/Brimer/Fraser/Lucio/Madla

HB 182

Senate Conferees: Janek - Chair/Duncan/Eltife/Wentworth/Williams

HB 468

Senate Conferees: Jackson, Mike - Chair/Estes/Madla/Staples/Van de Putte

HB 905

Senate Conferees: Williams - Chair/Eltife/Janek/West, Royce/Zaffirini

HB 969

Senate Conferees: Hinojosa - Chair/Carona/Duncan/Seliger/Whitmire

HB 1358

Senate Conferees: Armbrister - Chair/Hinojosa/Jackson, Mike/Madla/Seliger

HB 2481

Senate Conferees: Harris - Chair/Armbrister/Ellis/Jackson, Mike/Shapiro

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 26, 2005 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 215 Dawson SPONSOR: Ellis
Instructing the enrolling clerk of the house to make corrections in **HB 1544**.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 293 (31 Yeas, 0 Nays)
SB 427 (31 Yeas, 0 Nays)
SB 495 (31 Yeas, 0 Nays)
SB 569 (31 Yeas, 0 Nays)
SB 624 (31 Yeas, 0 Nays)
SB 810 (31 Yeas, 0 Nays)
SB 1137 (31 Yeas, 0 Nays)
SB 1421 (31 Yeas, 0 Nays)
SB 1458 (30 Yeas, 1 Nay)
SB 1828 (31 Yeas, 0 Nays)
SB 1850 (31 Yeas, 0 Nays)

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 1048 (viva voce vote)
Senate Conferees: Seliger - Chair/Duncan/Hinojosa/Van de Putte/Whitmire

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 261 (31 Yeas, 0 Nays)
HB 1077 (31 Yeas, 0 Nays)
SB 1103 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

ENGROSSED

**May 25 - HCR 154, HCR 157, HCR 166, HCR 172, HCR 187,
HCR 188, HCR 193, HCR 208**

ENROLLED

May 25 - HB 209, HB 240, HB 248, HB 258, HB 345, HB 410, HB 549, HB 551, HB 841, HB 856, HB 993, HB 1059, HB 1107, HB 1137, HB 1170, HB 1179, HB 1213, HB 1224, HB 1235, HB 1283, HB 1394, HB 1481, HB 1485, HB 1645, HB 1697, HB 1747, HB 1791, HB 1892, HB 2017, HB 2018, HB 2019, HB 2080, HB 2108, HB 2172, HB 2193, HB 2200, HB 2272, HB 2701, HB 2868, HB 2932, HB 3098, HB 3111, HB 3113, HB 3199, HB 3263, HB 3481, HB 3527, HB 3534, HB 3546, HB 3569, HB 3574, HB 3582, HCR 6, HCR 195, HJR 87

SENT TO THE GOVERNOR

May 25 - HB 535, HB 628, HB 719, HB 812, HB 813, HB 839, HB 904, HB 960, HB 1141, HB 1186, HB 1262, HB 1271, HB 1382, HB 1409, HB 1428, HB 1474, HB 1558, HB 1577, HB 1587, HB 1863, HB 1901, HB 1997, HB 2025, HB 2037, HB 2079, HB 2174, HB 2322, HB 2336, HB 2374, HB 2410, HB 2420, HB 2451, HB 2619, HB 2685, HB 3486, HB 3517, HB 3525, HCR 93, HCR 131, HCR 159, HCR 202, HCR 211

SENT TO THE SECRETARY OF THE STATE

May 25 - HJR 6

