

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTIETH DAY — SATURDAY, MAY 28, 2005

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

The roll of the house was called and a quorum was announced present (Record 934).

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; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; 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; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Eissler; Goodman.

Absent — Giddings; Uresti.

The invocation was offered by Don R. Long, retired baptist minister, Austin, as follows:

Holy and merciful Heavenly Father in whom we live and move and have our being, we are assembled by your authority this day, and we pray your blessings upon each and every person in the Texas House chamber. May everyone endeavor to do your will for their lives and for the benefit of others who may need assistance in their lives today.

May these state representatives remember the words of Abraham Lincoln to his cabinet in the dark days of the Civil War, "Let us not pray that God be on our side, rather let us pray that we are on God's side."

Let it be said of Speaker Craddick as was said of Israel's great king, David, "And David shepherded them with integrity of heart; with skillful hands he led them." (Psalms 78:72) Amen.

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

LEAVES OF ABSENCE GRANTED

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

Eissler on motion of Flynn.

The following member was granted leave of absence for today because of a death in the family:

Goodman on motion of McReynolds.

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

Bailey on motion of Hochberg.

HR 2021 - READ (by Casteel)

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

HR 2021, Honoring Hannah Maenius of Fredericksburg High School for winning gold at the 2005 state track meet.

INTRODUCTION OF GUESTS

The speaker recognized Representative Casteel who introduced Hannah Maenius and her family.

(Woolley in the chair)

MESSAGES FROM THE SENATE

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

SB 52 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Hupp, the house granted the request of the senate for the appointment of a conference committee on **SB 52**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 52**: Hupp, chair; J. Davis; Naishtat; Reyna; and Eissler.

SB 444 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Hopson, the house granted the request of the senate for the appointment of a conference committee on **SB 444**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 444**: Hopson, chair; Elkins; Hughes; Vo; and Ritter.

(Speaker in the chair)

**SB 567 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative J. Keffer, the house granted the request of the senate for the appointment of a conference committee on **SB 567**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 567**: J. Keffer, chair; Paxton; Ritter; Edwards; and P. King.

**SB 825 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Solomons, the house granted the request of the senate for the appointment of a conference committee on **SB 825**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 825**: Solomons, chair; F. Brown; Uresti; Otto; and Pickett.

(Woolley in the chair)

**SB 872 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Truitt, the house granted the request of the senate for the appointment of a conference committee on **SB 872**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 872**: Delisi, chair; Truitt; Coleman; Dawson; and McReynolds.

(Giddings now present)

**HCR 218 - ADOPTED
(by Driver)**

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HCR 218**.

The motion prevailed.

The following resolution was laid before the house:

HCR 218, In memory of Frank Elder, assistant chief of the Driver License Division of DPS.

HCR 218 was read and was unanimously adopted by a rising vote.

On motion of Representative Keel, the names of all the members of the house were added to **HCR 218** as signers thereof.

**SB 1188 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Delisi, the house granted the request of the senate for the appointment of a conference committee on **SB 1188**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1188**: Delisi, chair; Truitt; Coleman; Dawson; and McReynolds.

(Speaker in the chair)

**SB 1227 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Morrison, the house granted the request of the senate for the appointment of a conference committee on **SB 1227**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1227**: Morrison, chair; Rose; Branch; Harper-Brown; and J. Jones.

(Uresti now present)

**HR 1948 - READ
(by Martinez Fischer)**

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

HR 1948, Honoring Consuelo D. Rocha for her service to the citizens of San Antonio.

(J. Keffer in the chair)

HR 1948 - MOTION TO ADD NAMES

On motion of Representatives Villarreal, Leibowitz, Menendez, Castro, McClendon, Puente, and Uresti, the names of all the members of the house were added to **HR 1948** as signers thereof.

INTRODUCTION OF GUEST

The chair recognized Representatives Menendez, Puente, and Martinez Fischer who introduced Consuelo D. Rocha.

HR 2196 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 2196**, suspending the limitations on the conferees for **HB 1830**.

SB 1103 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hughes submitted the conference committee report on **SB 1103**.

Representative Hughes moved to adopt the conference committee report on **SB 1103**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 1103** prevailed by (Record 935): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; 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; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; 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.; 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.

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

Absent, Excused — Bailey; Eissler; Goodman.

HB 905 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Delisi submitted the following conference committee report on **HB 905** :

Austin, Texas, May 26, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 905** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Williams

Eltife

Janek

West

Zaffirini

On the part of the senate

Delisi

B. Cook

Swinford

Villarreal

Wong

On the part of the house

HB 905, A bill to be entitled An Act relating to the powers and duties of the state auditor in connection with state contracts.

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

SECTION 1. Section 321.020(a), Government Code, is amended to read as follows:

(a) Notwithstanding any other law, a state agency, or a corporation that is dedicated to the benefit of a state agency and that meets the criteria specified by Section B, Article 2.23B, Texas Non-Profit Corporation Act (Article 1396-2.23B, Vernon's Texas Civil Statutes), may employ a private auditor to audit the state agency or corporation only if:

(1) the agency or corporation is authorized to contract with a private auditor ~~do so by law or~~ through a delegation of authority from the state auditor;

(2) the scope of the proposed audit has been submitted to the state auditor for review and comment; and

(3) the services of the private auditor are procured through a competitive selection process in a manner allowed by law.

SECTION 2. Section 2262.003(a), Government Code, is amended to read as follows:

(a) Each state agency shall include in each of its contracts a term that provides that:

(1) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract; ~~and~~

(2) acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and

(3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

SECTION 3. The change in law made by this Act to Section 321.020(a), Government Code, applies only to a contract that is entered into, amended, extended, or renewed 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.

Representative Delisi moved to adopt the conference committee report on **HB 905**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 905** prevailed by (Record 936): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; 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; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; 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.; 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.

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

Absent, Excused — Bailey; Eissler; Goodman.

(Speaker in the chair)

**HB 2639 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2639, A bill to be entitled An Act relating to the powers and duties of the Tarrant Regional Water District.

Representative Geren moved to discharge the conferees and concur in the senate amendments to **HB 2639**.

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 2639, A bill to be entitled An Act relating to the powers and duties of the Tarrant Regional Water District.

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

SECTION 1. Section 17(a), Chapter 268, Acts of the 55th Legislature, Regular Session, 1957, is amended to read as follows:

(a) The district may make and enforce reasonable rules, permits, orders, and ordinances necessary to accomplish the district's authorized purposes, including:

(1) to secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of sanitary sewer systems;

(2) to preserve the sanitary condition of all land and water controlled by the district;

(3) to prevent the waste or unauthorized use of water;

(4) to regulate residing, hunting, fishing, boating, and camping, and all recreational and business privileges on any body or stream of water, or any body of land, or any easement owned or controlled by the district; ~~and~~

(5) to regulate privileges on any land, easement, or property interest adjoining a reservoir or other property of the district to prevent activities on such adjoining land, easement, or property interest that could adversely affect the purity of water in this state; and

(6) to promote state or local economic development and stimulate business and commercial activity in the district.

SECTION 2. Chapter 268, Acts of the 55th Legislature, Regular Session, 1957, is amended by adding Section 17A to read as follows:

Sec. 17A. A determination by the board of directors of the district that a public works project is intended to conserve and develop the natural resources of this state, to promote recreation or economic development, or to control, store, preserve, develop, or distribute the district's storm and flood waters, and the waters of the district's rivers and streams, is conclusive with regard to whether the project serves the purposes for which the district was created or authorized.

SECTION 3. Section 18, Chapter 268, Acts of the 55th Legislature, Regular Session, 1957, is amended to read as follows:

Sec. 18. The district may provide for or participate in the acquisition, construction, development, operation, or maintenance of recreational facilities to the full extent authorized by Section 59, Article XVI, Texas Constitution, the Water Code, or other applicable law.

SECTION 4. Chapter 268, Acts of the 55th Legislature, Regular Session, 1957, is amended by adding Section 18A to read as follows:

Sec. 18A. (a) The district may provide for or participate in the acquisition, construction, development, operation, or maintenance of facilities intended to promote economic development to the full extent authorized by Section 52-a, Article III, Texas Constitution.

(b) The district may engage in activities intended to stimulate business and commercial activity in the district, including making loans or grants of money for economic development purposes in accordance with Section 52-a, Article III, Texas Constitution, and may acquire for economic development purposes the fee simple title or a lesser property interest in land for the district's use or for the sale or lease of the land for a reclamation, economic development, or water control or development project.

(c) The district may sponsor and participate in an economic development program intended to strengthen the economic base and further the economic development of this state.

(d) A determination by the board of directors of the district that an economic development program is intended and expected to accomplish the program's stated purposes is conclusive with respect to whether the program serves the purposes of this section.

(e) An economic development program must be within the boundaries of the district.

(f) An economic development program may be established only by formal action of the board of directors of the district.

(g) If the board of directors of the district establishes an economic development program, the board must:

(1) establish the goals of the program;

(2) impose requirements on persons participating in or receiving a benefit from the program; and

(3) provide restrictions, procedures, and budget limits that the board of directors determines are necessary to ensure that the governmental purposes of this section and the program are achieved.

(h) An economic development program may involve the granting or lending of money, services, or property to a person engaged in an economic development activity.

(i) The district may employ staff and spend its resources, other than money received from an ad valorem tax or a general appropriation, to further an economic development program.

(j) The district may apply for and receive money, grants, or other assistance from any source to implement an economic development program.

(k) The district and any public or private person may enter into an agreement concerning an economic development program, including an agreement under Chapter 791, Government Code.

SECTION 5. Chapter 268, Acts of the 55th Legislature, Regular Session, 1957, is amended by adding Section 18B to read as follows:

Sec. 18B. (a) The board of directors of the district may by resolution create one or more nonprofit corporations to act on behalf of the district as the district's authority and instrumentality.

(b) A nonprofit corporation created under Subsection (a) of this section shall:

(1) establish and maintain the principal office of the corporation inside the boundaries of the district; and

(2) exercise the corporation's powers relating to real property or tangible personal property only inside the boundaries of the district.

(c) Except as otherwise provided by this section, the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) applies to a corporation created under this section.

(d) Sections 5-20 and 33-36, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), apply to a corporation created under this section.

(e) A corporation created under this section may exercise any power of the district, but the corporation may exercise the power of eminent domain and the power to acquire, lease, purchase, or sell real property only on approval of the board of directors of the district. When exercising a power under this section, a corporation and the corporation's board of directors have the same powers as the district and the district's board of directors, including the power to issue bonds or other obligations or otherwise borrow money on behalf of the district to accomplish any purpose of the corporation.

(f) The board of directors of a corporation created under this section may exercise the power to issue an obligation granted to the governing body of an issuer under Chapter 1371, Government Code.

(g) A corporation created under this section and the district may:

(1) share officers, directors, employees, equipment, and facilities; and

(2) provide goods and services to each other at cost without the requirement of competitive bidding.

(h) The board of directors of the district shall appoint the directors of a corporation created under this section. The directors of the corporation serve at the will of the district's board of directors.

(i) A member of the district's board of directors may serve as a member of the corporation's board of directors.

(j) The budget of a corporation created under this section must be approved by the board of directors of the district.

(k) The activities of the district's corporation are subject to the continuing review and supervision of the district's board of directors.

(l) The issuance of bonds or other obligations under this Act by a corporation created under this section must be approved by the board of directors of the district.

(m) The district's board of directors may sell, lease, loan, or otherwise transfer some, all, or substantially all of the real property of the district to a corporation created under this section. The property transfer must be made under terms approved by the board of directors of the district.

(n) Under Section 52-a, Article III, Texas Constitution, a corporation that has been created in accordance with this section may guarantee or otherwise provide credit support for any public security or other obligation or contract of the corporation if the board of directors of the district determines that the guarantee or other credit agreement:

(1) is beneficial to a public purpose of the district; and

(2) is for the public purpose of:

(A) the development and diversification of the economy of this state;

(B) the elimination of unemployment or underemployment in this state; or

(C) the development or expansion of commerce in this state.

(o) A determination by the board of directors of the district under Subsection (n) of this section is conclusive.

(p) A guarantee or other credit agreement authorized by Subsection (n) of this section may provide for the guarantee of or other credit support for public securities or other obligations or contracts of the corporation, all or a portion of which may be authorized, executed, and delivered in the future.

(q) Chapter 1202, Government Code, applies to a guarantee or other credit agreement under this section as if the guarantee or other credit agreement were a public security.

SECTION 6. Section 21, Chapter 268, Acts of the 55th Legislature, Regular Session, 1957, is amended to read as follows:

Sec. 21. (a) Subchapter I, Chapter 49, Water Code, applies to the district, except when the district is purchasing goods or services described by Section 252.022, Local Government Code.

(b) The district may use the competitive proposal method when the board of directors of the district determines that doing so is in the best interest of the district.

SECTION 7. REPEALER. Title 128, Article 8280-144, Vernon's Texas Civil Statutes Acts of the 52nd Legislature, Regular Session, 1951, is repealed. Any property or other assets of an entity abolished under this section shall vest in the entity created by Acts of the 78th Legislature, Regular Session, Chapter 385, 2003 Tex. Gen. Laws 1615, May 28, 2003.

SECTION 8. This Act takes effect September 1, 2005.

HB 182 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Mowery submitted the following conference committee report on **HB 182** :

Austin, Texas, May 26, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 182** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Janek	Mowery
Duncan	Truitt
Eltife	Veasey
Wentworth	Wong
Williams	Gonzales
On the part of the senate	On the part of the house

HB 182, A bill to be entitled An Act relating to the appeal of certain ad valorem tax determinations through binding arbitration.

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

SECTION 1. Subtitle F, Title 1, Tax Code, is amended by adding Chapter 41A to read as follows:

CHAPTER 41A. APPEAL THROUGH BINDING ARBITRATION

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. As an alternative to filing an appeal under Section 42.01, a property owner is entitled to appeal through binding arbitration under this chapter an appraisal review board order determining a protest concerning the appraised or market value of real property if:

(1) the appraised or market value, as applicable, of the property as determined by the order is \$1 million or less; and

(2) the appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property.

Sec. 41A.02. NOTICE OF RIGHT TO ARBITRATION. An appraisal review board that delivers notice of issuance of an order described by Section 41A.01 and a copy of the order to a property owner as required by Section 41.47 shall include with the notice and copy:

(1) a notice of the property owner's rights under this chapter; and

(2) a copy of the form prescribed under Section 41A.04.

Sec. 41A.03. REQUEST FOR ARBITRATION. (a) To appeal an appraisal review board order under this chapter, a property owner must file with the appraisal district not later than the 45th day after the date the property owner receives notice of the order:

(1) a completed request for binding arbitration under this chapter in the form prescribed by Section 41A.04; and

(2) an arbitration deposit in the amount of \$500, made payable to the comptroller.

(b) A property owner who fails to strictly comply with this section waives the property owner's right to request arbitration under this chapter. A property owner who appeals an appraisal review board order determining a protest concerning the appraised or market value, as applicable, of the owner's property under Chapter 42 waives the owner's right to request binding arbitration under this chapter regarding the value of that property. An arbitrator shall dismiss any pending arbitration proceeding if the property owner's rights are waived under this subsection.

Sec. 41A.04. CONTENTS OF REQUEST FORM. The comptroller by rule shall prescribe the form of a request for binding arbitration under this chapter. The form must require the property owner to provide only:

(1) a brief statement that explains the basis for the property owner's appeal of the appraisal review board order;

(2) a statement of the property owner's opinion of the appraised or market value, as applicable, of the property that is the subject of the appeal; and

(3) any other information reasonably necessary for the appraisal district to request appointment of an arbitrator.

Sec. 41A.05. PROCESSING OF REGISTRATION REQUEST. (a) Not later than the 10th day after the date an appraisal district receives from a property owner a completed request for binding arbitration under this chapter and an arbitration deposit as required by Section 41A.03, the appraisal district shall:

(1) certify the request;

(2) submit the request and deposit to the comptroller; and

(3) request the comptroller to appoint a qualified arbitrator to conduct the arbitration.

(b) The comptroller may retain an amount equal to 10 percent of the deposit to cover the comptroller's administrative costs.

Sec. 41A.06. REGISTRY AND QUALIFICATIONS OF ARBITRATORS.

(a) The comptroller shall maintain a registry listing the qualified persons who have agreed to serve as arbitrators under this chapter.

(b) To qualify to serve as an arbitrator under this chapter, a person must:

(1) have completed at least 30 hours of training in arbitration and alternative dispute resolution procedures from a university, college, or legal or real estate trade association;

(2) be licensed as a real estate broker or salesperson under Chapter 1101, Occupations Code, or be licensed or certified as a real estate appraiser under Chapter 1103, Occupations Code; and

(3) agree to conduct an arbitration for a fee that is not more than 90 percent of the amount of the arbitration deposit required by Section 41A.03.

Sec. 41A.07. APPOINTMENT OF ARBITRATOR. (a) On receipt of the request and deposit under Section 41A.05, the comptroller shall send the property owner and the appraisal district a copy of the comptroller's registry of qualified arbitrators and request that the parties select an arbitrator from the registry. The comptroller may send a copy of the registry to the parties by regular mail in paper form or may send the parties written notice of the Internet address of a website at which the registry is maintained and may be accessed. The parties shall attempt to select an arbitrator from the registry.

(b) Not later than the 20th day after the date the parties receive the copy of the registry or notice of the Internet address of the registry website, the appraisal district shall notify the comptroller that:

(1) the parties have selected an arbitrator and request that the comptroller appoint the selected arbitrator; or

(2) the parties were unable to select an arbitrator and request the comptroller to appoint an arbitrator.

(c) On receipt of notice from the appraisal district under Subsection (b), the comptroller shall:

(1) appoint:

(A) the arbitrator selected under Subsection (b)(1), if applicable; or

(B) any arbitrator included in the comptroller's registry, if Subsection (b)(2) applies; and

(2) send notice to the arbitrator appointed, requesting that the arbitrator conduct the arbitration.

(d) If the arbitrator appointed is unable or unwilling to conduct the arbitration for any reason, the arbitrator shall promptly notify the comptroller that the arbitrator does not accept the appointment and state the reason. The comptroller shall appoint a substitute arbitrator promptly after receipt of the notice.

Sec. 41A.08. NOTICE AND HEARING; REPRESENTATION OF PARTIES. (a) On acceptance of an appointment to conduct an arbitration under this chapter, the arbitrator shall set the date, time, and place of a hearing on the arbitration. The arbitrator shall give notice of and conduct the hearing in the manner provided by Subchapter C, Chapter 171, Civil Practice and Remedies Code. The arbitrator:

(1) shall continue a hearing if both parties agree to the continuance; and

(2) may continue a hearing for reasonable cause.

(b) The parties to an arbitration proceeding under this chapter may represent themselves or may be represented by:

- (1) an employee of the appraisal district;
- (2) an attorney who is licensed in this state;
- (3) a person who is licensed as a real estate broker or salesperson under Chapter 1101, Occupations Code, or is licensed or certified as a real estate appraiser under Chapter 1103, Occupations Code; or
- (4) a property tax consultant registered under Chapter 1152, Occupations Code.

Sec. 41A.09. AWARD; PAYMENT OF ARBITRATOR'S FEE. (a) Not later than the 20th day after the date the hearing under Section 41A.08 is concluded, the arbitrator shall make an arbitration award and deliver a copy of the award to the property owner, appraisal district, and comptroller.

(b) An award under this section:

- (1) must include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal;
- (2) may include any remedy or relief a court may order under Chapter 42 in an appeal relating to the appraised or market value of property;
- (3) shall specify the arbitrator's fee, which may not exceed the amount provided by Section 41A.06(b)(3);
- (4) is final and may not be appealed except as permitted under Section 171.088, Civil Practice and Remedies Code, for an award subject to that section; and
- (5) may be enforced in the manner provided by Subchapter D, Chapter 171, Civil Practice and Remedies Code.

(c) If the arbitrator determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration submitted under Section 41A.03 than the value determined by the appraisal review board:

- (1) the comptroller, on receipt of a copy of the award, shall refund the property owner's arbitration deposit, less the amount retained by the comptroller under Section 41A.05(b);
- (2) the appraisal district, on receipt of a copy of the award, shall pay the arbitrator's fee; and
- (3) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the arbitrator's determination.

(d) If the arbitrator determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration submitted under Section 41A.03 than the value determined by the appraisal review board:

- (1) the comptroller, on receipt of a copy of the award, shall:
 - (A) pay the arbitrator's fee out of the owner's arbitration deposit;
- and

(B) refund to the owner the owner's arbitration deposit, less the arbitrator's fee and the amount retained by the comptroller under Section 41A.05(b); and

(2) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the arbitrator's determination if the value as determined by the arbitrator is less than the value as determined by the appraisal review board.

(e) The comptroller by rule may prescribe a standard form for an award and may require arbitrators to use the award form when making awards under this chapter.

Sec. 41A.10. PAYMENT OF TAXES PENDING APPEAL. (a) The pendency of an appeal under this chapter does not affect the delinquency date for the taxes on the property subject to the appeal. A property owner who appeals an appraisal review board order under this chapter shall pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute. If the final determination of an appeal under this chapter decreases the property owner's tax liability to less than the amount of taxes paid, the taxing unit shall refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

(b) A property owner may not file an appeal under this chapter if the taxes on the property subject to the appeal are delinquent. An arbitrator who determines that the taxes on the property subject to an appeal are delinquent shall dismiss the pending appeal with prejudice. If an appeal is dismissed under this subsection, the comptroller shall refund the property owner's arbitration deposit, less the amount retained by the comptroller under Section 41A.05(b).

Sec. 41A.11. POSTAPPEAL ADMINISTRATIVE PROCEDURES. An arbitration award under this chapter is considered to be a final determination of an appeal for purposes of Subchapter C, Chapter 42.

Sec. 41A.12. USE OF PROPERTIES AS SAMPLES. An arbitrator's determination of market value under this chapter is the market value of the property subject to the appeal for the purposes of the annual study conducted under Section 403.302, Government Code.

Sec. 41A.13. RULES. The comptroller may adopt rules necessary to implement and administer this chapter.

SECTION 2. As soon as practicable after the effective date of this Act, but not later than January 1, 2006, the comptroller shall:

(1) prescribe the model form for an arbitration request as provided by Section 41A.04, Tax Code, as added by this Act; and

(2) establish a registry of qualified arbitrators as provided by Section 41A.06(a), Tax Code, as added by this Act.

SECTION 3. This Act takes effect September 1, 2005.

Representative Mowery moved to adopt the conference committee report on **HB 182.**

The motion to adopt the conference committee report on **HB 182** 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: A. Allen, Herrero, and Leibowitz recorded voting no.)

HB 836 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hopson submitted the following conference committee report on **HB 836** :

Austin, Texas, May 27, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 836** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ogden
Armbrister
Deuell
Nelson
Gallegos

On the part of the senate

Gattis
Rose
Van Arsdale
Paxton
Hopson

On the part of the house

HB 836, A bill to be entitled An Act relating to certain requirements concerning the filling of a prescription.

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

SECTION 1. Subchapter A, Chapter 562, Occupations Code, is amended by adding Section 562.003 to read as follows:

Sec. 562.003. DISCLOSURE OF PRICE; PATIENT'S OPTION. If the price of a drug to a patient is lower than the amount of the patient's copayment under the patient's prescription drug insurance plan, the pharmacist shall offer the patient the option of paying for the drug at the lower price instead of paying the amount of the copayment.

SECTION 2. Section 562.009(a), Occupations Code, is amended to read as follows:

(a) Before delivery of a prescription for a generically equivalent drug, a [A] pharmacist must [who selects a generically equivalent drug as authorized by this subchapter shall:

[(+)] personally, or through the pharmacist's agent or employee;

(1) [,- and before delivery of a generically equivalent drug] inform the patient or the patient's agent that a less expensive generically equivalent drug is available [has been substituted] for the brand prescribed; and

(2) ask ~~that~~ the patient or the patient's agent to choose between the generically equivalent drug and the brand prescribed. ~~[is entitled to refuse that substitution; or~~

[(2) display, in a prominent place that is in clear public view where prescription drugs are dispensed, a sign in block letters not less than one inch in height that reads, in both English and Spanish:

~~["TEXAS LAW ALLOWS A LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG TO BE SUBSTITUTED FOR CERTAIN BRAND NAME DRUGS UNLESS YOUR PHYSICIAN DIRECTS OTHERWISE. YOU HAVE A RIGHT TO REFUSE SUCH SUBSTITUTION. CONSULT YOUR PHYSICIAN OR PHARMACIST CONCERNING THE AVAILABILITY OF A SAFE, LESS EXPENSIVE DRUG FOR YOUR USE."]~~

SECTION 3. Section 562.009, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) In addition to the requirements of Subsection (a), a pharmacist must display, in a prominent place that is in clear public view where prescription drugs are dispensed, a sign in block letters not less than one inch in height that reads, in both English and Spanish:

"TEXAS LAW REQUIRES A PHARMACIST TO INFORM YOU IF A LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG IS AVAILABLE FOR CERTAIN BRAND NAME DRUGS AND TO ASK YOU TO CHOOSE BETWEEN THE GENERIC AND THE BRAND NAME DRUG. YOU HAVE A RIGHT TO ACCEPT OR REFUSE THE GENERICALLY EQUIVALENT DRUG."

SECTION 4. Section 562.009(b), Occupations Code, is amended to read as follows:

(b) A pharmacy is not required to comply with the provisions of Subsection (a):

(1) in the case of the refill of a prescription for which the pharmacy previously complied with Subsection (a) with respect to the same patient or patient's agent; or

(2) if the patient's physician or physician's agent advises the pharmacy that:

(A) the physician has informed the patient or the patient's agent that a less expensive generically equivalent drug is available for the brand prescribed; and

(B) the patient or the patient's agent has chosen either the brand prescribed or the less expensive generically equivalent drug. ~~[To comply with Subsection (a)(2), only one sign is required to be displayed in a pharmacy.]~~

SECTION 5. Section 562.009, Occupations Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A pharmacy that supplies a prescription by mail is considered to have complied with the provisions of Subsection (a) if the pharmacy includes on the prescription order form completed by the patient or the patient's agent language that clearly and conspicuously:

(1) states that if a less expensive generically equivalent drug is available for the brand prescribed, the patient or the patient's agent may choose between the generically equivalent drug and the brand prescribed; and

(2) allows the patient or the patient's agent to indicate the choice of the generically equivalent drug or the brand prescribed.

(d) If the patient or the patient's agent fails to indicate otherwise to a pharmacy on the prescription order form under Subsection (c), the pharmacy may dispense a generically equivalent drug.

SECTION 6. (a) The Texas State Board of Pharmacy shall prescribe and distribute the sign required by Section 562.009(a-1), Occupations Code, as added by this Act. A pharmacist is not required to display the sign until the pharmacist receives the sign from the Texas State Board of Pharmacy.

(b) Not later than January 1, 2006, a pharmacy that supplies a prescription by mail must comply with the provisions of Section 562.009(c), Occupations Code, as added by this Act, for each prescription that the pharmacy supplies by mail.

SECTION 7. This Act takes effect September 1, 2005.

Representative Hopson moved to adopt the conference committee report on **HB 836**.

The motion to adopt the conference committee report on **HB 836** 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.)

HB 1048 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Chisum submitted the following conference committee report on **HB 1048** :

Austin, Texas, May 26, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1048** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Seliger
Whitmire
Hinojosa
Van de Putte
Duncan

On the part of the senate

Chisum
Blake
Jackson
Leibowitz
Vo

On the part of the house

HB 1048, A bill to be entitled An Act relating to the seizure of property by law enforcement, the treatment of that property in a criminal proceeding, and the forfeiture of certain criminal contraband.

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

SECTION 1. Articles 2.21(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) At any time during or after a criminal proceeding, the court reporter shall release for safekeeping any firearm or contraband received as an exhibit in that proceeding to:

(1) the sheriff; or

(2) in a county with a population of 500,000 or more, the law enforcement agency that collected, seized, or took possession of the firearm or contraband or produced the firearm or contraband at the proceeding [~~for safekeeping any firearm or contraband received by the court as an exhibit in that proceeding~~].

(c) The sheriff or the law enforcement agency, as applicable, shall receive and hold the exhibits consisting of firearms or contraband and release them only to the person or persons authorized by the court in which such exhibits have been received or dispose of them as provided by Chapter 18 [~~of this code~~].

SECTION 2. Article 18.09, Code of Criminal Procedure, is amended to read as follows:

Art. 18.09. SHALL SEIZE ACCUSED AND PROPERTY. When the property which the officer is directed to search for and seize is found he shall take possession of the same and carry it before the magistrate. He shall also arrest any person whom he is directed to arrest by the warrant and immediately take such person before the magistrate. For purposes of this chapter, "seizure," in the context of property, means the restraint of property, whether by physical force or by a display of an officer's authority, and includes the collection of property or the act of taking possession of property.

SECTION 3. Article 59.01(8), Code of Criminal Procedure, is amended to read as follows:

(8) "Seizure" means the restraint of property by a peace officer under Article 59.03(a) or (b) of this code, whether the officer restrains the property by physical force or by a display of the officer's authority, and includes the collection of property or the act of taking possession of property.

SECTION 4. Article 59.01(2), Code of Criminal Procedure, as amended by Section 2.141, Chapter 198, Section 17, Chapter 257, and Section 3, Chapter 649, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code; or

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 152, Finance Code; ~~(vii)~~

(vii) any felony under Chapter 31, 32, or 37, Penal Code, that involves the state Medicaid program, or any felony under Chapter 36, Human Resources Code; or

(viii) a Class B misdemeanor under Section 35.60 ~~[35.58]~~, Business & Commerce Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii) ~~[(B)(vii)]~~ of this subdivision, or a crime of violence; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii) ~~[(B)(vii)]~~ of this subdivision, or a crime of violence.

SECTION 5. The change in law made by Section 4 of this Act applies only to the forfeiture of contraband used in the commission of an offense under Section 20.05, Penal Code, committed on or after the effective date of this Act. Forfeiture of contraband used in the commission of an offense under Section 20.05, Penal Code, 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 is committed before the effective date of this Act if any element of the offense occurs before that date.

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

Representative Chisum moved to adopt the conference committee report on **HB 1048**.

The motion to adopt the conference committee report on **HB 1048** 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.)

**HB 1701 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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 to discharge the conferees and concur in the senate amendments to **HB 1701**.

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 1701, A bill to be entitled An Act relating to the defense of indigent persons accused of a criminal offense.

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

SECTION 1. Section 71.0351, Government Code, is amended to read as follows:

Sec. 71.0351. INDIGENT DEFENSE INFORMATION. (a) In each county, not ~~[Not]~~ later than November ~~[January]~~ 1 of each odd-numbered year and in the form and manner prescribed by the Task Force on Indigent Defense, the following information shall be prepared and provided to the Office of Court Administration of the Texas Judicial System:

(1) ~~[, in each county,]~~ a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure, including the schedule of fees required under Article 26.05 of that code;

(2) any revisions to rules or forms previously submitted to the office of court administration under this section; or

(3) verification that rules and forms previously submitted to the office of court administration under this section still remain in effect~~[-, shall be prepared and sent to the Office of Court Administration of the Texas Judicial System in the form and manner prescribed by the office].~~

(b) Except as provided by Subsection (c):

(1) ~~[(b),]~~ the local administrative district judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to ~~[prepare and send to the office of court administration a copy of]~~ all rules and forms adopted by the judges of the district courts trying felony cases in the county; and

(2) ~~[- Except as provided by Subsection (b),]~~ the local administrative statutory county court judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to ~~[prepare and send to the office of court administration a copy of]~~ all rules and forms adopted by the judges of the county courts and statutory county courts trying misdemeanor cases in the county.

(c) ~~[(b)]~~ If the judges of two or more levels of courts described by Subsection (b) adopt the same formal and informal rules and forms ~~[as described by Subsection (a)],~~ the local administrative judge serving the courts having jurisdiction over offenses with the highest classification of punishment, or the

person designated by the judge, shall perform the action required by Subsection (a) [~~prepare and send to the Office of Court Administration of the Texas Judicial System a copy of the rules and forms~~].

(d) The chair of the juvenile board in each county, or the person designated by the chair, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the juvenile board.

(e) [(e)] In each county, the county auditor, or the person designated by the commissioners court if the county does not have a county auditor, shall prepare and send to the Office of Court Administration of the Texas Judicial System in the form and manner prescribed by the Task Force on Indigent Defense [~~office~~] and on a monthly, quarterly, or annual basis, with respect to legal services provided in the county to indigent defendants during each fiscal year, information showing the total amount expended by the county to provide indigent defense services and an analysis of the amount expended by the county:

- (1) in each district, county, statutory county, and appellate court;
- (2) in cases for which a private attorney is appointed for an indigent defendant;
- (3) in cases for which a public defender is appointed for an indigent defendant;
- (4) in cases for which counsel is appointed for an indigent juvenile under Section 51.10(f), Family Code; and
- (5) for investigation expenses, expert witness expenses, or other litigation expenses.

(f) [(f)] As a duty of office, each district and county clerk shall cooperate with the county auditor or the person designated by the commissioners court and the commissioners court in retrieving information required to be sent to the Office of Court Administration of the Texas Judicial System under this section and under a reporting plan developed by the Task Force on Indigent Defense under Section 71.061(a).

~~[(e) On receipt of information required under this section, the Office of Court Administration of the Texas Judicial System shall forward the information to the Task Force on Indigent Defense.]~~

SECTION 2. Sections 71.053(a) and (b), Government Code, are amended to read as follows:

(a) The governor shall appoint with the advice and consent of the senate five members of the Task Force on Indigent Defense as follows:

- (1) one member who is a a [~~an active~~] district judge serving as a presiding judge of an administrative judicial region;
- (2) one member who is a judge of a constitutional county court or who is a county commissioner;
- (3) one member who is a practicing criminal defense attorney;
- (4) one member who is a public defender or who is employed by a public defender; and
- (5) one member who is a judge of a constitutional county court or who is a county commissioner of a county with a population of 250,000 or more.

(b) The members serve staggered terms of two years, with two members' terms expiring February 1 of each odd-numbered year and three [~~two~~] members' terms expiring February 1 of each even-numbered year.

SECTION 3. Section 71.059(b), Government Code, is amended to read as follows:

(b) The State Grants Team of the Governor's Office of Budget, ~~and~~ Planning, and Policy may assist the Task Force on Indigent Defense in identifying grants and other resources available for use by the task force in performing its duties under this subchapter.

SECTION 4. Section 71.061(b), Government Code, is amended to read as follows:

(b) The Task Force on Indigent Defense shall annually submit to the governor, lieutenant governor, speaker of the house of representatives, and council and shall publish in written and electronic form a report:

(1) containing the information submitted [~~forwarded to the task force from the Office of Court Administration of the Texas Judicial System~~] under Section 71.0351 [~~71.0351(e)~~]; and

(2) regarding:

(A) the quality of legal representation provided by counsel appointed to represent indigent defendants;

(B) current indigent defense practices in the state as compared to state and national standards;

(C) efforts made by the task force to improve indigent defense practices in the state; and

(D) recommendations made by the task force for improving indigent defense practices in the state.

SECTION 5. Section 2(d), Article 11.071, Code of Criminal Procedure, is amended to read as follows:

(d) The court of criminal appeals shall adopt rules for the appointment of attorneys as counsel under this section and the convicting court may appoint an attorney as counsel under this section only if the appointment is approved by the court of criminal appeals in any manner provided by those rules. The rules must require that an attorney appointed as lead counsel under this section not have been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case.

SECTION 6. Article 26.044(a), Code of Criminal Procedure, is amended to read as follows:

(a) In this chapter:

(1) "Governmental entity" includes a county, a group of counties, a branch or agency of a county, an administrative judicial region created by Section 74.042, Government Code, and any entity created under the Interlocal Cooperation Act as permitted by Chapter 791, Government Code.

(2) "Public [~~public~~] defender" means a governmental entity or nonprofit corporation:

(A) [~~(+)~~] operating under a written agreement with a governmental entity, other than an individual judge or court;

(B) ~~[(2)]~~ using public funds; and

(C) ~~[(3)]~~ providing legal representation and services to indigent defendants accused of a crime or juvenile offense, as those terms are defined by Section 71.001, Government Code.

SECTION 7. Article 26.052(d), Code of Criminal Procedure, is amended to read as follows:

(d)(1) The committee shall adopt standards for the qualification of attorneys to be appointed to represent indigent defendants in capital cases in which the death penalty is sought.

(2) The standards must require that a trial ~~[an]~~ attorney appointed as lead counsel to a capital ~~[death penalty]~~ case or an attorney appointed as lead appellate counsel in the direct appeal of a capital case:

(A) be a member of the State Bar of Texas;

(B) exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases;

(C) have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case;

(D) have at least five years of experience in criminal litigation;

(E) ~~[(D)]~~ have tried to a verdict as lead defense counsel a significant number of felony cases, including homicide trials and other trials for offenses punishable as second or first degree felonies or capital felonies;

(F) ~~[(E)]~~ have trial experience in:

(i) the use of and challenges to mental health or forensic expert witnesses; and

(ii) investigating and presenting mitigating evidence at the penalty phase of a death penalty trial; and

(G) ~~[(F)]~~ have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases.

(3) The committee shall prominently post the standards in each district clerk's office in the region with a list of attorneys qualified for appointment.

(4) Not later than the second anniversary of the date an attorney is placed on the list of attorneys qualified for appointment in death penalty cases and each year following the second anniversary, the attorney must present proof to the committee that the attorney has successfully completed the minimum continuing legal education requirements of the State Bar of Texas, including a course or other form of training relating to the defense of death penalty cases. The committee shall remove the attorney's name from the list of qualified attorneys if the attorney fails to provide the committee with proof of completion of the continuing legal education requirements.

SECTION 8. The court of criminal appeals shall amend rules adopted under Section 2(d), Article 11.071, Code of Criminal Procedure, as necessary to comply with that section, as amended by this Act, not later than January 1, 2006.

SECTION 9. A local selection committee shall amend standards previously adopted by the committee to conform with the requirements of Article 26.052(d), Code of Criminal Procedure, as amended by this Act, not later than the 75th day after the effective date of this Act. An attorney appointed to a death penalty case

on or after the 75th day after the effective date of this Act must meet the standards adopted in conformity with the amended Article 26.052(d). An attorney appointed to a death penalty case before the 75th day after the effective date of this Act is covered by the law in effect when the attorney was appointed, and the former law is continued in effect for that purpose.

SECTION 10. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

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. 54).

PROVIDING FOR RECESS

The speaker announced that the house would stand recessed until 8 p.m. today pending the receipt of messages from the senate.

(Keel in the chair)

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 3, 4, and 5).

(Alonzo in the chair)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 6).

RECESS

At 7:59 p.m., the chair announced that the house would stand recessed until 8 p.m. today.

NIGHT SESSION

The house met at 8 p.m. and was called to order by the speaker.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 32).

SB 14 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Taylor, the house granted the request of the senate for the appointment of a conference committee on **SB 14**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 14**: Smithee, chair; Eiland; Van Arsdale; Taylor; and Seaman.

**SB 39 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Goolsby, the house granted the request of the senate for the appointment of a conference committee on **SB 39**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 39**: Goolsby, chair; Harper-Brown; Hodge; Rose; and Keel.

**SB 265 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative B. Keffer, the house granted the request of the senate for the appointment of a conference committee on **SB 265**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 265**: B. Keffer, chair; Taylor; Van Arsdale; Driver; and Seaman.

**SB 568 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Truitt, the house granted the request of the senate for the appointment of a conference committee on **SB 568**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 568**: Truitt, chair; McReynolds, Zedler; Solis; and Dawson.

(Van Arsdale in the chair)

**SB 805 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Taylor, the house granted the request of the senate for the appointment of a conference committee on **SB 805**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 805**: Taylor, chair; Seaman; B. Keffer; Van Arsdale; and Thompson.

**SB 809 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Taylor, the house granted the request of the senate for the appointment of a conference committee on **SB 809**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 809**: Taylor, chair; Seaman; Thompson; B. Keffer; and Eiland.

(Taylor in the chair)

**SB 882 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Naishtat, the house granted the request of the senate for the appointment of a conference committee on **SB 882**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 882**: A. Allen, chair; Naishtat; J. Davis; Hupp; and Reyna.

**SB 408 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative P. King, the house granted the request of the senate for the appointment of a conference committee on **SB 408**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 408**: P. King, chair; Crabb; Turner; Hunter; and Baxter.

**SB 1189 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hartnett, the house granted the request of the senate for the appointment of a conference committee on **SB 1189**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1189**: Hartnett, chair; Dawson; Gattis; Hovson; and Anchia.

**HR 2196 - ADOPTED
(by Wong)**

The following privileged resolution was laid before the house:

HR 2196

BE IT RESOLVED by the House of Representatives of the 79th Texas Legislature, Regular Session, 2005, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 1830** (notice provided for the establishment of municipal management districts), to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change the text of added Section 313.006(d), Government Code, to read as follows:

(d) The person is not required to mail notice to a person who owns real property in the proposed district if the property cannot be subject to an assessment by the district.

Explanation: The change is necessary to conform Section 313.006(d) to the other subsections.

HR 2196 was adopted.

HB 1830 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Wong submitted the following conference committee report on **HB 1830** :

Austin, Texas, May 27, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1830** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis, Rodney

Madla

Lindsay

Wentworth

On the part of the senate

Wong

Talton

Nixon

Van Arsdale

On the part of the house

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

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

SECTION 1. Chapter 313, Government Code, is amended by adding Section 313.006 to read as follows:

Sec. 313.006. NOTICE FOR LAWS ESTABLISHING MUNICIPAL MANAGEMENT DISTRICTS. (a) In addition to the other requirements of this chapter, a person, other than a member of the legislature, who intends to apply for the passage of a law establishing a special district that incorporates a power from Chapter 375, Local Government Code, must provide notice as provided by this section.

(b) The person shall notify by mail each person who owns real property in the proposed district, according to the most recent certified tax appraisal roll for the county in which the real property is owned. The notice, properly addressed with postage paid, must be deposited with the United States Postal Service not later than the 30th day before the date on which the intended law is introduced in the legislature.

(c) The notice is sufficient if it contains a statement of the general purpose and substance of the intended law. Notice of the particular form of the intended law or the terms used in the intended law is not required.

(d) The person is not required to mail notice to a person who owns real property in the proposed district if the property cannot be subject to an assessment by the district.

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.

Representative Wong moved to adopt the conference committee report on **HB 1830**.

The motion to adopt the conference committee report on **HB 1830** 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.)

SB 1641 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Griggs submitted the conference committee report on **SB 1641**.

Representative Griggs moved to adopt the conference committee report on **SB 1641**.

A record vote was requested.

The motion to adopt the conference committee report on **SB 1641** prevailed by (Record 937): 142 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; 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; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; 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; 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; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Laubenberg.

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

Absent, Excused — Bailey; Eissler; Goodman.

Absent — Morrison.

STATEMENT OF VOTE

I was shown voting no on Record No. 937. I intended to vote yes.

Laubenberg

HB 167 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative W. Smith submitted the following conference committee report on **HB 167** :

Austin, Texas, May 26, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 167** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Jackson
Fraser
Lucio
Madla

W. Smith
Frost
Howard
McReynolds
West

On the part of the senate

On the part of the house

HB 167, A bill to be entitled An Act relating to the use of the development project fund by a municipal development district.

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

SECTION 1. Section 377.072, Local Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as provided by Subsection (d), the [The] district may use money in the development project fund only to:

- (1) pay the costs of planning, acquiring, establishing, developing, constructing, or renovating one or more development projects in the district;
- (2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the district or to refund bonds or other obligations; or
- (3) pay the costs of operating or maintaining one or more development projects during the planning, acquisition, establishment, development, construction, or renovation or while bonds or other obligations for the planning, acquisition, establishment, development, construction, or renovation are outstanding.

(d) A district located in a county with a population of 3.3 million or more may use money in the development project fund only to:

- (1) pay the costs of planning, acquiring, establishing, developing, constructing, or renovating one or more development projects beneficial to the district if the projects are in the district boundaries or the extraterritorial jurisdiction of the municipality where the district is located;
- (2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the district or to refund bonds or other obligations; or

(3) pay the costs of operating or maintaining one or more development projects during the planning, acquisition, establishment, development, construction, or renovation or while bonds or other obligations for the planning, acquisition, establishment, development, construction, or renovation are outstanding.

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.

Representative W. Smith moved to adopt the conference committee report on **HB 167**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 167** prevailed by (Record 938): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; 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; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; 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; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Bailey; Eissler; Goodman.

Absent — Flores.

HB 2438 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Haggerty submitted the following conference committee report on **HB 2438** :

Austin, Texas, May 26, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2438** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Armbrister
Harris
Fraser
Lucio

Haggerty
Hamilton
D. Jones
Guillen
Quintanilla

On the part of the senate

On the part of the house

HB 2438, A bill to be entitled An Act relating to the acquisition and regulation of manufactured homes.

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

SECTION 1. Section 1201.101(f), Occupations Code, is amended to read as follows:

(f) A person may not act as a salesperson of manufactured housing unless the person holds a salesperson's license [~~is a license holder~~]. A retailer or broker may not employ or otherwise use the services of a salesperson who is not licensed. A licensed salesperson may not participate in a sale of a manufactured home unless the sale is through the retailer who sponsored the salesperson's application as required by Section 1201.103(d).

SECTION 2. Section 1201.103(d), Occupations Code, is amended to read as follows:

(d) An applicant for a salesperson's license must:

(1) file with the director an application that provides [~~providing~~] any information the director considers necessary and that is sponsored by a licensed, bonded retailer; and

(2) pay the required fee.

SECTION 3. Section 1201.106(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license or a license holder shall file a bond or other security under Section 1201.105 for the issuance or renewal of a license in the following amount:

- (1) \$100,000 for a manufacturer;
- (2) \$50,000 for a retailer;
- (3) \$30,000 for a rebuilder;
- (4) \$50,000 [~~\$20,000~~] for a broker; or
- (5) \$10,000 for an installer.

SECTION 4. Section 1201.107, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) If a retailer or broker offers for sale or participates in any way in the sale of a manufactured home at a location other than an undivided parcel of real property where more than one manufactured home is located and offered for sale, exchange, or lease-purchase by a retailer or broker to the public, the retailer or broker must:

(1) identify the bond on file with the department in conjunction with that person's license; and

(2) provide contractually in the sales transaction that the identified bond applies to the sale.

SECTION 5. Sections 1201.113(a), (b), (e), and (g), Occupations Code, are amended to read as follows:

(a) The board shall recognize, prepare, or administer certification and continuing education programs for salespersons ~~[persons]~~ regulated under this chapter.

(b) A person who holds a salesperson's license ~~[holder]~~ must participate in certification and continuing education programs as provided by Subsection (e).

(e) A salesperson must complete eight hours of certification and continuing education programs not later than the 90th day after the date the salesperson's initial license is issued. To renew a salesperson's license, a salesperson ~~[Persons]~~ regulated under this chapter ~~[and directly involved in the sale of manufactured housing]~~ must complete an additional eight hours of certification and continuing education programs for each renewal ~~[each year]~~. The programs must be presented by a board-approved organization or educational institution and must include instruction in applicable ~~[address]~~ state and federal law, ~~[applicable to all manufactured housing retailer practices and relevant]~~ consumer protection regulations, and ethical standards.

(g) The board shall suspend the license of a salesperson ~~[person]~~ regulated under this chapter who does not complete the programs as required by this section. The board shall reinstate the license on the salesperson's ~~[person's]~~ completion of the programs.

SECTION 6. Section 1201.114(a), Occupations Code, is amended to read as follows:

(a) A manufacturer's, retailer's, broker's, or installer's license is valid for one year. A salesperson's license is valid for two years. A license ~~[and]~~ may be renewed as provided by the director. A person whose license has been suspended or revoked or whose license has expired may not engage in activities that require a license until the license has been reinstated or renewed.

SECTION 7. Section 1201.151(d), Occupations Code, is amended to read as follows:

(d) This section does not apply to:

(1) a deposit held in escrow in a real estate transaction; or

(2) money stated to be a down payment in an executed retail ~~[installment]~~ sales contract.

SECTION 8. Section 1201.159(a), Occupations Code, is amended to read as follows:

(a) A broker shall ensure that the seller gives the buyer the applicable disclosures and warranties that the buyer would have received if the buyer had purchased the manufactured home through a licensed retailer ~~[may but is not required to be the agent of a party involved in the sale, exchange, or lease purchase of a manufactured home for which a statement of ownership and location has been issued and is outstanding].~~

SECTION 9. Sections 1201.163(a) and (b), Occupations Code, are amended to read as follows:

(a) In addition to the disclosure statement required by Section 1201.162, the department shall adopt rules creating a one-page form printed in at least 12-point type that addresses ~~[addressing]~~ consumer protection disclosures required in chattel mortgage transactions and shall prescribe the form for the disclosure statement. A consumer protection disclosure statement under this subsection may not contain any blank lines and must contain only ~~[include]~~ the following:

(1) a statement of the significant differences between chattel mortgages and real estate mortgages;

(2) an itemization of typical ~~[estimated closing]~~ costs associated with a chattel mortgage purchase of a manufactured home ~~[, if any]; and~~

(3) an example ~~[estimate of the total amount]~~ of monthly payments in three typical chattel mortgage transactions, including an estimate of the amount of the ~~[-~~

~~[(A)] principal, [and] interest, [payments;~~

~~[(B) costs of any] required insurance premium, [;] and~~

~~[(C) costs for payment of] ad valorem taxes [based on the current tax rate of each taxing unit in which the manufactured home will be located as applied to the sales price of the manufactured home;~~

~~[(4) a statement of the roles of the retailer and any affiliated parties in the financing of the first retail sale, as defined by Section 1201.201, and the estimated compensation that they will receive for providing or arranging the financing; and~~

~~[(5) any other disclosures required by state or federal law, including the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Section 2601 et seq.) and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.)].~~

(b) A retailer shall provide the consumer protection disclosure statement to the consumer ~~[at least 24 hours]~~ before the completion of the first credit application ~~[installment contract is fully executed, as provided by Section 1201.164].~~

SECTION 10. Section 1201.164(a), Occupations Code, is amended to read as follows:

(a) In a chattel mortgage transaction involving an installment contract, a retailer shall deliver to a consumer at least 24 hours before the contract is fully executed ~~[the disclosure statements required by this subchapter and]~~ the contract, with all required information included, signed by the retailer. The delivery of the ~~[disclosure statements and]~~ installment contract, with all required information included, signed by the retailer constitutes a firm offer by the retailer. The consumer may accept the offer not earlier than 24 hours after the delivery of the contract ~~[documents]~~. If the consumer has not accepted the offer within 72 hours after the delivery of the contract, the retailer may withdraw the offer.

SECTION 11. Section 1201.2055, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(d) If ~~[the department issues a statement of ownership and location to]~~ an owner elects ~~[who has elected]~~ to treat a manufactured home as real property, the department shall issue to the owner a certified copy of the statement of ownership and location that on its face reflects that the owner has elected to treat the manufactured home as real property at the location listed on the statement. Not later than the 60th day after the date the department issues a certified copy of the statement of ownership and location to the owner, the owner must:

(1) file the certified copy in the real property records of the county in which the home is located; and

(2) notify the department and the tax assessor-collector that the certified copy has been filed.

(e) A ~~[the]~~ manufactured home is not considered to be real property until a certified copy of the statement of ownership and location has been filed and the department and the tax assessor-collector have been notified of the filing as provided by Subsection (d).

(f) If notice is provided under Subsection (d), the department and the tax assessor-collector in a timely manner shall note in their records that a real property election has been perfected. If notice is not provided as described by Subsection (d), the department and the tax assessor-collector shall note in their records that a real property election has not been perfected and that the home remains personal property ~~[in the real property records of the county in which the home is located].~~

(g) After the department and the tax assessor-collector note in their records that a real property election has been perfected ~~[certified copy has been filed in the real property records of the county], the home is considered to be real property for all purposes~~ ~~[in the form of an improvement to the underlying real property on which the home is located. If a real property election has been made but a certified copy of the statement of ownership and location has not been filed as required by this subsection, the home continues to be treated as personal property until the certified copy is filed].~~

(h) The provisions of this chapter relating to the construction or installation of a manufactured home or to warranties for a manufactured home apply to a home regardless of whether the home is considered to be real or personal property.

SECTION 12. Section 1201.206(d), Occupations Code, is amended to read as follows:

(d) Not later than the 30th day after the date of each ~~[At a]~~ subsequent sale or transfer of a ~~[the]~~ home that is considered to be personal property, the seller ~~[purchaser]~~ or transferor ~~[transferee]~~ shall provide to the department a completed application ~~[apply]~~ for the issuance of a new statement of ownership and location.

SECTION 13. Section 1201.207(a), Occupations Code, is amended to read as follows:

(a) The department shall process any completed application for the issuance of a statement of ownership and location not later than the 15th ~~[10th]~~ working day after the date the application is received by the department. If the department

rejects an application, the department shall provide a clear and complete explanation of the reason for the rejection and instructions on how to cure any defects, if possible.

SECTION 14. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.2076 to read as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. The department may not issue a statement of ownership and location for a manufactured home that is being converted from real property to personal property until the department has inspected the home and determined that it is habitable and has notified the appropriate tax assessor-collector of the conversion and:

(1) each lien, including a tax lien, on the home is released by the lienholder; or

(2) each lienholder, including a taxing unit, gives written consent, to be placed on file with the department.

SECTION 15. Section 1201.209, Occupations Code, is amended to read as follows:

Sec. 1201.209. GROUND FOR REFUSAL TO ISSUE OR FOR SUSPENSION OR REVOCATION OF STATEMENT OF OWNERSHIP AND LOCATION. The department may not refuse to issue a statement of ownership and location and may not suspend or revoke a statement of ownership and location unless:

(1) the application for issuance of the statement of ownership and location contains a false or fraudulent statement, the applicant failed to provide information required by the director, or the applicant is not entitled to issuance of the statement of ownership and location;

(2) the director has reason to believe that the manufactured home is stolen or unlawfully converted, or the issuance of a statement of ownership and location would defraud the owner or a lienholder of the manufactured home;

(3) the director has reason to believe that the manufactured home is salvaged, and an application for the issuance of a new statement of ownership and location that indicates that the home is salvaged has not been filed;

(4) the required fee has not been paid;

(5) the state sales and use tax has not been paid in accordance with Chapter 158, Tax Code, and Section 1201.208; or

(6) a ~~local~~ tax lien was filed ~~[before September 1, 2001,]~~ and recorded under Section 1201.219 ~~[32.015, Tax Code, as that section existed on the date the lien was filed,]~~ and the lien has not been extinguished.

SECTION 16. Sections 1201.216(a) and (b), Occupations Code, are amended to read as follows:

(a) If the owner of a manufactured home notifies the department that the owner intends to treat the home as real property or to reserve its use for a business purpose or salvage, the [The] department shall indicate on the statement of ownership and location for the [a manufactured] home that:

(1) the owner of the home has elected to treat the home as real property or to reserve its use for a business purpose or salvage; and

(2) except as provided by Section 1201.2055(h), the department no longer considers the home to be a manufactured home for purposes of regulation under this chapter [whether the home has been sold, exchanged, or lease purchased to a purchaser for the purchaser's business use. For a home sold, exchanged, or lease purchased as described by this subsection, the department shall issue a new statement of ownership and location that indicates that the home is reserved for business use].

(b) On application and subject to Sections 1201.2076 and 1201.209, the department shall [may] issue for the structure described in the application a new statement of ownership and location restoring the structure's designation as a manufactured [for the] home only after an inspection and determination that the structure [home] is habitable as provided by Section 1201.453. [The statement must indicate that the home is no longer reserved for business use.]

SECTION 17. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.217 to read as follows:

Sec. 1201.217. MANUFACTURED HOME ABANDONED. (a) The owner of real property on which a manufactured home owned by another is located may declare the home abandoned as provided by this section if the home has been continuously unoccupied for at least four months and any indebtedness secured by the manufactured home is also delinquent.

(b) Before declaring a manufactured home abandoned, the owner of real property on which the home is located must send a notice of intent to declare the home abandoned to the owner of the home and all lienholders at the addresses listed on the home's statement of ownership and location on file with the department. Mailing of the notice by certified mail, return receipt requested, postage prepaid, to the persons required to be notified by this subsection constitutes conclusive proof of compliance with this subsection.

(c) On receipt of a notice of intent to declare a manufactured home abandoned, the owner of the home or a lienholder may enter the real property on which the home is located to remove the home.

(d) If the manufactured home remains on the real property for at least 45 days after the date the notice is postmarked:

(1) all liens on the home are extinguished; and

(2) the real property owner may declare the home abandoned and may apply to the department for a statement of ownership and location listing the real property owner as the owner of the manufactured home.

(e) A new statement of ownership and location issued by the department under this section transfers, free of any liens, if there is evidence of United States Postal Service return receipt from all lienholders, title to the manufactured home to the real property owner.

SECTION 18. Section 1201.219(b), Occupations Code, is amended to read as follows:

(b) Except as provided by Subsection (a), a lien on a manufactured home is perfected only by filing with the department the notice of lien on a form provided by the department. The recordation of a lien with the department is notice to all persons that the lien exists. Except as expressly provided by Chapter 32, Tax

Code, a lien recorded with the department has priority, according to the chronological order of recordation, over another lien or claim against the manufactured home.

SECTION 19. Section 1201.221(a), Occupations Code, is amended to read as follows:

(a) On written request, the department shall provide information held by the department on:

- (1) the current ownership and location of a manufactured home; and
- (2) the existence of all ~~[any]~~ tax liens ~~[lien]~~ on that home for which notice has been filed with the department.

SECTION 20. Sections 1201.352(c) and (d), Occupations Code, are amended to read as follows:

(c) Before the signing of a binding retail installment sales contract or other binding purchase agreement, the retailer must give the consumer a copy ~~[or a general description]~~ of:

- (1) the manufacturer's warranty; ~~[and~~
- ~~[(2) the retailer's warranty.~~

~~[(d) At the time of the initial installation at the consumer's homesite, the retailer shall deliver to the consumer:~~

- ~~[(1) the manufacturer's warranty;]~~
- (2) the retailer's warranty;
- (3) the warranties given by the manufacturers of appliances or equipment included with the home; and
- (4) the name and address of the manufacturer or retailer to whom the consumer is to give notice of a warranty service request.

SECTION 21. Section 1201.357, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the manufacturer or retailer is unable to provide warranty service in accordance with the department order under Section 1201.356 as a result of an action of the consumer, the manufacturer or retailer must make that allegation in the written statement required by Subsection (a). The department shall investigate the allegation, and if the department determines that the allegation is credible, the department shall issue a new order specifying the date and time of the proposed corrective action. The department shall send the order to the consumer and the manufacturer or retailer, as applicable, by certified mail, return receipt requested. If the consumer refuses to comply with the department's new order, the manufacturer or retailer, as applicable:

- (1) is discharged from the obligations imposed by the relevant department orders;
- (2) has no liability to the consumer; and
- (3) is not subject to an action by the department for failure to provide warranty service.

SECTION 22. Section 1201.361, Occupations Code, is amended to read as follows:

Sec. 1201.361. INSTALLER'S WARRANTY. (a) For all secondary installations not covered by the retailer's warranty described by Section 1201.352 and for the installation of all used manufactured homes, the installer shall give the manufactured home owner a written warranty that the installation of the home was performed in accordance with all department standards, rules, orders, and requirements.

(b) The warranty must conspicuously disclose the requirement that the consumer notify the installer of any claim in writing in accordance with the terms of the warranty. Unless the warranty provides for a longer period, the installer has no obligation or liability for any defect described in a written notice received from the consumer more than two years after the date of the installation.

SECTION 23. Section 1201.405, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) In determining the amount of actual damages under this section, the director shall make an independent inquiry as to the damages actually incurred, unless the damages have been established by a contested jury trial.

SECTION 24. Section 1201.451(a), Occupations Code, is amended to read as follows:

(a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home without the appropriate transfer of good and marketable title to the home [~~unless the sale, exchange, or lease purchase is to:~~

~~(1) a purchaser for the purchaser's business use; or~~

~~(2) a rebuilder for the purpose of rebuilding a salvaged manufactured home].~~

SECTION 25. Section 1201.452(b), Occupations Code, is amended to read as follows:

(b) If the home does not have the appropriate seal or label, the person must:

(1) apply to the department for a seal; ~~and~~

(2) pay the fee; and

(3) submit to the department a copy of any written disclosure required under Section 1201.455(a).

SECTION 26. Section 1201.455, Occupations Code, is amended to read as follows:

Sec. 1201.455. WRITTEN DISCLOSURE AND WARRANTY OF HABITABILITY REQUIRED. (a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home to a consumer for use as a dwelling without providing:

(1) a written disclosure, on a form not to exceed two pages prescribed by the department, describing the condition of the home and of any appliances that are included in the home; and

(2) a written warranty that the home is and will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement.

(b) Unless, not later than the 65th ~~[60th]~~ day after the later of the installation date or the date of the sale, exchange, or lease-purchase agreement, the consumer notifies the seller in writing of a defect that makes the home not habitable, any obligation or liability of the seller under this subchapter is terminated. The warranty must conspicuously disclose that notice requirement to the consumer.

SECTION 27. The heading to Section 1201.457, Occupations Code, is amended to read as follows:

Sec. 1201.457. HABITABILITY: CHANGE TO OR FROM BUSINESS USE OR SALVAGE.

SECTION 28. Section 1201.457(b), Occupations Code, is amended to read as follows:

(b) The purchaser of a used manufactured home for business use or the purchaser of a salvaged manufactured home may not sell, exchange, or lease-purchase the home for use as a dwelling or knowingly allow any person to occupy or use the home as a dwelling unless the director issues a new statement of ownership and location indicating that the home is no longer reserved for business use or salvage. On the purchaser's application to the department for issuance of a new statement of ownership and location, the department shall inspect the home and, if the department determines that the home is habitable, issue the statement of ownership and location.

SECTION 29. Subchapter Z, Chapter 2306, Government Code, is amended by adding Section 2306.591 to read as follows:

Sec. 2306.591. MANUFACTURED HOMES INSTALLED IN COLONIAS. (a) For a manufactured home to be approved for installation and use as a dwelling in a colonia:

(1) the home must be a HUD-code manufactured home, as defined by Section 1201.003, Occupations Code;

(2) the home must be habitable, as described by Section 1201.453, Occupations Code; and

(3) ownership of the home must be properly recorded with the manufactured housing division of the department.

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department, including the single-family mortgage revenue bond program under Section 2306.142, unless the owner complies with Subsection (a).

SECTION 30. Section 1.04, Tax Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a certified copy of the statement of ownership and location has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

SECTION 31. Section 32.014, Tax Code, is amended to read as follows:

Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the owner of a manufactured home has elected to treat the home as real property ~~[is listed together with the land on which the manufactured home is located]~~ under Section 25.08, the tax lien shall be attached ~~[attaches]~~ to the land on which the manufactured home is located.

(b) If the owner of a manufactured home does not elect to treat the home as real property with ~~[is listed separately from]~~ the land on which the manufactured home is located, the tax lien on the manufactured home does not attach to the land on which the home is located.

(c) In this section, "manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

~~(d) [If a manufactured home is listed together with the land on which the manufactured home is located, a taxing unit with jurisdiction to impose taxes on the land may place a lien on the manufactured home to secure payment of those taxes to the same extent that it can place a lien on the land. If a home is moved from its location and a new statement of ownership and location is not issued under Section 1201.207, Occupations Code, a taxing unit with jurisdiction to impose taxes on the land on which the manufactured home was located retains the right to record and enforce liens on that home to secure the payment of taxes, regardless of where the home is currently located.]~~

~~(e)~~ This section prevails over Chapter 1201, Occupations Code, to the extent of any conflict.

SECTION 32. Section 32.015(a), Tax Code, is amended to read as follows:

(a) On payment of the taxes, penalties, and interest for a year for which a valid tax lien ~~[filed before September 1, 2001,]~~ has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

SECTION 33. Section 32.03, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), a ~~[A]~~ tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien ~~[or, if the personal property is a manufactured home, who does not have constructive notice of the existence of the lien].~~

(a-1) A tax lien against a manufactured home may not be enforced unless it has been recorded with the Texas Department of Housing and Community Affairs as provided by Section 1201.219, Occupations Code:

(1) before October 1, 2005; or

(2) not later than six months after the end of the year for which the tax was owed.

(a-2) A person may not transfer title of a manufactured home until all tax liens perfected on the home have been extinguished or satisfied and released. This subsection does not apply to the sale of a manufactured home in inventory.

~~(b) A bona fide purchaser for value or the holder of a lien recorded on the manufactured home statement of ownership and location [document of title] is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs [imposed in a tax year that begins before January 1, 2001, or penalties or interest on those taxes except for each year for which a valid tax lien was duly filed and recorded under Section 32.015, as that section existed on the date the lien was filed, and each year for which the owner of the manufactured home had constructive notice of the taxes under Section 32.015(e), as that section existed before September 1, 2001. The effect and priority of a tax lien that attaches to secure the payment of taxes imposed on a manufactured home in a tax year that begins on or after January 1, 2001, are those established by Sections 32.01 and 32.05]. In this section, "manufactured home" has the meaning assigned by Section 32.015(b).~~

SECTION 34. The following laws are repealed:

(1) Sections 1201.164(b), 1201.165, 1201.206(a), 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b), Occupations Code;

(2) Sections 32.03(c)-(j), Tax Code; and

(3) Section 623.093(d), Transportation Code.

SECTION 35. Not later than November 1, 2005, the Texas Department of Housing and Community Affairs shall prepare and make available to the public the disclosure form required by Section 1201.455(a), Occupations Code, as amended by this Act.

SECTION 36. 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.

Representative Haggerty moved to adopt the conference committee report on **HB 2438**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 2438** prevailed by (Record 939): 133 Yeas, 11 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; 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; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; 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; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley.

Nays — Bonnen; Brown, F.; Harper-Brown; Hartnett; Hughes; Kolkhorst; Paxton; Phillips; Reyna; Thompson; Zedler.

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

Absent, Excused — Bailey; Eissler; Goodman.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 939. I intended to vote no.

Dawson

I was shown voting yes on Record No. 939. I intended to vote no.

McCall

HR 2214 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2214**, suspending the limitations on the conferees for **HB 1835**.

HB 283 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hope submitted the following conference committee report on **HB 283** :

Austin, Texas, May 27, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 283** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Zaffirini
Van de Putte
Shapiro
Hinojosa

On the part of the senate

Hope
Dutton
Thompson
Goolsby

On the part of the house

HB 283, A bill to be entitled An Act relating to admission, assignment, and conduct of certain public school students.

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

SECTION 1. Section 25.001(b), Education Code, is amended to read as follows:

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought if:

(1) the person and either parent of the person reside in the school district;

(2) the person does not reside in the school district but a parent of the person resides in the school district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person;

(3) the person and the person's guardian or other person having lawful control of the person under a court order reside within the school district;

(4) the person has established a separate residence under Subsection (d);

(5) the person is homeless, as defined by 42 U.S.C. Section 11302, regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;

(6) the person is a foreign exchange student placed with a host family that resides in the school district by a nationally recognized foreign exchange program, unless the school district has applied for and been granted a waiver by the commissioner under Subsection (e);

(7) the person resides at a residential facility located in the district; ~~or~~

(8) the person resides in the school district and is 18 years of age or older or the person's disabilities of minority have been removed; or

(9) the person does not reside in the school district but the grandparent of the person:

(A) resides in the school district; and

(B) provides a substantial amount of after-school care for the person as determined by the board.

SECTION 2. Subchapter B, Chapter 25, Education Code, is amended by adding Section 25.0341 to read as follows:

Sec. 25.0341. TRANSFER OF VICTIMS OF BULLYING. (a) In this section, "bullying" means engaging in written or verbal expression or physical conduct that a school district board of trustees or the board's designee determines:

(1) will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or

(2) is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

(b) On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the board of trustees of a school district or the board's designee shall transfer the victim to:

(1) another classroom at the campus to which the victim was assigned at the time the bullying occurred; or

(2) a campus in the school district other than the campus to which the victim was assigned at the time the bullying occurred.

(c) The board of trustees or the board's designee shall verify that a student has been a victim of bullying before transferring the student under this section.

(d) The board of trustees or the board's designee may consider past student behavior when identifying a bully.

(e) The determination by the board of trustees or the board's designee is final and may not be appealed.

(f) A school district is not required to provide transportation to a student who transfers to another campus under Subsection (b)(2).

(g) Section 25.034 does not apply to a transfer under this section.

SECTION 3. Section 37.001, Education Code, is amended by amending Subsection (a) and adding Subsections (b) and (b-1) to read as follows:

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify whether consideration is given to self-defense as a factor in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007; ~~and~~

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;

(7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions; and

(8) provide, as appropriate for students at each grade level, methods, including options, for:

(A) managing students in the classroom and on school grounds;

(B) disciplining students; and

(C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

(b) In this section:

(1) "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

(2) "Hit list" means a list of people targeted to be harmed, using:

(A) a firearm, as defined by Section 46.01(3), Penal Code;

(B) a knife, as defined by Section 46.01(7), Penal Code; or

(C) any other object to be used with intent to cause bodily harm.

(b-1) The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

SECTION 4. Section 37.083(a), Education Code, is amended to read as follows:

(a) Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. The program must provide for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying in school, on school grounds, and in school vehicles.

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.

Representative Hope moved to adopt the conference committee report on **HB 283**.

(Eissler now present)

A record vote was requested.

The motion to adopt the conference committee report on **HB 283** prevailed by (Record 940): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; 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; 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.; 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; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

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

Absent, Excused — Bailey; Goodman.

Absent — Oliveira.

HB 1358 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Flores submitted the following conference committee report on **HB 1358** :

Austin, Texas, May 27, 2005

The Honorable David Dewhurst
 President of the Senate

The Honorable Tom Craddick
 Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1358** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Armbrister
 Hinojosa
 Seliger
 Jackson
 Madla

Homer
 Geren
 Puente
 Flores

On the part of the senate

On the part of the house

HB 1358, A bill to be entitled An Act relating to the jurisdiction of the Texas Commission on Environmental Quality over certain water supply or sewer service corporations and the creation of the La Joya Special Utility District.

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

ARTICLE 1. AMENDMENT TO CHAPTER 13, WATER CODE

SECTION 1.01. Subchapter A, Chapter 13, Water Code, is amended by adding Section 13.004 to read as follows:

Sec. 13.004. JURISDICTION OF COMMISSION OVER CERTAIN WATER SUPPLY OR SEWER SERVICE CORPORATIONS. (a) Notwithstanding any other law, the commission has the same jurisdiction over a water supply or sewer service corporation that the commission has under this chapter over a water and sewer utility if the commission finds that the water supply or sewer service corporation:

(1) is failing to conduct annual or special meetings in compliance with Section 67.007; or

(2) is operating in a manner that does not comply with the requirements for classifications as a nonprofit water supply or sewer service corporation prescribed by Sections 13.002(11) and (24).

(b) If the water supply or sewer service corporation voluntarily converts to a special utility district operating under Chapter 65, the commission's jurisdiction provided by this section ends.

ARTICLE 2. AMENDMENT TO SUBTITLE C, TITLE 6,
SPECIAL DISTRICT LOCAL LAWS CODE

SECTION 2.01. Subtitle C, Title 6, Special District Local Laws Code, is amended by adding Chapter 7201 to read as follows:

CHAPTER 7201. LA JOYA
SPECIAL UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7201.001. DEFINITIONS. Unless the context otherwise requires, in this chapter:

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

(2) "Corporation" means the La Joya Water Supply Corporation.

(3) "District" means the La Joya Special Utility District.

Sec. 7201.002. NATURE OF CORPORATION AND DISTRICT. (a) The corporation is a water supply corporation in Hidalgo and Starr Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution, and operating in accordance with Chapter 67, Water Code.

(b) The district is:

(1) a special utility district in Hidalgo and Starr Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution, and operating in accordance with Chapters 49 and 65, Water Code;

(2) a retail public utility as defined by Section 13.002, Water Code; and

(3) the successor in interest to the corporation.

(c) On the effective date of the Act enacting this chapter, the corporation shall be dissolved and succeeded without interruption by the district.

Sec. 7201.003. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this chapter, Chapters 49 and 65, Water Code, including Sections 49.211(a) and 65.201(a), Water Code, apply to the district.

Sec. 7201.004. REGULATORY CONFLICTS. (a) If a municipality asserts regulatory authority over any geographic area in the district and a municipal regulation applicable to that geographic area conflicts with a rule of the district, the regulation of the municipality prevails.

(b) This section does not apply to:

(1) rules or regulations concerning potable water quality standards; or

(2) conflicts relating to service areas or certificates issued to the corporation or district by the Texas Commission on Environmental Quality.

Sec. 7201.005. INITIAL DISTRICT TERRITORY. (a) The boundaries of the corporation and initial boundaries of the district are coextensive with the service areas covered by Certificates of Convenience and Necessity Nos. 10559

and 20785, as recorded on the Texas Commission on Environmental Quality maps associated with those certificates. Those maps are incorporated in this section by reference.

(b) A mistake made in the preparation, copying, or filing of the maps described by Subsection (a) and on file with the Texas Commission on Environmental Quality does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to issue bonds; or
- (3) the legality or operation of the district.

(c) District boundaries may be modified in accordance with Chapters 13 and 49, Water Code, except that the boundaries must include all territory in any area included under a certificate of convenience and necessity issued by the Texas Commission on Environmental Quality to the district.

[Sections 7201.006-7201.020 reserved for expansion]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 7201.021. TRANSFER OF ASSETS; DISSOLUTION. (a) On the effective date of the Act enacting this chapter, the corporation shall transfer the assets, debts, and contractual rights and obligations of the corporation to the district and provide notices and make recordings of the transfer required by the Water Code and general law.

(b) Not later than the 30th day after the date of the transfer under Subsection (a), the board of directors of the corporation shall commence dissolution proceedings of the corporation.

(c) On dissolution of the corporation, Certificates of Convenience and Necessity Nos. 10559 and 20785 are considered to be held by the district.

(d) The board of directors of the corporation shall notify the Texas Commission on Environmental Quality of the dissolution of the corporation and the creation of the district to replace it to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district.

(e) On receipt of notice under Subsection (d), the Texas Commission on Environmental Quality shall note in its records that Certificates of Convenience and Necessity Nos. 10559 and 20785 are held by the district. The Texas Commission on Environmental Quality shall, as a ministerial act, transfer the certificates to the district without further application, notice, or hearing. A person, party, or entity does not have any right of protest, objection, or administrative review of the transfer prescribed by this section.

Sec. 7201.022. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2008.

[Sections 7201.023-7201.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7201.051. TEMPORARY DIRECTORS. (a) The directors of the corporation who hold office on the effective date of the Act enacting this chapter shall serve as the temporary directors of the district until successor directors are elected and qualify for office.

(b) The temporary directors of the district are assigned position numbers as follows:

- (1) Position 1, Jose Luis Trigo;
- (2) Position 2, Jose Guadalupe Reyna;
- (3) Position 3, George Barreiro;
- (4) Position 4, Frolian Ramirez;
- (5) Position 5, Russell Wicker;
- (6) Position 6, Benito Salinas;
- (7) Position 7, Manuel Ricardo Garcia;
- (8) Position 8, Valente Alaniz, Jr.; and
- (9) Position 9, Juan Lino Garza.

(c) If there is a vacancy on the temporary board of directors of the district, the temporary board shall appoint a person to fill the vacancy for the remainder of the term for the vacated position until the applicable election under Section 7201.052.

Sec. 7201.052. BOARD OF DIRECTORS. (a) The district shall be governed by a board of not fewer than nine and not more than 11 directors, elected in accordance with Section 49.103, Water Code, notwithstanding Subsection (f)(2) of that section.

(b) Except for a temporary director under Section 7201.051, a candidate for a position as director:

- (1) is elected at large to represent the entire service area of the district;
- (2) must reside in the service area of the district; and
- (3) must be eligible to hold office under Section 141.001, Election

Code.

(c) It is the policy of the district that the directors shall represent and reside in as broad a cross-section of the geographic area of the district as possible.

(d) The district shall fill a vacancy on the board in accordance with Section 49.105, Water Code.

(e) Except for the temporary directors listed under Section 7201.051, directors serve staggered terms of three years.

(f) On the uniform election date in May 2006, and on that uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 1, 4, and 7.

(g) On the uniform election date in May 2007, and on that uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 2, 3, and 5.

(h) On the uniform election date in May 2008, and on that uniform election date every third year after that date, the district shall hold an election to elect three directors to serve in positions 6, 8, and 9.

[Sections 7201.053-7201.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7201.101. GENERAL POWERS AND DUTIES. Except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49 and 65, Water Code, applicable to districts created under Section 59, Article XVI, Texas Constitution.

Sec. 7201.102. PROVISION OF SERVICE. The district shall at all times operate and construct necessary improvements within the certificated areas established by the commission to provide uninterrupted, continuous, and adequate service to existing and future customers for water, sewer, and contract services.

Sec. 7201.103. INTERLOCAL CONTRACTS. In accordance with Chapter 791, Government Code, the district and the Rio Grande Regional Water Authority may enter into a contract under which the Rio Grande Regional Water Authority may provide administrative or any other contract activities for or with the district. The district may enter into interlocal cooperation contracts with any public or private entity, request any necessary regulatory approval required, and charge fees and rates adequate to generate revenue sufficient to cover all expenses of the district based on cost-of-service principles. For purposes of Chapter 791, Government Code, performance under a contract is a governmental function or service.

[Sections 7201.104-7201.200 reserved for expansion]

SUBCHAPTER D. OPERATING PROVISIONS

Sec. 7201.201. AUDIT OF DISTRICT. (a) Subchapter G, Chapter 49, Water Code, applies to the district.

(b) An individual licensed by the state as a certified public accountant with not less than five years of government accounting experience shall perform the audit required by Section 49.191, Water Code.

Sec. 7201.202. RECORDS OF DISTRICT. The district shall comply with all rules and regulations pertaining to records preservation, retention, and destruction promulgated by the Texas State Library and Archives Commission under Chapter 441, Government Code, as made applicable to water districts and utilities.

Sec. 7201.203. MAINTAINING NECESSARY RECORDS. The district shall maintain necessary records and follow cost-of-service principles with respect to provision of retail public water or sewer service or any other service authorized by Chapter 49 or 65, Water Code, or an interlocal contract entered into in accordance with Chapter 791, Government Code.

Sec. 7201.204. NEWSLETTER, WEBSITE, AND ANNUAL FINANCIAL INFORMATION. The district shall maintain an Internet website with current information concerning agendas, minutes, policies, monthly financial information concerning revenues and expenses, and quarterly summaries. The district shall provide information, including summary financial information based on the preceding year's annual audit, to district customers at an annual meeting.

Sec. 7201.205. DISCONNECTION OF SERVICE AND CUSTOMER FEES. (a) The district may not disconnect service of a customer for late payment before the 31st day after the date the district notifies the customer of the overdue payment.

(b) After a disconnection caused by the customer's late payment, the district may not charge a customer a fee for restoring or reinstalling service that exceeds \$25 or twice the amount of the late payment owed, whichever is less.

Sec. 7201.206. RATES FOR SERVICES. The district, in connection with water or sewer retail public utility services, shall establish lifeline, senior citizen, or minimum consumption level rates for services. The rate impact of such services shall be allocated on the basis of costs of services to achieve conservation principles, while securing necessary reserves for the payment of operating expenses, sinking funds, principal, interest, and debt coverage factors, and any other objective established by the district's annual budget.

Sec. 7201.207. SERVICE CONTRACT ALLOCATION OF COST AND IMMUNITY FROM CLAIMS. (a) In connection with intergovernmental, interlocal, or wholesale service contracts, including cooperative billing for any contract-based service, the district shall allocate costs of service ratably for the service, and the district shall secure indemnity from the contracting party to the extent allowed by law.

(b) The district is a governmental unit, as that term is defined by Section 101.001(3), Civil Practice and Remedies Code, and, to the fullest extent provided by law, enjoys immunity from suit and liability, consistent with general law, the Texas Tort Claims Act, Chapter 101, Civil Practice and Remedies Code, and Chapter 49, Water Code, including Section 49.066 of that code.

SECTION 2.02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

(d) The general law relating to consent by political subdivisions to the creation of a conservation and reclamation district and the inclusion of land in the district has been complied with.

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

SECTION 2.03. (a) Section 49.105(b), Water Code, does not apply to the La Joya Special Utility District until the 30th day after the effective date of this Act.

(b) If a vacancy occurs on the board of directors of the La Joya Special Utility District before the 30th day after the effective date of this Act, the period for filing a petition under Section 49.105(b), Water Code, does not begin to run until the 30th day after the effective date of this Act, regardless of the date on which the vacancy occurs.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. 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.

Representative Flores moved to adopt the conference committee report on **HB 1358**.

A record vote was requested.

The motion to adopt the conference committee report on **HB 1358** prevailed by (Record 941): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; 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; 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; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley.

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

Absent, Excused — Bailey; Goodman.

Absent — Allen, A.; Bohac; Talton; Zedler.

HB 1855 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Giddings submitted the following conference committee report on **HB 1855** :

Austin, Texas, May 27, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1855** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Fraser
Hinojosa
Van de Putte

Giddings
Bohac
Elkins
Zedler

On the part of the senate

On the part of the house

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.

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

SECTION 1. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.62 to read as follows:

Sec. 35.62. DELETION OF CERTAIN ELECTRONIC RECORDS CONCERNING A CUSTOMER WHO ISSUES A CHECK. (a) This section applies only to a business that accepts checks from customers in the ordinary course of business.

(b) A business shall delete any electronic record indicating that a customer has issued a dishonored check or any other information except for the checking account number or bank routing transit number on which the business bases a refusal to accept a check from a customer not later than the 30th day after the date:

(1) the customer and the business agree that the information contained in the electronic record is incorrect; or

(2) the customer presents to the business:

(A) a report filed by the customer with a law enforcement agency stating that the dishonored check was unauthorized; and

(B) a written notice from the customer that the dishonored check was unauthorized.

(c) A business that violates Subsection (b) is liable to the state for a civil penalty of up to \$1,000. The attorney general may sue to collect the penalty.

(d) The attorney general may recover reasonable expenses incurred in obtaining a civil penalty under Subsection (c), including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(e) In this section, "law enforcement agency" has the meaning assigned by Article 59.01, Code of Criminal Procedure.

(f) This section does not apply to a financial institution as defined by 31 U.S.C. Section 5312(a)(2), as amended.

SECTION 2. This Act takes effect September 1, 2005.

Representative Giddings moved to adopt the conference committee report on **HB 1855**.

The motion to adopt the conference committee report on **HB 1855** 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.)

HB 2678 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Rose submitted the following conference committee report on **HB 2678** :

Austin, Texas, May 26, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 2678** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Seliger
Armbrister
Averitt

Smithee
Taylor
Rose
Seaman
Eiland

On the part of the senate

On the part of the house

HB 2678, A bill to be entitled An Act relating to underwriting of and ratemaking for professional liability insurance for physicians and health care providers.

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

SECTION 1. Section 3, Article 5.15-1, Insurance Code, is amended to read as follows:

Sec. 3. RATE STANDARDS. Rates shall be made in accordance with the following provisions:

(a) Consideration shall be given to past and prospective loss and expense experience for all professional liability insurance for physicians and health care providers written in this state, unless the department [~~State Board of Insurance~~] shall find that the group or risk to be insured is not of sufficient size to be deemed credible, in which event, past and prospective loss and expense experience for all professional liability insurance for physicians and health care providers written outside this state shall also be considered, to a reasonable margin for underwriting profit and contingencies, to investment income, to dividends or savings allowed or returned by insurers to their policyholders or members.

(b) The department [~~State Board of Insurance~~] shall consider the impact of risk management courses taken by physicians and health care providers in this state in approving rates under this article.

(c) For the establishment of rates, risks may be grouped by classifications, by rating schedules, or by any other reasonable methods. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Those standards may measure any difference among risks that can be demonstrated to have a probable effect upon losses or expenses.

(d) Rates shall be reasonable and shall not be excessive or inadequate, as defined in this subsection, nor shall they be unfairly discriminatory. No rate shall be held to be excessive unless the rate is unreasonably high for the insurance coverage provided [~~and a reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable~~]. No rate shall be held to be inadequate unless the rate is unreasonably low for the insurance coverage provided and is insufficient to sustain projected losses and expenses; or unless the rate is unreasonably low for the insurance coverage provided and the use of the rate has or, if continued, will have the effect of destroying competition or creating a monopoly.

SECTION 2. Article 5.15-1, Insurance Code, is amended by adding Sections 12 and 13 to read as follows:

Sec. 12. PROHIBITION OF USE OF CERTAIN INFORMATION FOR PHYSICIAN OR HEALTH CARE PROVIDER. (a) For the purpose of writing professional liability insurance for physicians and health care providers, an insurer may not consider whether, or the extent to which, a physician or health care provider provides services in this state to individuals who are recipients of Medicaid or covered by the state child health plan program established by Chapter 62, Health and Safety Code, including any consideration resulting in:

- (1) denial of coverage;
- (2) refusal to renew coverage;
- (3) cancellation of coverage;
- (4) limitation of the amount, extent, or kind of coverage available; or
- (5) a determination of the rate or premium to be paid.

(b) The commissioner may adopt rules as necessary to implement this section.

Sec. 13. USE IN UNDERWRITING OF CERTAIN INFORMATION RELATED TO LAWSUITS; REFUND. (a) Notwithstanding any other provision of this code, an insurer may not consider for the purpose of setting premiums or reducing a claims-free discount for a particular insured physician's professional liability insurance a lawsuit filed against the physician if:

- (1) before trial, the lawsuit was dismissed by the claimant or nonsuited;
and
- (2) no payment was made to the claimant under a settlement agreement.

(b) An insurer that, in setting premiums or reducing a claims-free discount for a physician's professional liability insurance, considers a lawsuit filed against the physician shall refund to the physician any increase in premiums paid by the physician that is attributable to that lawsuit or reinstate the claims-free discount if the lawsuit is dismissed by the claimant or nonsuited without payment to the

claimant under a settlement agreement. The insurer shall issue the refund or reinstate the discount on or before the 30th day after the date the insurer receives written evidence that the lawsuit was dismissed or nonsuited without payment to the claimant under a settlement agreement.

(c) This section does not prohibit an insurer from considering and using aggregate historical loss and expense experience applicable generally to a classification of physicians' professional liability insurance to set rates for that classification to the extent authorized by Article 5.13-2 of this code. Notwithstanding Section 4(c), Article 5.13-2, of this code, an insurer may not assign a physician to a particular classification based on a factor described by Subsection (a) of this section.

SECTION 3. The change in law made by this Act applies only to policies of professional liability insurance for physicians and health care providers delivered, issued for delivery, or renewed on or after January 1, 2006. A policy delivered, issued for delivery, or renewed before January 1, 2006, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

HB 2678 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE T. SMITH: Is it the intent of **HB 2678** to prevent companies from considering legitimate loss adjustment expenses such as attorney fees, expert witness fees, and other costs in defending lawsuits, which are dismissed or nonsuited, when they file rates or set premiums across all insureds?

REPRESENTATIVE ROSE: No.

T. SMITH: Mr. Chairman, it's my understanding that senate amendment number two to **HB 2678** amended the definition of excessive rates in Article 5.15-1, Insurance Code, for medical professional liability insurance. Is it your intent that this amended definition should be construed to be consistent with the definition of excessive rates contained in Article 5.13-2 as added by **SB 14** in 2003?

ROSE: Yes.

REMARKS ORDERED PRINTED

Representative T. Smith moved to print remarks between Representative Rose and Representative T. Smith.

The motion prevailed.

Representative Rose moved to adopt the conference committee report on **HB 2678**.

The motion to adopt the conference committee report on **HB 2678** 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.)

SB 757 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Solomons submitted the conference committee report on **SB 757**.

Representative Solomons moved to adopt the conference committee report on **SB 757**.

The motion to adopt the conference committee report on **SB 757** 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: D. Jones recorded voting no.)

SB 872 - MOTION TO ADOPT CONFERENCE COMMITTEE REPORT

Representative Delisi submitted the conference committee report on **SB 872**.

SB 872 - POINT OF ORDER

Representative Y. Davis raised a point of order against further consideration of **SB 872** under Rule 13, Section 6 of the House Rules on the grounds that the committee report was filed before the conferees were appointed.

The chair sustained the point of order.

The ruling precluded further consideration of **SB 872**.

HB 7 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Solomons submitted the following conference committee report on **HB 7** :

Austin, Texas, May 25, 2005

The Honorable David Dewhurst
President of the Senate

The Honorable Tom Craddick
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 7** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Staples

Duncan

Fraser

Madla

Nelson

On the part of the senate

Solomons

Giddings

Rose

Taylor

Zedler

On the part of the house

HB 7, A bill to be entitled An Act relating to the continuation and operation of the workers' compensation system of this state and to the abolition of the Texas Workers' Compensation Commission, the establishment of the office of injured employee counsel, and the transfer of the powers and duties of the Texas Workers' Compensation Commission to the division of workers' compensation of

the Texas Department of Insurance and the office of injured employee counsel, and to the provision of workers' compensation benefits to injured employees and the regulation of workers' compensation insurers; providing administrative and criminal penalties.

HB 7 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE GIDDINGS: Chairman Solomons, I think I have the right bill this time, I can hear a little bit better. I just want to talk about the intent of the language in the engrossed version of **HB 7**. It is my understanding that the intent was to transfer all of the functions of regulated workers' compensation to TDI, is that correct?

REPRESENTATIVE SOLOMONS: Yes, it is.

GIDDINGS: And, I know there was a concern in the conference committee that we needed to pay particular attention to the migration period, and was that the intent for the division of workman's compensation created by the conference committee report?

SOLOMONS: Yes.

GIDDINGS: And, was it not the intention of the conference committee that the division of—the commissioner of this division be independent from TDI or the commission? Or, I should have said, was it ever intended by the conference committee that the division be independent from the Texas Department of—

SOLOMONS: Not in the final version, no.

GIDDINGS: Okay, and was it discussed in the conference committee that the need for the statutorily created division and separately appointed commissioner, is only a temporary one, and is only intended to ensure that we have a smooth transition to the system?

SOLOMONS: Yes, it was specifically discussed and there was some concern about the need for someone to be dedicated to this transition, and to ensure that a new regulatory scheme gets off and running smoothly; however, the governor's office brought up this compromised language, and made the commitment to Representative Giddings, that they consider this to be a temporary situation, and not one that would be a permanent regulatory scheme. That is why the sunset date has been set at 2009, just four years out.

GIDDINGS: So, then is the intent of the conference committee that this function ever be independent from TDI?

SOLOMONS: No. The whole point of the transferring of functions is to ensure that this would be regulated like all other insurance products in Texas, and there would not be two different regulatory agencies for workers' compensation networks or for the workers' compensation insurance.

GIDDINGS: Okay, **SB 5** would have placed workers' compensation networks under the regulation of TDI and a new Texas Department of Workers' Compensation, and can you tell us why the conference committee did not adopt that particular scenario?

SOLOMONS: Because the separate agencies would have created differences in how an injured worker's health care was regulated, depending on whether they were in the network or not in a network. It would have created dual regulation on the network by two different agencies creating the opportunity for each agency to adopt conflicting rules. This was not considered an effective or efficient means of state regulation.

GIDDINGS: So, basically, what we are really saying is the conference committee created an integrated division to streamline the regulation of TDI, but to assure due attention to the system during the migration period.

SOLOMONS: Yes, ma'am, yes.

GIDDINGS: Also, I just wanted to point out to members of the house—

SOLOMONS: There is one other question I think you have that I really want to make sure we get in, about the section.

GIDDINGS: Oh yeah, it is Section 402.001113, administrative attachments to the department, intended to mean that the division is independent from TDI?

SOLOMONS: Absolutely not. In fact, the conference committee members specifically struck the word "independent" from the version—from the first version.

GIDDINGS: And, a couple of other questions before I make the motion on that. One is that, I know that the members of this house wanted to make sure there was a broad choice, and I just want to read to you from our bill. "A network must include sufficient numbers and types of health care providers to ensure choice, access, and quality of care to injured employees. An adequate number of the treating doctors and specialists must have admitting privileges at one or more network hospitals located within the network service, area to ensure any necessary hospital admissions are made." So, we tried to make sure that the concerns of this house were addressed in this bill, is that not true?

SOLOMONS: Yes ma'am.

GIDDINGS: And, as it related to PPOs, I don't have that particular page in front of me, but Representative Taylor worked very hard with us to make sure the commission is going to look at this issue, and report to the 80th Legislature, is that true?

SOLOMONS: Yes ma'am. All our conferees, Mr. Zedler and Mr. Taylor, and you and I, and everyone worked on that.

GIDDINGS: Yes. Absolutely, you are exactly right.

REMARKS ORDERED PRINTED

Representative Giddings moved to print remarks between Representative Solomons and Representative Giddings.

The motion prevailed.

Representative Solomons moved to adopt the conference committee report on **HB 7**.

The motion to adopt the conference committee report on **HB 7** 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: A. Allen, Leibowitz, and Riddle recorded voting no.)

HR 2197 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2197**, suspending the limitations on the conferees for **SB 6**.

HR 2198 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2198**, suspending the limitations on the conferees for **HB 3485**.

(Speaker in the chair)

HB 55 - HOUSE DISCHARGES CONFEREES HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 55, A bill to be entitled An Act relating to the designation of the portion of Interstate Highway 20 inside Kaufman, Dallas, and Tarrant Counties as the Ronald Reagan Memorial Highway.

Representative Hughes moved to discharge the conferees and concur in the senate amendments to **HB 55**.

The motion to discharge conferees 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. Members registering votes are as follows: A. Allen, Burnam, Herrero, Leibowitz, and Veasey recorded voting no.)

Senate Committee Substitute

CSHB 55, A bill to be entitled An Act relating to the designation of portions of Interstate Highway 20 inside Dallas and Tarrant Counties as the Ronald Reagan Memorial Highway.

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

SECTION 1. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.059 to read as follows:

Sec. 225.059. RONALD REAGAN MEMORIAL HIGHWAY. (a) The part of Interstate Highway 20 located between the Tarrant-Parker County Line and the eastern municipal boundary of Grand Prairie is designated as the Ronald Reagan Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Ronald Reagan Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) Notwithstanding Subsections (b) and (c), the department is required to design, construct, and erect the markers only to the extent that money is available for this purpose from a grant or donation of private funds.

(e) Funds collected under Section 225.021 for the purpose of implementing this Section, shall be deposited to the credit of the state highway fund.

SECTION 2. This Act takes effect September 1, 2005.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 7).

ADJOURNMENT

Representative McReynolds moved that the house adjourn until 10 a.m. tomorrow in memory of Johnnie Upsher Goodman of Arlington.

The motion prevailed.

The house accordingly, at 10:06 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. 54

HB 34, HB 39, HB 51, HB 75, HB 133, HB 148, HB 160, HB 178, HB 201, HB 269, HB 312, HB 363, HB 365, HB 383, HB 412, HB 495, HB 541, HB 602, HB 616, HB 646, HB 731, HB 754, HB 765, HB 790, HB 809, HB 823, HB 831, HB 858, HB 914, HB 972, HB 984, HB 1053, HB 1079, HB 1106, HB 1140, HB 1162, HB 1181, HB 1208, HB 1215, HB 1238, HB 1244, HB 1252, HB 1253, HB 1323, HB 1353, HB 1379, HB 1470, HB 1484, HB 1502, HB 1516, HB 1567, HB 1571, HB 1580, HB 1584, HB 1588, HB 1589, HB 1601, HB 1611, HB 1622, HB 1636, HB 1687, HB 1733, HB 1771, HB 1775, HB 1799, HB 1813, HB 1823, HB 1851, HB 1928, HB 1934, HB 1939, HB 1977, HB 1996, HB 2059, HB 2139, HB 2218, HB 2266, HB 2337, HB 2339, HB 2376, HB 2382, HB 2408, HB 2428, HB 2466, HB 2473, HB 2518, HB 2569, HB 2574, HB 2579, HB 2593, HB 2627, HB 2640, HB 2653, HB 2661, HB 2680, HB 2716, HB 2753, HB 2769, HB 2806, HB 2810, HB 2823, HB 2839, HB 2856, HB 2941, HB 2958, HB 2966, HB 3093, HB 3221, HB 3235,

HB 3426, HB 3434, HB 3469, HB 3528, HB 3531, HCR 49, HCR 88, HCR 98, HCR 117, HCR 154, HCR 166, HCR 172, HCR 193, HCR 204, HCR 207, HCR 214, HCR 216, HCR 222, HCR 225, HJR 54

Senate List No. 32

SB 18, SB 66, SB 96, SB 188, SB 213, SB 254, SB 256, SB 263, SB 270, SB 302, SB 325, SB 338, SB 387, SB 425, SB 428, SB 429, SB 442, SB 450, SB 452, SB 493, SB 521, SB 621, SB 626, SB 691, SB 727, SB 729, SB 737, SB 742, SB 760, SB 776, SB 784, SB 967, SB 984, SB 986, SB 998, SB 1002, SB 1045, SB 1090, SB 1105, SB 1106, SB 1108, SB 1238, SB 1247, SB 1284, SB 1345, SB 1351, SB 1408, SB 1440, SB 1448, SB 1455, SB 1461, SB 1479, SB 1491, SB 1524, SB 1564, SB 1569, SB 1693, SB 1795, SB 1840, SB 1888

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Saturday, May 28, 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 CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 30	(29 Yeas, 0 Nays)
SB 44	(29 Yeas, 0 Nays)
SB 91	(29 Yeas, 0 Nays)
SB 111	(29 Yeas, 0 Nays)
SB 155	(29 Yeas, 0 Nays)
SB 296	(29 Yeas, 0 Nays)
SB 331	(29 Yeas, 0 Nays)
SB 343	(29 Yeas, 0 Nays)
SB 356	(29 Yeas, 0 Nays)
SB 532	(29 Yeas, 0 Nays)
SB 610	(29 Yeas, 0 Nays)
SB 658	(29 Yeas, 0 Nays)
SB 716	(29 Yeas, 0 Nays)

SB 732	(29 Yeas, 0 Nays)
SB 851	(29 Yeas, 0 Nays)
SB 993	(29 Yeas, 0 Nays)
SB 1074	(29 Yeas, 0 Nays)
SB 1146	(29 Yeas, 0 Nays)
SB 1192	(29 Yeas, 0 Nays)
SB 1246	(29 Yeas, 0 Nays)
SB 1433	(29 Yeas, 0 Nays)
SB 1551	(29 Yeas, 0 Nays)
SB 1570	(29 Yeas, 0 Nays)
SB 1652	(29 Yeas, 0 Nays)
SB 1751	(29 Yeas, 0 Nays)
SB 1807	(29 Yeas, 0 Nays)
SB 1881	(29 Yeas, 0 Nays)

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 14

Senate Conferees: Jackson, Mike - Chair/Brimer/Fraser/Lucio/Van de Putte

SB 39

Senate Conferees: Zaffirini - Chair/Averitt/Ellis/Janek/Lucio

SB 265

Senate Conferees: Williams - Chair/Averitt/Eltife/Lucio/Van de Putte

SB 568

Senate Conferees: Deuell - Chair/Armbrister/Lindsay/Nelson/Zaffirini

SB 805

Senate Conferees: Averitt - Chair/Duncan/Estes/Eltife/Williams

SB 809

Senate Conferees: Averitt - Chair/Armbrister/Duncan/Madla/Williams

SB 882

Senate Conferees: Lucio - Chair/Nelson/Shapiro/Shapleigh/West, Royce

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 265

Senate Conferees: Eltife - Chair/Brimer/Fraser/Gallegos/Madla

HB 873

Senate Conferees: Lucio - Chair/Ellis/Harris/Jackson, Mike/Madla

HB 1634

Senate Conferees: Gallegos - Chair/Duncan/Ellis/Hinojosa/Whitmire

HB 3485

Senate Conferees: Lucio - Chair/Carona/Harris/Shapleigh/Wentworth

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 747 (29 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Saturday, May 28, 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 30 Miller
Designating Dublin as the official Irish Capital of Texas.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 42 (29 Yeas, 0 Nays)

SB 45 (29 Yeas, 0 Nays)

SB 132 (29 Yeas, 0 Nays)

SB 151 (28 Yeas, 1 Nay)

SB 183 (29 Yeas, 0 Nays)

SB 451 (29 Yeas, 0 Nays)

SB 827 (29 Yeas, 0 Nays)

SB 1037 (29 Yeas, 0 Nays)

SB 1044 (29 Yeas, 0 Nays)

SB 1170 (29 Yeas, 0 Nays)

SB 1175 (29 Yeas, 0 Nays)

SB 1195	(28 Yeas, 1 Nay)
SB 1452	(29 Yeas, 0 Nays)
SB 1481	(29 Yeas, 0 Nays)
SB 1528	(29 Yeas, 0 Nays)
SB 1626	(29 Yeas, 0 Nays)
SB 1798	(29 Yeas, 0 Nays)
SB 1820	(29 Yeas, 0 Nays)
SB 1872	(29 Yeas, 0 Nays)
SB 1873	(29 Yeas, 0 Nays)
SB 1891	(29 Yeas, 0 Nays)

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 89

Senate Conferees: Averitt - Chair/Nelson/Shapiro/Staples/Van de Putte

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 266

Senate Conferees: Lindsay - Chair/Eltife/Madla/Seliger/Wentworth

HB 580

Senate Conferees: Gallegos - Chair/Armbrister/Jackson, Mike/Lindsay/Wentworth

HB 789

Senate Conferees: Fraser - Chair/Averitt/Estes/Nelson/Van de Putte

HB 843

Senate Conferees: Nelson - Chair/Carona/Eltife/Estes/Fraser

HB 872

Senate Conferees: Armbrister - Chair/Brimer/Jackson, Mike/Lucio/Whitmire

HB 1207

Senate Conferees: Lindsay - Chair/Armbrister/Jackson, Mike/Madla/Staples

HB 1610

Senate Conferees: Brimer - Chair/Averitt/Harris/Jackson, Mike/Madla

HB 2120

Senate Conferees: Lindsay - Chair/Brimer/Madla/Wentworth/West, Royce

HB 2129

Senate Conferees: Armbrister - Chair/Estes/Hinojosa/Jackson, Mike/Madla

HB 2217

Senate Conferees: Staples - Chair/Madla/Ogden/Shapleigh/Williams

HB 2309

Senate Conferees: Jackson, Mike - Chair/Duncan/Fraser/Lucio/Madla

HB 2423

Senate Conferees: Armbrister - Chair/Harris/Jackson, Mike/Lucio/Madla

HB 2491

Senate Conferees: Armbrister - Chair/Deuell/Eltife/Madla/Seliger

HB 2525

Senate Conferees: Lindsay - Chair/Eltife/Jackson, Mike/West, Royce/Whitmire

HB 2639

Senate Conferees: Brimer - Chair/Averitt/Harris/Jackson, Mike/Staples

HB 2668

Senate Conferees: Wentworth - Chair/Averitt/Duncan/Harris/Hinojosa

HB 3539

Senate Conferees: Fraser - Chair/Armbrister/Averitt/Estes/Madla

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Saturday, May 28, 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 PASSED THE FOLLOWING MEASURES:

HCR 194 Jones, Jesse SPONSOR: Deuell
Designating July 2005 as Lawn Mower Safety Awareness Month.

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 10

Senate Conferees: Ogden - Chair/Averitt/Duncan/Whitmire/Zaffirini

HB 183

Senate Conferees: Zaffirini - Chair/Barrientos/Staples/Van de Putte/Wentworth

HB 880

Senate Conferees: Zaffirini - Chair/Barrientos/Deuell/Janek/Nelson

HB 925

Senate Conferees: Lucio - Chair/Estes/Seliger/Shapleigh/Zaffirini

HB 1068

Senate Conferees: Hinojosa - Chair/Eltife/Harris/Seliger/Whitmire

HB 1800

Senate Conferees: Harris - Chair/Armbrister/Brimer/Eltife/Van de Putte

HB 2145

Senate Conferees: Deuell - Chair/Eltife/Janek/Nelson/Van de Putte

HB 2161

Senate Conferees: Seliger - Chair/Armbrister/Averitt/Deuell/Ellis

HB 2335

Senate Conferees: Shapleigh - Chair/Fraser/Hinojosa/Seliger/Van de Putte

HB 3518

Senate Conferees: Ellis - Chair/Lindsay/Madla/Wentworth/Whitmire

HB 3556

Senate Conferees: Deuell - Chair/Gallegos/Lindsay/Madla/Seliger

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 4**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Saturday, May 28, 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 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 1189

Senate Conferees: Wentworth - Chair/Averitt/Duncan/Harris/West, Royce

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 260

Senate Conferees: Averitt - Chair/Duncan/Harris/Hinojosa/Wentworth

HB 955

Senate Conferees: Averitt - Chair/Eltife/Estes/Fraser/Van de Putte

HB 1116

Senate Conferees: Nelson - Chair/Carona/Harris/Jackson, Mike/Whitmire

HB 1126

Senate Conferees: Madla - Chair/Gallegos/Janek/Lucio/Nelson

HB 1188

Senate Conferees: West, Royce - Chair/Brimer/Deuell/Eltife/Madla

HB 1357

Senate Conferees: Seliger - Chair/Ellis/Hinojosa/Lindsay/Williams

HB 1449

Senate Conferees: Harris - Chair/Brimer/Madla/Van de Putte/Wentworth

HB 1772

Senate Conferees: Fraser - Chair/Armbrister/Brimer/Madla/Wentworth

HB 2027

Senate Conferees: Armbrister - Chair/Fraser/Harris/Jackson, Mike/Lucio

HB 2201

Senate Conferees: Estes - Chair/Eltife/Fraser/Jackson, Mike/Seliger

HB 2221

Senate Conferees: West, Royce - Chair/Carona/Hinojosa/Shapiro/Williams

HB 2572

Senate Conferees: Janek - Chair/Armbrister/Deuell/Eltife/Lucio

HB 2760

Senate Conferees: Averitt - Chair/Armbrister/Estes/Fraser/Van de Putte

HB 2876

Senate Conferees: Armbrister - Chair/Duncan/Estes/Lindsay/Madla

HB 2928

Senate Conferees: Seliger - Chair/Carona/Eltife/Fraser/West, Royce

HB 2959

Senate Conferees: Zaffirini - Chair/Averitt/Eltife/Fraser/Lucio

HB 3001

Senate Conferees: Duncan - Chair/Averitt/Ellis/Nelson/Ogden

HB 3333

Senate Conferees: Madla - Chair/Brimer/Deuell/Duncan/Shapleigh

HB 3482

Senate Conferees: Armbrister - Chair/Fraser/Jackson, Mike/Madla/Seliger

HB 3563

Senate Conferees: Staples - Chair/Averitt/Eltife/Fraser/Hinojosa

HJR 80

Senate Conferees: Ogden - Chair/Carona/Estes/Madla/Williams

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Saturday, May 28, 2005 - 5

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 526 (31 Yeas, 0 Nays)

SB 874 (31 Yeas, 0 Nays)

SB 1131 (31 Yeas, 0 Nays)

SB 1831 (31 Yeas, 0 Nays)

SB 1892 (31 Yeas, 0 Nays)

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 408

Senate Conferees: Nelson - Chair/Carona/Fraser/Van de Putte/Whitmire

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 698

Senate Conferees: Averitt - Chair/Ellis/Eltife/Fraser/Lucio

HB 2329

Senate Conferees: Ogden - Chair/Brimer/Fraser/Hinojosa/Lucio

HB 2793

Senate Conferees: Jackson, Mike - Chair/Armbrister/Harris/Lucio/Shapleigh

HB 2795

Senate Conferees: Averitt - Chair/Duncan/Harris/Hinojosa/Wentworth

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Saturday, May 28, 2005 - 6

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 9 (31 Yeas, 0 Nays)

SB 60 (26 Yeas, 5 Nays)

SB 411 (31 Yeas, 0 Nays)

SB 1038 (31 Yeas, 0 Nays)

SB 1173 (31 Yeas, 0 Nays)

SB 1290 (31 Yeas, 0 Nays)

SB 1413 (31 Yeas, 0 Nays)

SB 1668 (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 1773

Senate Conferees: Averitt - Chair/Brimer/Deuell/Gallegos/Madla

HB 2233

Senate Conferees: Duncan - Chair/Armbrister/Ogden/Seliger/Zaffirini

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 167 (31 Yeas, 0 Nays)
HB 225 (31 Yeas, 0 Nays)
HB 283 (31 Yeas, 0 Nays)
HB 905 (31 Yeas, 0 Nays)
HB 1048 (31 Yeas, 0 Nays)
HB 1358 (viva-voce vote)
HB 1830 (31 Yeas, 0 Nays)
HB 1835 (31 Yeas, 0 Nays)
HB 2438 (30 Yeas, 0 Nays)
HB 2465 (31 Yeas, 0 Nays)
HB 2678 (31 Yeas, 0 Nays)
SB 368 (28 Yeas, 2 Nays)
SB 757 (31 Yeas, 0 Nays)
SB 872 (31 Yeas, 0 Nays)
SB 1641 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 7

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Saturday, May 28, 2005 - 7

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 1710 (31 Yeas, 0 Nays)

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 1 (30 Yeas, 1 Nay)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

ENROLLED

May 27 - HB 39, HB 62, HB 75, HB 126, HB 129, HB 133, HB 135, HB 157, HB 160, HB 201, HB 251, HB 270, HB 308, HB 312, HB 363, HB 365, HB 370, HB 381, HB 383, HB 407, HB 473, HB 474, HB 495, HB 505, HB 506, HB 511, HB 573, HB 578, HB 617, HB 629, HB 637, HB 638, HB 646, HB 647, HB 659, HB 669, HB 681, HB 699, HB 703, HB 754, HB 825, HB 858, HB 867, HB 868, HB 900, HB 984, HB 989, HB 994, HB 1053, HB 1055, HB 1071, HB 1102, HB 1106, HB 1111, HB 1132, HB 1140, HB 1162, HB 1173, HB 1181, HB 1208, HB 1209, HB 1215, HB 1234, HB 1244, HB 1248, HB 1252, HB 1253, HB 1268, HB 1287, HB 1323, HB 1379, HB 1426, HB 1438, HB 1470, HB 1472, HB 1475, HB 1484, HB 1502, HB 1516, HB 1567, HB 1571, HB 1572, HB 1580, HB 1584, HB 1588, HB 1589, HB 1596, HB 1601, HB 1611, HB 1622, HB 1631, HB 1636, HB 1681, HB 1687, HB 1733, HB 1765, HB 1775, HB 1789, HB 1812, HB 1813, HB 1831, HB 1851, HB 1896, HB 1925, HB 1928, HB 1934, HB 1945, HB 1977, HB 1981, HB 1984, HB 1987, HB 1996, HB 1999, HB 2036, HB 2059, HB 2065, HB 2068, HB 2100, HB 2101, HB 2109, HB 2134, HB 2139, HB 2140, HB 2197, HB 2199, HB 2218, HB 2228, HB 2235, HB 2243, HB 2254, HB 2273, HB 2301, HB 2337, HB 2382, HB 2384, HB 2408, HB 2422, HB 2428, HB 2441, HB 2466, HB 2470, HB 2471, HB 2473, HB 2476, HB 2495, HB 2507, HB 2518, HB 2526, HB 2569, HB 2574, HB 2579, HB 2590, HB 2614, HB 2618, HB 2626, HB 2627, HB 2640, HB 2650, HB 2653, HB 2661, HB 2677, HB 2680, HB 2716, HB 2753, HB 2769, HB 2791, HB 2806, HB 2810, HB 2823, HB 2826, HB 2837, HB 2839, HB 2856, HB 2866, HB 2879, HB 2926, HB 2957, HB 2958, HB 2966, HB 3016, HB 3101, HB 3140, HB 3221, HB 3250, HB 3302, HB 3376, HB 3384, HB 3425, HB 3434, HB 3441, HB 3460, HB 3461, HB 3468, HB 3497, HB 3513, HB 3524, HB 3530, HB 3531, HB 3535, HB 3537, HB 3541, HB 3548, HB 3549, HB 3550, HB 3557, HB 3560, HB 3576, HCR 35, HCR 49, HCR 88, HCR 98, HCR 105, HCR 108, HCR 117, HCR 138, HCR 153

SENT TO THE GOVERNOR

May 27 - 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

SENT TO THE SECRETARY OF THE STATE

May 27 - HJR 79

RECOMMENDATIONS FILED WITH THE SPEAKER

May 27 - HB 3480, HB 3482, HB 3484, HB 3487, HB 3488, HB 3523, HB 3558, HB 3559, HB 3574, HB 3576, HB 3577, HB 3578, HB 3579, HB 3580, HB 3581, HB 3582, HB 3583, HB 3584, HB 3585, HB 3586, HB 3587, HB 3588, HB 3589, HB 3590

SIGNED BY THE GOVERNOR

May 27 - HB 25, HB 81, HB 87, HB 102, HB 203, HB 204, HB 207, HB 210, HB 307, HB 340, HB 350, HB 404, HB 409, HB 413, HB 417, HB 472, HB 546, HB 595, HB 596, HB 614, HB 654, HB 678, HB 723, HB 735, HB 774, HB 854, HB 883, HB 894, HB 937, HB 942, HB 957, HB 982, HB 1007, HB 1097, HB 1130, HB 1182, HB 1191, HB 1201, HB 1285, HB 1361, HB 1362, HB 1363, HB 1508, HB 1531, HB 1573, HB 1695, HB 1759, HB 1912, HB 1913, HB 1970, HB 1982, HB 2032, HB 2096, HB 2171, HB 2202, HB 2208, HB 2256, HB 2274, HB 2298, HB 2377, HB 2475, HB 2549, HB 2553, HB 2814, HB 2961, HB 3489, HCR 13, HCR 71, HCR 111, HCR 124, HCR 168