

# HOUSE JOURNAL

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EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

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SEVENTY-FIRST DAY — THURSDAY, MAY 14, 2009

The house met at 9 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 821).

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

Absent, Excused — Kuempel.

The invocation was offered by Ricardo Brambila, pastor, First Baptist Church, San Isidro.

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

### **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. 30).

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Homer requested permission for the Committee on Culture, Recreation, and Tourism to meet while the house is in session, at 9:40 a.m. today, in 3W.9, for a formal meeting, to consider pending business.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Culture, Recreation, and Tourism, 9:40 a.m. today, 3W.9, for a formal meeting, to consider pending business.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Ritter requested permission for the Committee on Natural Resources to meet while the house is in session, at 9:50 a.m. today, in 3W.15, to consider **SB 1566, SB 2120, SB 2313, SB 2317, SB 2453, SB 2495, SB 2518**, and pending business.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Natural Resources, 9:50 a.m. today, 3W.15, for a formal meeting, to consider **SB 1566, SB 2120, SB 2313, SB 2317, SB 2453, SB 2495, SB 2518**, and pending business.

**FIVE-DAY POSTING RULE SUSPENDED**

Representative Ritter moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Natural Resources to consider **SB 1566, SB 2120, SB 2313, SB 2317, SB 2453, SB 2495, and SB 2518**.

The motion prevailed.

**HR 2073 - ADOPTED**

**(by Legler)**

Representative Legler moved to suspend all necessary rules to take up and consider at this time **HR 2073**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2073**, Commemorating the 2009 Bands for Brothers and Sisters Concert in Pasadena.

**HR 2073** was adopted.

**HR 2078 - ADOPTED**  
**(by Guillen)**

Representative Guillen moved to suspend all necessary rules to take up and consider at this time **HR 2078**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2078**, Honoring Alexandra M. Harsacky of Zapata High School on being named the U.S. Border Patrol Youth of the Year for 2009.

**HR 2078** was adopted.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Guillen who introduced Alexandra Harsacky and members of her family and friends.

**MESSAGE FROM THE SENATE**

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

**HR 1510 - PREVIOUSLY ADOPTED**  
**(by P. King)**

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

**HR 1510**, In memory of Michael Brent Jones.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Shelton who introduced family members of Michael Brent Jones.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today to attend a meeting of the Conference Committee on **SB 1**:

Pitts on motion of Solomons.

**CAPITOL PHYSICIAN**

The speaker recognized Representative Madden who presented Dr. Christopher Crow of Plano as the "Doctor for the Day."

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

**HR 2033 - ADOPTED**  
**(by Flynn)**

Representative Flynn moved to suspend all necessary rules to take up and consider at this time **HR 2033**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2033**, Welcoming the students of Greenville Christian School to the State Capitol on May 14, 2009.

**HR 2033** was adopted.

**HB 2626 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2626**, A bill to be entitled An Act relating to the forensic medical examination of a sexual assault victim who has not reported the assault to a law enforcement agency.

Representative Naishtat moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2626**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2626**: Naishtat, chair; Kent, Bolton, Driver, and Merritt.

**HB 2310 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2310**, A bill to be entitled An Act relating to the powers and duties of the Texas Department of Licensing and Regulation, including the power to issue emergency orders and temporary and emergency licenses.

Representative Geren moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2310**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2310**: Geren, chair; Hamilton, Gutierrez, Jones, and Menendez.

**HB 865 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 865**, A bill to be entitled An Act relating to the establishment of the Texas Invasive Species Coordinating Committee.

Representative Swinford moved to concur in the senate amendments to **HB 865**.

The motion to concur in the senate amendments to **HB 865** prevailed by (Record 822): 143 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Callegari; Hardcastle; King, S.; Pierson.

#### STATEMENTS OF VOTE

When Record No. 822 was taken, my vote failed to register. I would have voted yes.

S. King

When Record No. 822 was taken, my vote failed to register. I would have voted yes.

Pierson

#### Senate Committee Substitute

**CSHB 865**, A bill to be entitled An Act relating to the establishment of the Texas Invasive Species Coordinating Committee.

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

SECTION 1. Title 7, Government Code, is amended by adding Chapter 776 to read as follows:

#### CHAPTER 776. TEXAS INVASIVE SPECIES COORDINATING COMMITTEE

Sec. 776.001. DEFINITIONS. In this chapter:

(1) "Committee" means the Texas Invasive Species Coordinating Committee.

(2) "Invasive species" means a species that is not native to an ecosystem and whose introduction to the ecosystem causes or has been demonstrated to cause economic harm, environmental harm, or harm to human health. Humans, domestic and exotic livestock, and non-harmful exotic organisms are not invasive species.

Sec. 776.002. MEMBER AGENCIES. (a) The member agencies of the committee are:

(1) the Department of Agriculture;

(2) the Parks and Wildlife Department;

(3) the State Soil and Water Conservation Board;

(4) the Texas AgriLife Extension Service;

(5) the Texas Forest Service;

(6) the Texas Water Development Board; and

(7) any other state agency added to the committee under Subsection (b).

(b) On the request of a state agency that has an interest in controlling invasive species, the member agencies listed in Subsections (a)(1)-(6) by unanimous agreement may add the agency to the committee.

Sec. 776.003. REPRESENTATIVES. (a) The committee is composed of one representative of each member agency. If an agency's representative is unable to attend a committee meeting or otherwise perform the representative's duties, the agency's alternate representative shall serve in the representative's place.

(b) The administrative head of each member agency:

(1) shall designate one individual to serve as the agency's representative on the committee and one individual to serve as alternate representative;

(2) may change the designated representative or alternate representative at will; and

(3) after designating or changing the representative or alternate representative, shall promptly notify the committee in writing of the name and position of the new representative or alternate representative.

(c) Service on the committee by a state officer or employee is an additional duty of the representative's office or employment.

Sec. 776.004. DUTIES. (a) The committee shall:

(1) serve as a catalyst for cooperation between state agencies in the area of invasive species control;

(2) facilitate governmental efforts, including efforts of local governments and special districts, to prevent and manage invasive species;

(3) make recommendations to state agencies regarding research, technology transfer, and management actions related to invasive species control;

(4) facilitate the exchange of information so that each member agency is informed of committee plans, recommendations, and proposals for research, education, and implementation of activities to:

(A) prevent, detect, assess, monitor, contain, and control or eradicate invasive species; and

(B) reduce environmental and economic threats and threats to human health from invasive species;

(5) provide a forum for developing coordinated interagency strategies and policies for invasive species control;

(6) provide technical information and input to regional and national invasive species control coordination efforts, including the National Invasive Species Management Plan;

(7) facilitate the review of committee technical decisions and work product by specialists and interested persons; and

(8) report as needed to the governor, lieutenant governor, and speaker of the house of representatives on committee plans, work product, and accomplishments.

(b) Each member agency of the committee shall:

(1) coordinate the agency's invasive species control activities with the committee and relevant coordinating bodies, including the National Invasive Species Council;

(2) share with the committee the agency's technical expertise related to invasive species;

(3) advise the committee of known invasive species threats to natural and agricultural resources; and

(4) cooperate, to the extent allowed by law, in initiatives to obtain appropriations and grants for invasive species control.

Sec. 776.005. BYLAWS. (a) The committee shall adopt bylaws governing the committee's operations.

(b) The bylaws:

(1) must provide a procedure to periodically elect one representative as committee chair;

(2) must provide a procedure to call committee meetings;

(3) must require the committee to meet at least annually; and

(4) may provide for the creation of subcommittees and advisory committees.

Sec. 776.006. STAFF; ATTACHMENT. (a) The committee is administratively attached to the State Soil and Water Conservation Board.

(b) The State Soil and Water Conservation Board shall provide one full-time equivalent employee to serve as committee coordinator.

Sec. 776.007. SUNSET PROVISION. (a) The committee is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this chapter expires September 1, 2013.

(b) To the extent that Chapter 325 (Texas Sunset Act) places a duty on a state agency subject to review under that chapter, the State Soil and Water Conservation Board shall perform the duty as it relates to the committee.

SECTION 2. Not later than November 1, 2009, the administrative head of each member agency of the Texas Invasive Species Coordinating Committee shall designate the agency's initial representative and alternate representative as provided by Section 776.003, Government Code, as added by this Act.

SECTION 3. Not later than February 1, 2010, the Texas Invasive Species Coordinating Committee shall hold its first meeting and adopt bylaws as required by Section 776.005, Government Code, as added by this Act.

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

**HB 1684 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative B. Brown called up with senate amendments for consideration at this time,

**HB 1684**, A bill to be entitled An Act relating to the creation and administration of the rural veterinarian loan repayment program.

Representative B. Brown moved to concur in the senate amendments to **HB 1684**.

The motion to concur in the senate amendments to **HB 1684** prevailed by (Record 823): 139 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Callegari; Hardcastle; Howard, C.; Isett; King, S.; Miller, S.; Pierson; Rose.

**STATEMENTS OF VOTE**

When Record No. 823 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari



When Record No. 823 was taken, my vote failed to register. I would have voted yes.

S. King

When Record No. 823 was taken, I was in the house but away from my desk. I would have voted yes.

S. Miller

When Record No. 823 was taken, I was in the house but away from my desk. I would have voted yes.

Pierson

### Senate Committee Substitute

**CSHB 1684**, A bill to be entitled An Act relating to the creation and administration of the rural veterinarian loan repayment program.

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

#### ARTICLE 1. RURAL VETERINARIAN LOAN REPAYMENT PROGRAM

SECTION 1.01. Subchapter A, Chapter 487, Government Code, is amended by adding Section 487.003 to read as follows:

Sec. 487.003. REFERENCES. In this chapter and Chapter 487A, a reference to "this chapter" means Chapters 487 and 487A.

SECTION 1.02. Section 487.558(b), Government Code, is amended to read as follows:

(b) The fund is composed of:

- (1) money transferred to the fund at the direction of the legislature;
- (2) gifts and grants contributed to the fund;
- (3) the returns received from investment of money in the fund; ~~and~~
- (4) amounts recovered under Section 487.555(e); and
- (5) amounts recovered under Section 487A.055(c).

SECTION 1.03. Section 487.559(f), Government Code, is amended to read as follows:

(f) The amount available for distribution from the fund, including any gift or grant, may be appropriated only for providing stipends and loan reimbursement under the programs authorized by this subchapter, for providing loan repayment assistance under Subchapter A, Chapter 487A, and to pay the expenses of managing the fund. Of the amount available for distribution from the fund not used to pay the expenses of managing the fund, one-half shall be appropriated for programs authorized by this subchapter and one-half shall be appropriated for providing loan repayment assistance under Subchapter A, Chapter 487A. The expenditure of a gift or grant is subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

SECTION 1.04. Subtitle F, Title 4, Government Code, is amended by adding Chapter 487A to read as follows:

CHAPTER 487A. ADDITIONAL PROGRAMS ADMINISTERED BY  
OFFICE OF RURAL COMMUNITY AFFAIRS  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 487A.001. DEFINITIONS. The definitions in Chapter 487 apply to this chapter.

[Sections 487A.002-487A.050 reserved for expansion]

SUBCHAPTER B. RURAL VETERINARIAN LOAN REPAYMENT  
PROGRAM

Sec. 487A.051. DEFINITION. In this subchapter, "designated rural area" means a rural geographic area in this state that the board by rule designates as rural for purposes of the loan repayment program under this subchapter.

Sec. 487A.052. LOAN REPAYMENT PROGRAM. (a) In accordance with this subchapter and rules adopted by the board, the office shall establish and administer a program to provide loan repayment assistance to veterinarians who agree to practice veterinary medicine on livestock or deer in a designated rural area.

(b) The board may provide repayment assistance to a veterinarian for up to four years. The board shall determine the amount of repayment assistance to provide each year.

Sec. 487A.053. ELIGIBILITY. To be eligible to receive loan repayment assistance under this subchapter, a veterinarian must:

(1) apply to the office;

(2) be licensed to practice veterinary medicine in this state; and

(3) enter into an agreement with the office as provided by Section 487A.055.

Sec. 487A.054. ELIGIBLE LOANS. (a) The office may provide repayment assistance for the repayment of any education loan received by the veterinarian through any lender for education at any veterinary school that awards a degree that satisfies the veterinary study requirements to obtain a license to practice veterinary medicine in this state.

(b) The office may not provide repayment assistance for an education loan that is in default at the time of the veterinarian's application.

Sec. 487A.055. AGREEMENT REQUIREMENTS. (a) To qualify for loan repayment assistance under this subchapter, a person must enter into a written agreement with the office as provided by this section. The agreement must:

(1) specify the conditions the person must satisfy to receive repayment assistance;

(2) require the person to practice veterinary medicine on livestock or deer for one full year in a designated rural area for each year the person receives loan repayment assistance under this subchapter;

(3) provide that any repayment assistance the person receives under this subchapter constitutes a loan until the person completes the year of practice and satisfies other applicable conditions of the agreement; and

(4) require the person to sign a promissory note acknowledging the conditional nature of the repayment assistance received and promising to repay the amount of that assistance plus applicable interest and reasonable collection costs if the person does not satisfy the applicable conditions.

(b) The office shall determine the terms of the promissory note required by Subsection (a)(4). To the extent practicable, the terms must be the same as those applicable to state or federally guaranteed student loans made at the same time.

(c) Amounts recovered under a promissory note required by Subsection (a)(4) shall be deposited in the permanent endowment fund for the rural communities health care investment program under Section 487.558.

Sec. 487A.056. REPAYMENT. (a) The office shall deliver any repayment assistance made under this subchapter in a lump sum payable to the lender and the veterinarian and in accordance with any applicable federal law.

(b) Loan repayment assistance received under this subchapter may be applied to the principal amount of the loan and to interest that accrues.

Sec. 487A.057. GRANTS, GIFTS, AND DONATIONS. (a) In addition to funds appropriated by the legislature, the office may solicit and accept grants, gifts, and donations from any public or private source for the purposes of this subchapter.

(b) Gifts and grants received under this section shall be deposited in the permanent endowment fund for the rural communities health care investment program under Section 487.558.

Sec. 487A.058. RULES. (a) The board shall adopt rules necessary to administer this subchapter.

(b) The office shall distribute to each veterinary school in this state a copy of the rules adopted under this section.

SECTION 1.05. The board of the Office of Rural Community Affairs shall adopt rules for the rural veterinarian loan repayment program under Subchapter B, Chapter 487A, Government Code, as added by this article, not later than December 31, 2009.

#### ARTICLE 2. DETERMINATION BY COMPTROLLER

SECTION 2.01. (a) This Act does not make an appropriation.

(b) Not later than August 31, 2009, the comptroller of public accounts shall make and publish in the Texas Register a determination whether a specific appropriation in an amount not less than \$2,790,000 for the implementation of this Act is provided in a general appropriations act of the 81st Legislature, Regular Session.

#### ARTICLE 3. EFFECTIVE DATES

SECTION 3.01. Article 1 of this Act takes effect September 1, 2009, but only if the comptroller of public accounts has published a determination that a specific appropriation has been made as provided by Section 2.01 of this Act. If the comptroller of public accounts determines that a specific appropriation has not been made as provided by Section 2.01 of this Act, or if the comptroller has not published a determination as provided by Section 2.01, Article 1 of this Act has no effect.

SECTION 3.02. Except as otherwise provided by this article, this Act takes effect on the 91st day after the last day of the legislative session.

**HB 1580 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1580**, A bill to be entitled An Act relating to the continuation and functions of the board of directors of the official cotton growers' boll weevil eradication foundation.

Representative Flynn moved to concur in the senate amendments to **HB 1580**.

The motion to concur in the senate amendments to **HB 1580** prevailed by (Record 824): 143 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Burnam; Hernandez; King, S.; King, T.

**STATEMENT OF VOTE**

When Record No. 824 was taken, my vote failed to register. I would have voted yes.

S. King

### Senate Committee Substitute

**CSHB 1580**, A bill to be entitled An Act relating to the continuation and functions of the board of directors of the official cotton grower's boll weevil eradication foundation.

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

SECTION 1. Section 74.001, Agriculture Code, is amended to read as follows:

Sec. 74.001. PUBLIC NUISANCE. (a) The legislature finds that cotton pests are a menace to the cotton industry, and that control of those pests is a public necessity. Any portion of the state that is susceptible to infestation by cotton pests must be protected from this public nuisance and threat to the continued stability of the cotton industry.

(b) The legislature finds that volunteer and other noncommercial cotton is a public nuisance that threatens the cotton growers' boll weevil eradication program by serving as a host for cotton pests such as boll weevils and pink bollworms. To protect the cotton industry of this state, volunteer and other noncommercial cotton must be eliminated subject to the provisions of this chapter.

SECTION 2. Subchapter A, Chapter 74, Agriculture Code, is amended by adding Sections 74.0031 and 74.0032 to read as follows:

Sec. 74.0031. COTTON STALK DESTRUCTION. (a) The department shall submit the recommendations of each administrative committee that governs a pest management zone under Section 74.003 to the Texas Boll Weevil Eradication Foundation. On review of the administrative committee recommendations, the foundation shall submit to the department an estimate of the amount by which the implementation of each recommendation would increase the cost of administering the boll weevil eradication program.

(b) The Texas Boll Weevil Eradication Foundation shall:

(1) conduct a study of the effects of incomplete cotton stalk destruction and volunteer cotton control on boll weevil eradication activities; and

(2) submit annual recommendations to the department and the board of the foundation for a cotton stalk destruction deadline for each pest management zone.

(c) The Texas Boll Weevil Eradication Foundation may consult with its technical advisory committee in fulfilling its duties under Subsection (b).

(d) The department shall set a cotton stalk destruction deadline for each pest management zone, with consideration given to the recommendations of the foundation and the applicable administrative committee submitted under Subsection (b).

Sec. 74.0032. HOSTABLE COTTON FEE. (a) The department shall establish a hostable cotton fee for fields in which hostable cotton stalks, hostable volunteer cotton, or other hostable noncommercial cotton remains past the stalk destruction deadline set for the applicable pest management zone under Section 74.0031. A fee under this section shall be expressed in terms of dollars per acre,

per week in which the stalks, volunteer cotton, or other noncommercial cotton remains in the field. The department shall establish a procedure to notify a cotton grower that a fee is due the department under this section.

(b) If adverse weather conditions or other good cause exists, the administrative committee that governs the applicable pest management zone may request that the department grant an extension of the cotton stalk destruction deadline for any specified part of the pest management zone or for the entire pest management zone. A request under this subsection must be made not later than 10 business days before the applicable cotton stalk destruction deadline. A field is not subject to a hostable cotton fee if the department grants an extension of the deadline. The Texas Boll Weevil Eradication Foundation shall submit to the department an estimate of the amount by which an extension under this subsection will increase the cost of administering the boll weevil eradication program.

(c) If the applicable administrative committee does not request an extension, or if the department denies a request for an extension of the cotton stalk destruction deadline for a specified part of a pest management zone, a cotton grower may apply for an individual extension of the deadline. A request under this subsection must be made not later than 10 business days before the applicable pest management zone's stalk destruction deadline.

(d) The Texas Boll Weevil Eradication Foundation shall submit to the department an estimate of the amount by which any extension of a stalk destruction deadline that is granted under Subsection (c) will increase the cost of administering the boll weevil eradication program.

(e) Any hostable cotton or hostable cotton stalks that remain in a field after the cotton stalk destruction deadline or any extension of the stalk destruction deadline has passed are subject to the hostable cotton fee established under Subsection (a). Any hostable cotton or hostable cotton stalks that remain in a field for more than 30 days after the stalk destruction deadline or any extension of the deadline are subject to 150 percent of the hostable cotton fee established under Subsection (a).

(f) A hostable cotton fee shall be sent to the comptroller and may be appropriated only for the purpose of treating hostable cotton or for other expenses related to boll weevil eradication. The department may contract with the Texas Boll Weevil Eradication Foundation or its successor entity for the treatment, control, or monitoring activities funded from the account.

(g) Unless on or before the 45th day after the date the department gives notice to a cotton grower that a hostable cotton fee is due the fee is paid, the department may destroy any cotton or cotton stalks that remain in the field, as provided by Section 74.004.

(h) The department shall adopt rules to administer this section.

SECTION 3. Section 74.102(5), Agriculture Code, is amended to read as follows:

(5) "Cotton grower" means a person who grows cotton intended to be commercial ~~[and receives income from the sale of]~~ cotton. The term includes an individual who as owner, landlord, tenant, or sharecropper is entitled to share in

the cotton grown and available for marketing from a farm or to share in the proceeds from the sale of the cotton from the farm or from an indemnity or other payment received from or related to the planting, growing, or failure of the cotton.

SECTION 4. Section 74.113, Agriculture Code, is amended by amending Subsection (f) and adding Subsection (l) to read as follows:

(f) An assessment levied on cotton growers in an eradication zone may be applied only to:

(1) eradication [~~in that zone~~];

(2) the foundation's operating costs, including payments on debt incurred for a foundation activity [~~except that the funds of one zone may not be used to pay another zone's bank loans or debts~~]; and

(3) the conducting of other programs consistent with the declaration of policy stated in Section 74.101.

(l) With the approval of the board and the commissioner, the foundation may transfer the proceeds from the collection of assessments in one eradication zone to another eradication zone. The board shall consult with affected cotton grower steering committees before recommending that the commissioner approve the transfer of proceeds under this subsection. The transferred proceeds may be applied only as provided by Subsection (f).

SECTION 5. Subchapter D, Chapter 74, Agriculture Code, is amended by adding Section 74.1135 to read as follows:

Sec. 74.1135. ALTERNATIVE METHOD OF ASSESSMENTS. (a) The commissioner may adopt rules that provide for an alternative method, manner, and mechanism by which assessments are imposed and collected under this subchapter. The commissioner may adopt the rules only after receiving a recommendation from the board. The board shall consult with cotton grower steering committees and the technical advisory committee in formulating a recommendation to the commissioner under this subsection. The commissioner may accept, reject, or modify a board recommendation. The rules apply notwithstanding Section 74.113. The rules must require any person collecting an assessment to forward the assessment to the foundation.

(b) The maximum amount of an assessment under this section may not exceed the maximum amount of an assessment approved in an assessment referendum under this subchapter.

SECTION 6. Section 74.118(a), Agriculture Code, is amended to read as follows:

(a) The commissioner may adopt reasonable rules regarding areas where cotton may not be planted in an eradication zone if there is reason to believe planting will jeopardize the success of the program by making treatment impracticable or present a hazard to public health or safety.

SECTION 7. Section 74.119, Agriculture Code, is amended to read as follows:

Sec. 74.119. AUTHORITY FOR DESTRUCTION OR TREATMENT OF COTTON IN ERADICATION ZONES; COMPENSATION PAYABLE. (a) The department shall [~~may~~] destroy or treat hostable volunteer or other hostable

noncommercial cotton and establish procedures for the purchase and destruction of commercial cotton in eradication zones [~~if the department determines the action is necessary to carry out the purposes of this subchapter~~]. The department is not liable to the owner or lessee for the destruction of or injury to any cotton that was planted in an eradication zone after publication of notice as provided by this subchapter. The foundation is liable for the destruction of cotton if the cotton was planted in an eradication zone before publication of the notice.

(b) Not later than January 1, 2010, the department shall adopt rules providing for the regulation and control of volunteer and other noncommercial cotton in pest management zones. At a minimum, the rules must:

(1) provide a grower or landowner with a period of time in which the grower or owner is required to destroy hostable volunteer or other hostable noncommercial cotton on receipt of a notice from the department; and

(2) allow the department or a person designated by the department:

(A) to monitor and treat hostable volunteer or other hostable noncommercial cotton that is located in a crop field for boll weevil infestation if the grower or landowner does not destroy the cotton in compliance with the notice from the department; and

(B) to destroy hostable volunteer or other hostable noncommercial cotton that is not in a crop field, as provided by Section 74.004.

(c) If a grower or landowner does not destroy hostable volunteer or other hostable noncommercial cotton as required by Subsection (b)(1), the grower or owner shall pay to the department a volunteer cotton fee in an amount determined by the department. A fee under this subsection:

(1) may be assessed only on acreage where hostable volunteer or other hostable noncommercial cotton is located;

(2) may not be less than one-half the amount the grower or owner would owe if the entire acreage were planted with cotton; and

(3) shall be deposited to the credit of the hostable cotton fee account established by Section 74.0032.

SECTION 8. Section 74.127(a), Agriculture Code, is amended to read as follows:

(a) The board of directors of the official cotton growers' boll weevil eradication foundation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 2021 [~~2009~~].

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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

Amend **CSHB 1580** (committee printing) as follows:

(1) On page 1, line 55, between "establish" and "a hostable", insert "and collect".

(2) On page 2, line 40, between "Unless" and "on or before", insert "the fee is paid".



(3) On page 2, line 42, after "due" strike "the fee is paid".

(4) On page 3, line 24, strike "Section 74.118(a), Agriculture Code, is" and substitute "Sections 74.118(a) and (b), Agriculture Code, are"

(5) On page 3, between line 30 and line 31, insert the following:

"(b) The commissioner may adopt rules relating to [~~prohibiting the planting of~~] noncommercial cotton located in eradication zones and requiring that all growers of commercial cotton in an eradication zone participate in a boll weevil or pink bollworm eradication program that includes cost sharing as required by the rules."

(6) On page 3, line 38-39, strike "[if the department determines the action is necessary to carry out the purpose of this subchapter]" and substitute "if the department determines the action is necessary to carry out the purpose of this subchapter".

### **HB 968 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 968**, A bill to be entitled An Act relating to the use of crossbows for hunting.

Representative Homer moved to concur in the senate amendments to **HB 968**.

The motion to concur in the senate amendments to **HB 968** prevailed by (Record 825): 139 Yeas, 1 Nays, 1 Present, not voting.

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

Nays — Phillips.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Corte; Hilderbran; Isett; King, S.; Martinez Fischer; Pierson; Rose.

### STATEMENTS OF VOTE

When Record No. 825 was taken, I was in the house but away from my desk. I would have voted no.

Corte

When Record No. 825 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

When Record No. 825 was taken, my vote failed to register. I would have voted yes.

S. King

When Record No. 825 was taken, I was in the house but away from my desk. I would have voted yes.

Pierson

### Senate Committee Substitute

**CSHB 968**, A bill to be entitled An Act relating to the use of crossbows for hunting.

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

SECTION 1. Section 43.201(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided by Subsection (c) or (d), no person may hunt deer, turkey, or javelina (collared peccary) during an open archery season provided by law or by the proclamations of the commission and during which season only crossbows, ~~[used by hunters with upper limb disabilities and]~~ longbows, recurved bows, and compound bows may be used unless the person has acquired an archery hunting stamp issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter. In a county that does not permit hunting with a firearm, a hunter may use a crossbow only if the hunter is a person with upper limb disabilities and has an archery hunting stamp.

SECTION 2. The change in law made by this Act applies to a proceeding regarding hunting with a crossbow that is pending or filed on or after the effective date of this Act.

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

### **HB 1830 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1830**, A bill to be entitled An Act relating to information technology security practices of state agencies.

Representative Corte moved to concur in the senate amendments to **HB 1830**.

The motion to concur in the senate amendments to **HB 1830** prevailed by (Record 826): 142 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — King, S.; Kolkhorst; Martinez Fischer; Rios Ybarra; Rose.

#### STATEMENTS OF VOTE

When Record No. 826 was taken, my vote failed to register. I would have voted yes.

S. King

When Record No. 826 was taken, I was in the house but away from my desk. I would have voted yes.

Kolkhorst

#### Senate Committee Substitute

**CSHB 1830**, A bill to be entitled An Act relating to information technology security practices of state agencies.

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

SECTION 1. Section 411.081(i), Government Code, is amended to read as follows:

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) the Texas Juvenile Probation Commission;
- (19) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit union commissioner;
- (20) the Texas State Board of Public Accountancy;
- (21) the Texas Department of Licensing and Regulation;
- (22) the Health and Human Services Commission;
- (23) the Department of Aging and Disability Services; ~~and~~
- (24) the Texas Education Agency; and
- (25) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:

(A) the Department of Information Resources; or

(B) a contractor or subcontractor of the Department of Information

Resources.

SECTION 2. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1404 to read as follows:

Sec. 411.1404. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF INFORMATION RESOURCES. (a) The Department of Information Resources is entitled to obtain from the department or the identification division of the Federal Bureau of Investigation the criminal history record information maintained by the department or division

that relates to a person who is an employee, applicant for employment, contractor, subcontractor, intern, or other volunteer with the Department of Information Resources or with a contractor or subcontractor for the Department of Information Resources.

(b) Criminal history record information obtained by the Department of Information Resources under this section may not be released or disclosed except:

(1) by court order; or

(2) with the consent of the person who is the subject of the information.

(c) The Department of Information Resources shall destroy criminal history record information obtained under this section that relates to a person after the information is used to make an employment decision or to take a personnel action relating to the person who is the subject of the information.

(d) The Department of Information Resources may not obtain criminal history record information under this section unless the Department of Information Resources first adopts policies and procedures that provide that evidence of a criminal conviction or other relevant information obtained from the criminal history record information does not automatically disqualify an individual from employment. The policies and procedures adopted under this subsection must provide that the hiring official will determine, on a case-by-case basis, whether the individual is qualified for employment based on factors that include:

(1) the specific duties of the position;

(2) the number of offenses committed by the individual;

(3) the nature and seriousness of each offense;

(4) the length of time between the offense and the employment

decision;

(5) the efforts by the individual at rehabilitation; and

(6) the accuracy of the information on the individual's employment

application.

SECTION 3. Subchapter D, Chapter 551, Government Code, is amended by adding Section 551.089 to read as follows:

Sec. 551.089. DEPARTMENT OF INFORMATION RESOURCES. This chapter does not require the governing board of the Department of Information Resources to conduct an open meeting to deliberate:

(1) security assessments or deployments relating to information resources technology;

(2) network security information as described by Section 2059.055(b);

or

(3) the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

SECTION 4. Section 552.139, Government Code, is amended to read as follows:

Sec. 552.139. EXCEPTION: GOVERNMENT INFORMATION RELATED TO SECURITY OR INFRASTRUCTURE ISSUES FOR COMPUTERS. (a) Information is excepted from the requirements of Section

552.021 if it is information that relates to computer network security, to restricted information under Section 2059.055, or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

- (1) a computer network vulnerability report; and
- (2) any other assessment of the extent to which data processing operations, a computer, ~~[or]~~ a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, ~~[or]~~ erasure, or inappropriate use.

(c) Notwithstanding the confidential nature of the information described in this section, the information may be disclosed to a bidder if the governmental body determines that providing the information is necessary for the bidder to provide an accurate bid. A disclosure under this subsection is not a voluntary disclosure for purposes of Section 552.007.

SECTION 5. Sections 2054.077(b), (d), and (e), Government Code, are amended to read as follows:

(b) The information resources manager of a state agency may prepare or have prepared a report, including an executive summary of the findings of the report, assessing the extent to which a computer, a computer program, a computer network, a computer system, an interface to a computer system, computer software, or data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm, including the extent to which the agency's or contractor's electronically stored information is vulnerable to alteration, damage, ~~[or]~~ erasure, or inappropriate use.

(d) ~~The [On request, the]~~ information resources manager shall provide an electronic [a] copy of the vulnerability report on its completion to:

- (1) the department;
- (2) the state auditor; ~~[and]~~
- (3) the agency's executive director; and
- (4) any other information technology security oversight group specifically authorized by the legislature to receive the report.

(e) Separate from the executive summary described by Subsection (b), a [A] state agency whose information resources manager has prepared or has had prepared a vulnerability report shall prepare a summary of the report that does not contain any information the release of which might compromise the security of the state agency's or state agency contractor's computers, computer programs, computer networks, computer systems, computer software, data processing, or electronically stored information. The summary is available to the public on request.

SECTION 6. Section 2054.100(b), Government Code, is amended to read as follows:

(b) The plan must describe the agency's current and proposed projects for the biennium, including how the projects will:

- (1) benefit individuals in this state and benefit the state as a whole;
- (2) use, to the fullest extent, technology owned or adapted by other state agencies, including closed loop event management technology that secures, logs, and provides audit management of baseboard management controllers and consoles of cyber assets;
- (3) employ, to the fullest extent, the department's information technology standards, including Internet-based technology standards;
- (4) expand, to the fullest extent, to serve residents of this state or to serve other state agencies;
- (5) develop on time and on budget;
- (6) produce quantifiable returns on investment; and
- (7) meet any other criteria developed by the department or the quality assurance team.

SECTION 7. Subchapter B, Chapter 2059, Government Code, is amended by adding Section 2059.060 to read as follows:

Sec. 2059.060. VULNERABILITY TESTING OF NETWORK HARDWARE AND SOFTWARE. (a) The department shall adopt rules requiring, in state agency contracts for network hardware and software, a statement by the vendor certifying that the network hardware or software, as applicable, has undergone independent certification testing for known and relevant vulnerabilities.

(b) Rules adopted under Subsection (a) may:

- (1) provide for vendor exemptions; and
- (2) establish certification standards for testing network hardware and software for known and relevant vulnerabilities.

(c) Unless otherwise provided by rule, the required certification testing must be conducted under maximum load conditions in accordance with published performance claims of a hardware or software manufacturer, as applicable.

SECTION 8. (a) The Department of Information Resources shall adopt the rules required by Section 2059.060, Government Code, as added by this Act, not later than September 1, 2010.

(b) The change in law made by Section 2059.060, Government Code, as added by this Act, applies only to a contract entered into on or after December 1, 2010.

SECTION 9. This Act takes effect September 1, 2009.

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

Amend **CSHB 1830** (committee printing), in SECTION 6 of the bill, on page 3, lines 47, by striking "including closed loop event management technology that secures, logs, and provides audit management of baseboard management controllers and consoles of cyber assets".

### **HB 1736 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1736**, A bill to be entitled An Act relating to compensation of persons wrongfully imprisoned.

Representative Anchia moved to concur in the senate amendments to **HB 1736**.

The motion to concur in the senate amendments to **HB 1736** prevailed by (Record 827): 132 Yeas, 13 Nays, 1 Present, not voting.

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

Nays — Anderson; Chisum; Christian; Fletcher; Howard, C.; Kleinschmidt; Laubenberg; Legler; Miller, S.; Parker; Riddle; Smith, W.; Weber.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Eissler; King, S.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 827. I intended to vote no.

Craddick

When Record No. 827 was taken, I was in the house but away from my desk. I would have voted yes.

Eissler

I was shown voting yes on Record No. 827. I intended to vote no.

Hunter

When Record No. 827 was taken, my vote failed to register. I would have voted yes.

S. King



I was shown voting yes on Record No. 827. I intended to vote no.

Paxton

### Senate Committee Substitute

**CSHB 1736**, A bill to be entitled An Act relating to compensation of and services to persons wrongfully imprisoned.

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

SECTION 1. This Act shall be known as the Tim Cole Act.

SECTION 2. Section 103.001, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) If a deceased person would be entitled to compensation under Subsection (a)(2) if living, including a person who received a posthumous pardon, the person's heirs, legal representatives, and estate are entitled to lump-sum compensation under Section 103.052.

SECTION 3. Section 103.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.003. LIMITATION ON TIME TO FILE. Not later than the third anniversary of the date the person on whose imprisonment the claim is based received the pardon or was granted relief [~~found not guilty~~] as required by Section 103.001, a person seeking compensation under this chapter must[-

~~(1)] file an application with the comptroller for compensation under Subchapter B[-or~~

~~(2) file suit against the state for compensation under Subchapter C].~~

SECTION 4. Section 103.051(a), Civil Practice and Remedies Code, as amended by Chapters 1190 (**HB 814**) and 1388 (**SB 1719**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(a) To apply for compensation under this subchapter, the claimant must file with the comptroller's judiciary section:

(1) an application for compensation provided for that purpose by the comptroller;

(2) a verified copy of the pardon or court order justifying the application for compensation; ~~and~~

(3) a statement provided by the Texas Department of Criminal Justice and any county or municipality that incarcerated the person on whose imprisonment the claim is based in connection with the relevant sentence verifying the length of incarceration;

(4) if applicable, a statement from the Department of Public Safety verifying registration as a sex offender and length of registration;

(5) if applicable, a statement from the Texas Department of Criminal Justice verifying the length of time spent on parole; and

(6) if the claimant is applying for compensation under Section 103.052(a)(2), a certified copy of each child support order under which child support payments became due during the time the claimant served in prison and copies of the official child support payment records described by Section 234.009, Family Code, for that period.

SECTION 5. Section 103.052, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.052. LUMP-SUM [~~AMOUNT AND TIMING OF~~] COMPENSATION. (a) A person who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to:

(1) \$80,000 [~~\$50,000~~] multiplied by the number of years served in prison, expressed as a fraction to reflect partial years; and

(2) compensation for child support payments owed by the person on whose imprisonment the claim is based that became due and interest on child support arrearages that accrued during the time served in prison but were not paid.

~~[(a 1) Notwithstanding Subsection (a)(1), a person sentenced to death who meets the requirements of Section 103.001 is entitled to compensation in an amount equal to \$100,000 multiplied by the number of years served in prison, expressed as a fraction to reflect partial years.]~~

(b) A person who, after serving a sentence in a Texas prison for which the person is entitled to compensation under Subsection (a)(1), was released on parole or required to register as a sex offender under Chapter 62, Code of Criminal Procedure, is entitled to compensation in an amount equal to \$25,000 multiplied by the number of years served either on parole or as a registered sex offender, expressed as a fraction to reflect partial years [~~A person who is owed an amount of compensation under Subsection (a)(1) or (a 1) equal to or greater than \$50,000 shall be paid that compensation in two equal annual installments].~~

~~(c) [If requested by the claimant, the Texas Department of Mental Health and Mental Retardation shall provide appropriate counseling for one year to the claimant at a mutually agreed-on location at no charge to the claimant.~~

~~[(d)]~~ The amount of compensation under Subsection (a)(2) to which a person is entitled shall be paid on the person's behalf in a lump-sum payment to the state disbursement unit, as defined by Section 101.0302, Family Code, for distribution to the obligee under the child support order.

SECTION 6. Subchapter B, Chapter 103, Civil Practice and Remedies Code, is amended by adding Section 103.053 to read as follows:

Sec. 103.053. ANNUITY COMPENSATION. (a) A person entitled to compensation under Section 103.001(a) is entitled to annuity payments, based on a present value sum equal to the amount to which the person is entitled under Sections 103.052(a)(1) and (b).

(b) The annuity payments under this section are payable in equal monthly installments for the life of the claimant and must be based on a five percent per annum interest rate and other actuarial factors within the discretion of the comptroller.

(c) The annuity payments may not be accelerated, deferred, increased, or decreased. The applicant may not sell, mortgage or otherwise encumber, or anticipate the payments, wholly or partly, by assignment or otherwise.

SECTION 7. Section 103.151, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.151. ADMINISTRATIVE PAYMENT OF COMPENSATION. (a) The comptroller shall make the compensation [first installment payment] due a claimant under Section 103.052 [an applicant] and the lump-sum payment, if any, to be paid to the state disbursement unit, as defined by Section 101.0302, Family Code, under Subchapter B, to the extent that funds are available and appropriated for that purpose, not later than the 30th day after the date the comptroller grants the application. A claim for lump-sum compensation payable under Section 103.052(a) or (b) shall survive the death of the claimant in favor of the heirs, legal representatives, and estate of the claimant.

(b) The comptroller shall begin making annuity payments to a claimant under Section 103.053(a) on the first anniversary of the date of payment of the compensation due under Section 103.052 [pay the amount of the second installment payment on the first anniversary of the date of the first installment].

(c) If appropriated funds are insufficient to pay the amount due a claimant [an applicant] and the amount to be paid to the state disbursement unit, as defined by Section 101.0302, Family Code, money shall be paid under the procedure described by Section 103.152.

SECTION 8. Section 103.152(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) Not later than November 1 of each even-numbered year, the comptroller shall provide a list of claimants entitled to payment under Subchapter B [or C] and the amounts due for each claimant to the governor, the lieutenant governor, and the chair of the appropriate committee in each house of the legislature so that the legislature may appropriate the amount needed to pay the amount owed to each claimant and the amount to be paid to the state disbursement unit, as defined by Section 101.0302, Family Code, on the claimant's behalf.

SECTION 9. Section 103.154(b), Civil Practice and Remedies Code, is amended to read as follows:

(b) Annuity [Except as provided by Subsection (c), compensation] payments to a person under Section 103.151(b) [this chapter] terminate on the date of the person's death. Any payments scheduled to be paid after that date are credited to the state and may not be paid to any other person, including the person's surviving spouse, heirs, devisees, or beneficiaries under the person's will, or to the person's estate.

SECTION 10. Subchapter C, Chapter 501, Government Code, is amended by adding Section 501.091 to read as follows:

Sec. 501.091. REENTRY AND REINTEGRATION SERVICES FOR WRONGFULLY IMPRISONED PERSONS. (a) In this section, "wrongfully imprisoned person" means a person who:

(1) has served wholly or partly a sentence in prison under the laws of this state; and

(2) has:

(A) received a full pardon on the basis of innocence for the crime for which the person was sentenced; or

(B) been granted relief on the basis of actual innocence of the crime for which the person was sentenced.

(b) The department shall develop a comprehensive plan to ensure the successful reentry and reintegration of wrongfully imprisoned persons into the community following discharge from the department. The reentry and reintegration plan developed under this section must include:

(1) life-skills, job, and vocational training for a wrongfully imprisoned person following discharge, for as long as those services are beneficial to the person;

(2) a requirement that the department provide, before a wrongfully imprisoned person is discharged from the department, the person with any documents that are necessary after discharge, including a state identification card; and

(3) the provision of financial assistance to aid a wrongfully imprisoned person in the reentry and reintegration process and in covering living expenses following discharge, in an amount not to exceed \$10,000.

(c) The provision of financial assistance under Subsection (b)(3) shall be administered by the Texas Correctional Office on Offenders with Medical or Mental Impairments or the department.

(d) The amount of financial assistance provided to a wrongfully imprisoned person under Subsection (b)(3) shall be deducted from the amount of compensation provided to the person under Section 103.052, Civil Practice and Remedies Code.

(e) The department may contract with private vendors or other entities to implement the comprehensive reentry and reintegration plan required by this section.

SECTION 11. Chapter 614, Health and Safety Code, is amended by adding Section 614.021 to read as follows:

Sec. 614.021. SERVICES FOR WRONGFULLY IMPRISONED PERSONS. (a) In this section, "wrongfully imprisoned person" has the meaning assigned by Section 501.091, Government Code.

(b) The office shall develop a plan to use existing case management functions to assist wrongfully imprisoned persons who are discharged from the Texas Department of Criminal Justice in:

(1) accessing medical and dental services, including assistance in completing documents required for application to federal entitlement programs;

(2) obtaining mental health treatment and related support services through the public mental health system for as long as the wrongfully imprisoned person requires assistance; and

(3) obtaining appropriate support services, as identified by the wrongfully imprisoned person and the assigned case manager, to assist the person in making the transition from incarceration into the community.

(c) The office shall submit an annual report to the legislature on the provision of services under this section to wrongfully imprisoned persons.

SECTION 12. The following provisions of the Civil Practice and Remedies Code are repealed:

(1) Section 103.002;

(2) Subchapter C, Chapter 103; and

(3) Section 103.152(c).

SECTION 13. (a) As soon as practicable after the effective date of this Act, the Texas Department of Criminal Justice shall develop a comprehensive plan for the reentry and reintegration of wrongfully imprisoned persons as required by Section 501.091, Government Code, as added by this Act.

(b) As soon as practicable after the effective date of this Act, the Texas Correctional Office on Offenders with Medical or Mental Impairments shall develop a plan to assist wrongfully imprisoned persons as required by Section 614.021, Health and Safety Code, as added by this Act, and shall submit the first annual report to the legislature as required by that section not later than September 1, 2010.

SECTION 14. (a) Chapter 103, Civil Practice and Remedies Code, as amended by this Act, applies only to an application for compensation for wrongful imprisonment that is filed on or after the effective date of this Act. An application filed or action commenced under Chapter 103, Civil Practice and Remedies Code, before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Notwithstanding Section 103.003, Civil Practice and Remedies Code, as amended by this Act, a person who received compensation under Chapter 103, Civil Practice and Remedies Code, before September 1, 2009, is entitled to annuity payments under Section 103.053, Civil Practice and Remedies Code, as added by this Act, based on a present value sum equal to the amount the person would receive under Sections 103.052(a)(1) and (b), Civil Practice and Remedies Code, as amended by this Act, if the person were to receive compensation under those sections on September 1, 2009. The comptroller of public accounts shall begin making payments to a claimant under this section not later than the 30th day after the date the comptroller determines the claimant is eligible to receive compensation under this section.

SECTION 15. This Act takes effect September 1, 2009.

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

Amend **CSHB 1736** (Senate committee printing) as follows:

(1) In SECTION 6 of the bill, in the recital (page 2, line 31), strike "Section 103.053" and substitute "Sections 103.053 and 103.054".

(2) In SECTION 6 of the bill, after added Section 103.053, Civil Practice and Remedies Code (page 2, between lines 44 and 45), insert the following:

Sec. 103.054. PAYMENT OF CERTAIN TUITION AND FEES. If requested by the claimant before the seventh anniversary of the date the claimant received the pardon or was granted relief as required by Section 103.001, tuition for up to 120 credit hours, including tuition charged under Section 54.0513, Education Code, or any other law granting an educational institution discretion to set the tuition rate, and any mandatory fees associated with attendance at the institution, charged by a career center or public institution of higher education shall be paid on behalf of the claimant.

**HB 4476 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 4476**, A bill to be entitled An Act relating to eligibility requirements for the tuition equalization grant program.

Representative Cohen moved to concur in the senate amendments to **HB 4476**.

The motion to concur in the senate amendments to **HB 4476** prevailed by (Record 828): 142 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Burnam; Hopson; King, S.; Thibaut; Villarreal.

**STATEMENTS OF VOTE**

When Record No. 828 was taken, I was in the house but away from my desk. I would have voted yes.

Hopson

When Record No. 828 was taken, my vote failed to register. I would have voted yes.

S. King

**Senate Committee Substitute**

**CSHB 4476**, A bill to be entitled An Act relating to the eligibility requirements for the tuition equalization grant program.

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

SECTION 1. Sections 61.2251(b), (c), and (e), Education Code, as added by Chapter 1230 (**HB 1172**), Acts of the 79th Legislature, Regular Session, 2005, are amended to read as follows:

(b) To be eligible for a tuition equalization grant in the first academic year in which the person receives the grant, a person must:

(1) be a Texas resident as defined by the coordinating board and meet, at a minimum, the resident requirements defined by law for Texas resident tuition in fully state-supported institutions of higher education;

(2) be enrolled in at least three-fourths of [for] a full course load conforming to an individual degree plan in an approved college or university;

(3) be required to pay more tuition than is required at a public college or university and be charged no less than the regular tuition required of all students enrolled at the institution;

(4) establish financial need in accordance with procedures and regulations of the coordinating board;

(5) not be a recipient of any form of athletic scholarship; [~~and~~]

(6) make satisfactory academic progress toward a degree or certificate as determined by the institution at which the person is enrolled; and

(7) have complied with other requirements adopted by the coordinating board under this subchapter.

(c) After qualifying for a tuition equalization grant under Subsection (b), a person may receive a tuition equalization grant in a subsequent academic year in which the person is enrolled at an approved institution only if the person:

(1) meets the requirements of Subsection (b);

(2) completed at least:

(A) 24 semester credit hours in the person's most recent full academic year, if the person is enrolled in an undergraduate degree or certificate program; or

(B) 18 semester credit hours in the person's most recent full academic year, if the person is enrolled in a graduate or professional degree program; and

(3) has earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at public or private institutions of higher education.

(e) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a tuition equalization grant, in the event of a hardship or for other good cause shown, to receive a tuition equalization grant if the person does not:

(1) make satisfactory academic progress as required under Subsection (b)(6);

(2) complete the semester credit hours required by Subsection (c)(2);

(3) [~~2~~] maintain the grade point average required by Subsection (c)(3); or

(4) [~~3~~] complete the person's certificate or degree program within the period prescribed by Subsection (d).

SECTION 2. (a) The changes in law made by this Act to Section 61.2251, Education Code, apply beginning with tuition equalization grants awarded for the 2009-2010 academic year. For that purpose, a person's eligibility for a grant under Section 61.2251(c), Education Code, as amended by this Act, for the 2009-2010 academic year shall be based on the person's satisfaction of the requirements of Section 61.2251(c), as amended, in the 2008-2009 academic year, without regard to whether the person satisfied the former requirements of Section 61.2251(c) or received a grant under Subchapter F, Chapter 61, Education Code, in that academic year.

(b) A tuition equalization grant awarded for an academic year before the 2009-2010 academic year is covered by the law in effect when the grant was awarded, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

### **HB 1908 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1908**, A bill to be entitled An Act relating to the safety of the fresh fruit and vegetables produced in this state.

Representative T. King moved to concur in the senate amendments to **HB 1908**.

The motion to concur in the senate amendments to **HB 1908** prevailed by (Record 829): 144 Yeas, 0 Nays, 1 Present, not voting.

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



Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Creighton; King, S.; Smith, W.

### STATEMENT OF VOTE

When Record No. 829 was taken, my vote failed to register. I would have voted yes.

S. King

### Senate Committee Substitute

**CSHB 1908**, A bill to be entitled An Act relating to the safety of the fresh fruit and vegetables produced in this state.

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

SECTION 1. The legislature finds that:

(1) the agricultural industry is a vital part of this state's economy, annually contributing \$103 billion, or 9.2 percent of the gross state product, and is the state's second largest resource-based industry, with one in seven Texans being employed in some segment of the agricultural industry;

(2) food safety must be a top state priority because an accidental or deliberate contamination of food or crops could be detrimental to the state's economy and would undermine consumer confidence in the integrity of food safety in this state;

(3) the growing and processing of fresh fruits and vegetables is crucial to this state, and since September 11, 2001, awareness of the threat of contamination of those products has increased; and

(4) this state should increase awareness of food safety among its growers and packers of fresh fruits and vegetables to avoid disastrous events.

SECTION 2. Subchapter A, Chapter 91, Agriculture Code, is amended by adding Section 91.009 to read as follows:

Sec. 91.009. COORDINATION OF FOOD SAFETY. (a) The department is the lead agency for education and training and shall assist the fresh fruit and vegetable industries with food safety issues and may provide assistance to federal agencies in their implementation of voluntary guidelines relating to sound agricultural practices.

(b) The department shall coordinate, plan, and approve training and awareness programs for producers and packers of fresh fruits and vegetables. A program under this subsection must inform and educate producers and packers regarding:

(1) sound agricultural practices;

(2) proper food handling procedures;

(3) the prevention of accidental or deliberately planned outbreaks of disease; and

(4) the enhancement of overall food safety.

(c) The department shall coordinate the planning and implementation of programs required by Subsection (b) with:

(1) colleges and universities in this state;

(2) the Texas AgriLife Extension Service;

(3) Texas AgriLife Research;

(4) the Department of State Health Services; and

(5) private industry.

(d) The department may adopt rules to implement this section. In the development of rules for the certification of approved food safety curriculum or training, the department shall consult and coordinate with the Department of State Health Services.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

#### **SB 482 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Chisum, the house granted the request of the senate for the appointment of a Conference Committee on **SB 482**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 482**: Chisum, chair; Cohen, Naishtat, Thompson, and Branch.

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

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

Isett on motion of F. Brown.

(McClendon in the chair)

#### **CONGRATULATORY AND MEMORIAL CALENDAR**

The following congratulatory resolutions were laid before the house:

**SCR 58** (Sheffield - House Sponsor), Recognizing April 12 through 18, 2009, as Texas Fraternal Week.

**SCR 68** (Jones - House Sponsor), Recognizing the Twentieth Century Club in Lubbock on the occasion of its 100th anniversary.

**SCR 69** (Jones - House Sponsor), Recognizing Ballet Lubbock on the occasion of its 40th anniversary.

**HR 606** (by Martinez), Welcoming Leadership Mid Valley to the State Capitol.

**HR 918** (by Gattis), Recognizing May 16, 2009, as Armed Forces Day.

**HR 1424** (by Solomons), Recognizing April 18, 2009, as Professional Achievers for Community Excellence Day in honor of the group's 25th anniversary.

**HR 1733** (by Pickett), Recognizing September 8, 2009, as Major Jefferson Van Horne Remembrance Day in the State of Texas.

**HR 1794** (by Christian), Commemorating the 30th anniversary of Young Conservatives of Texas.

**HR 1810** (by Burnam), Recognizing the Texas Muslim Women's Foundation.

**HR 1829** was previously adopted.

**HR 1830** (by Dutton), Congratulating the members of the Jack Yates High School Class of 1959 on the occasion of their 50th high school reunion.

**HR 1832** (by Dutton), Congratulating Paul Hansen of Humble on becoming an Eagle Scout.

**HR 1833** (by Berman and Hopson), Congratulating Danielle Heithoff of Bullard High School on her selection as 2009 Player of the Year on the Tyler Morning Telegraph All-East Texas Girls Basketball Team.

**HR 1834** was previously adopted.

**HR 1837** (by Kent), Commending David C. Tyson, Jr., on his service to the Richardson ISD Board of Trustees.

**HR 1838** (by Kent), Honoring Kim Quirk for her service on the Richardson ISD Board of Trustees.

**HR 1839** (by Kent), Commending Lanet Greenhaw on her service to the Richardson ISD Board of Trustees.

**HR 1840** (by Anderson), Honoring Bobby and Betty Chastain of Waco on their 60th wedding anniversary.

**HR 1842** (by Anderson), Congratulating Lane and Mary Stecher of Waco on their 60th wedding anniversary.

**HR 1843** (by Anderson), Congratulating L. A. and Marie Rager of Moody on their 60th wedding anniversary.

**HR 1844** (by Anderson), Congratulating Wade and Martha Colbert on their 59th wedding anniversary.

**HR 1845** (by Anderson), Honoring Billy and Mary Lou Peterson of Robinson on their 60th wedding anniversary.

**HR 1846** (by Anderson), Congratulating Pemell and Audrey Peterson on their 65th wedding anniversary.

**HR 1847** (by Anderson), Congratulating Willie and Henrietta Urban of Waco on their 60th wedding anniversary.

**HR 1848** (by Anderson), Congratulating Harry and Sue Ferrell on their 70th wedding anniversary.

**HR 1849** (by Anderson), Congratulating Bill and Karen Ereck of Waco on their 50th wedding anniversary.

**HR 1850** (by Anderson), Congratulating Don and Jeanette Markum of Waco on their 50th wedding anniversary.

**HR 1851** (by Anderson), Congratulating Reta and Charles "Shorty" Stone of Robinson on their 50th wedding anniversary.

**HR 1852** (by Anderson), Congratulating Dale and Shirley DeWitt of China Spring on their 50th wedding anniversary in 2008.

**HR 1853** (by Anderson), Congratulating Henry and Diane Walbesser on their 50th wedding anniversary.

**HR 1854** (by Anderson), Congratulating Ronald and Geneva Vaughan of McGregor on their 50th wedding anniversary.

**HR 1855** (by Anderson), Congratulating Robert and Barbara Szanto of McLennan County on their 50th wedding anniversary.

**HR 1856** (by Anderson), Congratulating Carl and Ella Buhl of Waco on their 50th wedding anniversary.

**HR 1857** (by Anderson), Congratulating Ivan and Brenda Ker of Waco on their 50th wedding anniversary.

**HR 1858** (by Anderson), Congratulating David and Ann Cox of Lorena on their 50th wedding anniversary.

**HR 1859** (by Anderson), Congratulating William and Mary Krause on their 50th wedding anniversary.

**HR 1860** (by Kuempel), Congratulating the Mid-Texas Symphony on its receipt of a grant from the National Endowment for the Arts.

**HR 1861** (by Eiland), Honoring the Reverend David L. Everson, Sr., on his 10th anniversary with First Union Baptist Church in Galveston.

**HR 1862** (by Eiland), Honoring the Reverend N. D. Burkley, Sr., on his 15th pastoral anniversary with Mt. Olive Missionary Baptist Church in Galveston.

**HR 1863** (by Eiland), Congratulating Patricia Burns on receiving the 2009 Steel Oleander Award from the Galveston Historical Foundation.

**HR 1864** (by Veasey), Honoring the Eta Chapter of Eta Phi Beta Sorority, Inc., on the occasion of its 2009 Founders Day celebration.

**HR 1865** (by Veasey), Honoring Vera G. Berry, a charter member of the Eta Chapter of Eta Phi Beta Sorority, Inc.

**HR 1866** (by Veasey), Honoring Eta Phi Beta Sorority, Inc., on the occasion of its 2009 Founders Day celebration.

**HR 1867** (by D. Howard), Honoring the AusTin Cans robotics team from Anderson High School in Austin.

**HR 1869** (by D. Howard), Welcoming the Chap Robotics team of Westlake High School to the State Capitol.

**HR 1870** (by Christian), Honoring Petty Officer 3rd Class Christopher Sacia of Wimberley for his service in the U.S. Navy and welcoming him home to Texas.

**HR 1872** (by Mallory Caraway), Recognizing May 10 through 16, 2009, as National Women's Health Week in Dallas.

**HR 1873** (by Hopson), Congratulating Jimmy Goolsbee of Arlington on his receipt of a Cherokee County Soil and Water Conservation District award.

**HR 1874** (by Hopson), Congratulating Bruce Mehlenbacher of Jacksonville on his receipt of a Cherokee County Soil and Water Conservation District award.

**HR 1875** (by Marquez), Honoring Dr. Cirilo Madrid of El Paso for his contributions as CEO of Aliviane, Inc.

**HR 1877** (by Harper-Brown), Congratulating Dr. Francis M. Lazarus on his retirement as president of the University of Dallas.

**HR 1878** (by Harper-Brown), Congratulating Joyce Pittman and Clyde Pittman, Jr., of Irving on their 50th wedding anniversary.

**HR 1879** (by Burnam), Congratulating the Muslim Legal Fund of America for its dedicated defense of the Constitution of the United States.

**HR 1881** (by Anderson), Congratulating William and Sondra Harper of Bruceville on their 50th wedding anniversary.

**HR 1882** (by Anderson), Congratulating Jimmie Joe and Gloria Helleson of Waco on their 50th wedding anniversary.

**HR 1883** (by Anderson), Congratulating Patrick and Patricia Stroman on their 50th wedding anniversary.

**HR 1884** (by Anderson), Congratulating James and Jean Vorderkunz of Robinson on their 50th wedding anniversary.

**HR 1885** (by Anderson), Congratulating Bob and Jean Chapman of Lorena on their 50th wedding anniversary.

**HR 1886** (by Anderson), Congratulating Ken and Pat James of Waco on their 50th wedding anniversary.

**HR 1887** (by Anderson), Congratulating Carl and Dee Rucker of Waco on their 50th wedding anniversary.

**HR 1888** (by Anderson), Congratulating Jerry and Ruth McKethan of Waco on their 50th wedding anniversary.

**HR 1889** (by Anderson), Congratulating Joe and Linda Gough on their 50th wedding anniversary.

**HR 1890** (by Anderson), Congratulating Lawrence and Evelyn Hlavaty of West on their 55th wedding anniversary.

**HR 1891** (by Phillips), Honoring Texas pilot Chesley Burnett "Sully" Sullenberger III for his heroism in landing a crippled plane on the Hudson River on January 15, 2009.

**HR 1892** (by Phillips), Honoring Bethel Baptist Church in Whitewright on its 125th anniversary.

**HR 1893** (by D. Miller), Congratulating Jordan Wimberley, Michelle Reininger, and Elise Massey of Smithson Valley High School in Spring Branch for taking first place at the 2009 FCCLA state competition.

**HR 1894** (by Kent), Recognizing Akiba Academy for its many years of service to the Dallas community.

**HR 1895** (by Flynn), Congratulating Jean and James Pickney of Wills Point on their 65th wedding anniversary.

**HR 1896** (by Riddle), Honoring the National Foundation for Women Legislators for its assistance with Hurricane Ike relief efforts.

**HR 1897** (by Riddle), Honoring Office Depot for its assistance with Hurricane Ike relief efforts.

**HR 1898** (by Riddle), Honoring Nourish America for its assistance with Hurricane Ike relief efforts.

**HR 1899** (by Leibowitz), Congratulating the Brandeis High School JROTC drill teams on their achievements during the 2008-2009 school year.

**HR 1901** (by Woolley), Congratulating Mark Joseph Trevino on his graduation from The University of Texas Health Science Center at Houston.

**HR 1902** (by Chavez), Honoring Wilma Hudson for her longtime service as a board member of the El Paso YWCA.

**HR 1903** (by Dutton), Honoring the Fifth Ward Enrichment Program on the occasion of its 2009 Heart of Houston luncheon.

**HR 1904** (by Dutton), Congratulating Fidel and Manuela Nuñez of Houston on their 58th wedding anniversary.

**HR 1906** (by Anderson), Congratulating Gene and Kay Wenzel on their 50th wedding anniversary.

**HR 1907** (by Anderson), Congratulating Daniel Bristow of McGregor on attaining the rank of Eagle Scout.

**HR 1908** (by Anderson), Congratulating the Riverside Dental Center in Waco on the first anniversary of its partnership with the City of Waco, the Waco-McLennan County Public Health District, and the Heart of Texas Community Health Center.

**HR 1910** (by Anderson), Congratulating Melanie Decker of Midway High School in Waco for being named 2008-2009 Teacher of the Year.

**HR 1912** (by Anderson), Congratulating Dr. Holly Kunert on being named High School Counselor of the Year by Texas State Technical College.

**HR 1913** (by Anderson), Honoring Chase Alexander Giles on attaining the rank of Eagle Scout.

**HR 1914** (by Anderson), Congratulating Caitlin Smith of Crawford High School on being named a Commended Student in the 2008 National Merit Scholarship Program.

**HR 1915** (by Anderson), Congratulating Marvin Lane Dameron on being named a Distinguished Alumnus by the Midway High School Alumni Association.

**HR 1916** (by Anderson), Honoring Jesse's Tortilla Factory in Waco on its 50th anniversary in 2008.

**HR 1917** (by Anderson), Congratulating Ray and Irene Boman on their 50th wedding anniversary.

**HR 1918** (by Anderson), Congratulating Richard and Rita Jurek of Woodway on their 50th wedding anniversary.

**HR 1919** (by Anderson), Congratulating Sharron Zachry on her receipt of a National PTA Life Achievement Award.

**HR 1921** (by Anderson), Commemorating the 125th anniversary of the founding of First Lutheran Church in Waco.

**HR 1925** (by Craddick), Congratulating MaryAnna and Elmer Brimberry on their 50th wedding anniversary.

**HR 1926** (by Craddick), Honoring Bobby Trimble, founder and president of Christmas in Action, for his 40 years of service to the Midland community.

The resolutions were adopted.

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

Representative Truitt requested permission for the Committee on Pensions, Investments, and Financial Services to meet while the house is in session, at 11 a.m. today, in E2.016, to continue testimony on **SB 2233**.

Permission to meet was granted.

### **FIVE-DAY POSTING RULE SUSPENDED**

Representative Truitt moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Pensions, Investments, and Financial Services to continue testimony on **SB 2233**.

The motion prevailed.

### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Pensions, Investments, and Financial Services, 11 a.m. today, E2.016, for a public hearing, to continue testimony on **SB 2233**.

**CONGRATULATORY AND MEMORIAL CALENDAR**  
**(consideration continued)**

The following memorial resolutions were laid before the house:

**SCR 71** (Frost - House Sponsor), In memory of Texas game warden George Harold Whatley, Jr.

**HR 1828** (by Craddick), In memory of Staff Sergeant Jimmie Doyle of Lamesa.

**HR 1831** (by Dutton), In memory of Gloria Jean Gorham of Houston.

**HR 1835** (by Hughes), In memory of Luther Lee Ray, Sr., of Marshall.

**HR 1836** (by Frost), In memory of longtime Naples businessman and community leader Hershel G. Welch.

**HR 1841** (by Anderson), In memory of Lorenza Garcia of Waco.

**HR 1871** (by Mallory Caraway), Honoring the life of Derrick Lanier Geter of Dallas.

**HR 1905** (by Rodriguez), In memory of Hannah Isabella Rose Kiely.

**HR 1909** (by Anderson), In memory of Ethelee Huey of Waco.

**HR 1920** (by Anderson), In memory of Sandra Kay "Sandy" Nutt of West.

**HR 1922** (by D. Miller), In memory of Oscar Hardy Smith of New Braunfels.

**HR 1923** (by Hilderbran), In memory of Deby Lang of Kerrville.

**HR 1924** (by Hilderbran), In memory of Josephine Schreiner "Dodo" Parker of Kerrville.

**HCR 213** (by Frost), In memory of Texas game warden George Harold Whatley, Jr.

**HCR 215** (by Homer), In memory of Alvis Leo Caldwell of Paris, Texas.

The resolutions were unanimously adopted by a rising vote.

(Isett now present)

**HCR 221 - ADOPTED**  
**(by Isett)**

Representative Isett moved to suspend all necessary rules to take up and consider at this time **HCR 221**.

The motion prevailed.

The following resolution was laid before the house:

**HCR 221**, Honoring Church of the Hills for its spiritual support during the 81st Legislative Session.

**HCR 221** was adopted.



**MAJOR STATE CALENDAR  
SENATE BILLS  
THIRD READING**

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

**SB 254 ON THIRD READING  
(Peña - House Sponsor)**

**SB 254**, A bill to be entitled An Act relating to the exemption of volunteer fire departments from certain motor fuel taxes.

**SB 254** was passed by (Record 830): 143 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Howard, C.; Kent; Vaught.

**STATEMENT OF VOTE**

When Record No. 830 was taken, I was in the house but away from my desk. I would have voted yes.

Kent

**GENERAL STATE CALENDAR  
SENATE BILLS  
THIRD READING**

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

**SB 956 ON THIRD READING**  
**(Branch - House Sponsor)**

**SB 956**, A bill to be entitled An Act relating to the establishment of a law school in the city of Dallas by the University of North Texas System.

(Speaker in the chair)

**SB 956 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE LEIBOWITZ: I'm supporting your proposal, because I think if you don't get this now, you're going to miss the window of opportunity with respect to the buildings and the other resources that they're offering to you.

REPRESENTATIVE BRANCH: Thank you. You're right.

LEIBOWITZ: Having said that, I want to make two very brief points with you. One is, are you familiar with the Shakespearian play where Shakespeare wrote that the first thing we have to do is kill all the lawyers—when they wanted to create a dictatorship—so they could destroy the rule of law?

BRANCH: Yes, I believe that Shakespeare was writing in *Henry VI* and that was Dick the Butcher. His point was that if you kill all the lawyers then tyranny and dictatorship could take over.

LEIBOWITZ: That's right. Secondly, and lastly, how's the funding for Representative Lucio's proposal for the medical school down in the Valley coming?

BRANCH: Well, Representative Lucio can speak to that. You seem very pleased that we were able to put that package together, and give it a hearing, and move it out of the Higher Education Committee. I want to work with Representative Lucio and Senator Lucio, and others in the delegation to move that along. I was real impressed with my trip to the Valley to see the explosive growth in the Harlingen-Edinburg-McAllen triangle right there. So, it's got my attention—that's a million population center that we need to pay attention to. I'm also impressed with what's going on in El Paso with my trip out there.

LEIBOWITZ: Well, do we have your commitment to continue to give due consideration to the folks down in South Texas, as well?

BRANCH: Absolutely.

**SB 956** was passed by (Record 831): 108 Yeas, 35 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Branch; Brown, F.; Button; Callegari; Castro; Chavez; Cohen; Corte; Craddick; Crownover; Darby; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; England; Farabee; Farias; Farrar; Fletcher; Flynn; Frost; Gallego; Giddings; Gonzales; Guillen; Gutierrez; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Howard, D.; Jackson; Jones; Kent; King, T.; Kleinschmidt; Kolkhorst; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon;

McReynolds; Menendez; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Rodriguez; Rose; Smith, T.; Solomons; Strama; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Zerwas.

Nays — Bonnen; Brown, B.; Burnam; Chisum; Christian; Coleman; Cook; Crabb; Creighton; Davis, J.; Elkins; Gattis; Geren; Gonzalez Toureilles; Hamilton; Hilderbran; Hopson; Howard, C.; Hughes; Isett; Keffer; King, P.; King, S.; Legler; Merritt; Orr; Paxton; Ritter; Sheffield; Shelton; Smith, W.; Smithee; Swinford; Taylor; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Flores; Hancock; Hunter; Laubenberg.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 831. I intended to vote no.

Flynn

When Record No. 831 was taken, I was in the house but away from my desk. I would have voted no.

Hancock

When Record No. 831 was taken, I was in the house but away from my desk. I would have voted no.

Hunter

### SB 2038 ON THIRD READING (Hartnett - House Sponsor)

**SB 2038**, A bill to be entitled An Act relating to the construction of nonsubstantive codifications and revisions of statutes.

**SB 2038** was passed by (Record 832): 147 Yeas, 0 Nays, 1 Present, not voting.

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

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

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

Representative Y. Davis requested permission for the Committee on Urban Affairs to meet while the house is in session, at 11:40 a.m. today, in E2.028, to consider **SB 679** and **SB 1861**.

Permission to meet was granted.

### **FIVE-DAY POSTING RULE SUSPENDED**

Representative Y. Davis moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Urban Affairs to consider **SB 679** and **SB 1861**.

The motion prevailed.

### **COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Urban Affairs, 11:40 a.m. today, E2.028, for a public hearing, to consider **SB 679** and **SB 1861**.

Elections, upon lunch recess today, Desk 69, for a formal meeting, to consider **SB 1134**, **SB 1152**, **SB 1795**, **SB 1807**, **SB 1808**, and **SB 2242**.

### **SB 1661 ON THIRD READING**

#### **(Truitt - House Sponsor)**

**SB 1661**, A bill to be entitled An Act relating to child support liens on real property.

**SB 1661** was passed by (Record 833): 144 Yeas, 0 Nays, 1 Present, not voting.

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

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Branch; Hochberg; Thompson.

### STATEMENT OF VOTE

When Record No. 833 was taken, I was in the house but away from my desk. I would have voted yes.

Thompson

### REMARKS ORDERED PRINTED

Representative Lucio moved to print remarks between Representative Branch and Representative Leibowitz on **SB 956**.

The motion prevailed.

### SB 63 ON THIRD READING

#### (Naishtat and Herrero - House Sponsors)

**SB 63**, A bill to be entitled An Act relating to a career ladder for interveners who provide services under the deaf-blind with multiple disabilities waiver program.

**SB 63** was passed by (Record 834): 146 Yeas, 0 Nays, 1 Present, not voting.

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

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Thompson.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 834. I intended to vote no.

C. Howard

When Record No. 834 was taken, I was in the house but away from my desk. I would have voted yes.

Thompson

### HR 2073 - NAMES ADDED

On motion of Representative Keffer, the names of all the members of the house were added to **HR 2073** as signers thereof.

### SB 1415 ON THIRD READING (McReynolds - House Sponsor)

**SB 1415**, A bill to be entitled An Act relating to certain corrective actions by the Texas Board of Nursing, including a pilot program on deferred disciplinary action; providing corrective actions.

**SB 1415** was passed by (Record 835): 144 Yeas, 0 Nays, 1 Present, not voting.

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

Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Howard, C.; Naishtat; Smith, W.

**SB 1506 ON THIRD READING**  
**(W. Smith - House Sponsor)**

**SB 1506**, A bill to be entitled An Act relating to the payment of the costs associated with certain conditions of bond.

**SB 1506** was passed by (Record 836): 146 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Turner, C.

**MAJOR STATE CALENDAR**  
**HOUSE BILLS**  
**THIRD READING**

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

**HB 821 ON THIRD READING****(by Leibowitz, Naishtat, Herrero, Rodriguez, Cook, et al.)**

**HB 821**, A bill to be entitled An Act relating to the sale, recovery, and recycling of certain television equipment; providing administrative penalties.

**HB 821 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE CHISUM: Representative Leibowitz, for legislative intent, if a television manufacturer registers with TCEQ, is that registration deemed to be a "presence or asset in the United States" for the purposes of Section 361.971(8)(D)?

REPRESENTATIVE LEIBOWITZ: Yes.

REPRESENTATIVE MARTINEZ: My esteemed colleague, Mr. Leibowitz, and former desk mate. I just have a couple of questions. This bill is drafted and applies to the sale of new TVs, am I correct?

LEIBOWITZ: That's right.

MARTINEZ: And I assume it is not your intent to require a rent-to-own, or lease, of these TVs to have to send out, or give, that information? Would that be the intent?

LEIBOWITZ: No, the only obligation of a rent-to-own business would be to sell the televisions of approved manufacturers, and at the point that a consumer owns the television provide the consumer with recycling information from the TCEQ. They could do it on the receipt, it's a 1-800 number, it could be a separate form, whatever the case might be, it's just a matter of providing a brief amount of information.

MARTINEZ: Correct, and there are many times that you have some people that go and rent these TVs that may have been used after a while that they bring back to the store. Would it be the intent for those people to have, if they end up owning that, would they have to get that information?

LEIBOWITZ: They'll get the information from the rent-to-own, but the rent-to-owns will not be required to recycle the TVs unless they reach contractual agreements with the manufacturers to do so.

**REMARKS ORDERED PRINTED**

Representative Chisum moved to print remarks between Representative Leibowitz and Representative Chisum.

The motion prevailed.

Representative Martinez moved to print remarks between Representative Leibowitz and Representative Martinez.

The motion prevailed.

**HB 821** was passed by (Record 837): 135 Yeas, 11 Nays, 1 Present, not voting.



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

Nays — Christian; Fletcher; Harless; Isett; King, P.; Kleinschmidt; Miller, D.; Paxton; Phillips; Riddle; Taylor.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Hardcastle.

**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 837. I intended to vote no.

Berman

I was shown voting yes on Record No. 837. I intended to vote no.

Flynn

I was shown voting no on Record No. 837. I intended to vote yes.

Taylor

**HB 1795 ON THIRD READING**

**(by Pierson, Vaught, Dukes, Kent, Naishtat, et al.)**

**HB 1795**, A bill to be entitled An Act relating to newborn screening and the creation of the Newborn Screening Advisory Committee.

**HB 1795** was passed by (Record 838): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam;

Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Brown, F.; Crownover; Edwards; King, T.; Weber.

**HB 1993 ON THIRD READING**  
**(by Anchia, et al.)**

**HB 1993**, A bill to be entitled An Act relating to certain energy security technologies for critical governmental facilities.

**HB 1993** was passed by (Record 839): 88 Yeas, 53 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Bolton; Branch; Burnam; Castro; Chavez; Chisum; Cohen; Coleman; Crabb; Craddick; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Guillen; Gutierrez; Hardcastle; Harless; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jackson; Keffer; Kent; King, S.; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Bonnen; Brown, B.; Brown, F.; Button; Callegari; Christian; Cook; Corte; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Hamilton; Hancock; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Hughes; Hunter; Isett; Jones; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Madden; Miller, D.; Miller, S.; Morrison; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Swinford; Taylor; Truitt; Woolley.

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

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Gonzalez Toureilles; King, T.; Solomons; Weber; Zerwas.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 839. I intended to vote no.

Berman

I was shown voting yes on Record No. 839. I intended to vote no.

Otto

When Record No. 839 was taken, I was in the house but away from my desk. I would have voted no.

Weber

### HB 1669 ON THIRD READING

(by Callegari, W. Smith, C. Howard, Pitts, and Ritter)

**HB 1669**, A bill to be entitled An Act relating to certificates of public convenience and necessity for water or sewer services.

#### Amendment No. 1

Representative Laubenberg offered the following amendment to **HB 1669**:

Amend **HB 1669** on third reading as follows:

(1) On page 2, line 23-25, strike "without the written consent of the landowner who owns the property in which the certificate is to be extended", and substitute "if a landowner elects to exclude some or all of the landowner's property within a proposed service area in accordance with Section 13.246(h)".

Amendment No. 1 was adopted.

**HB 1669**, as amended, was passed by (Record 840): 146 Yeas, 0 Nays, 1 Present, not voting.

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

Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Pickett.

**HB 2730 ON THIRD READING**  
**(by Kolkhorst, Merritt, and Driver)**

**HB 2730**, A bill to be entitled An Act relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty.

**Amendment No. 1**

Representative S. Turner offered the following amendment to **HB 2730**:

Amend **HB 2730** by striking the following language in SECTION \_\_\_\_.  
Subchapter D, Chapter 708, Sec. 708.158 Transportation Code:

~~[-or~~

~~(2) the person is a full time student taking twelve or more credit hours  
who:~~

~~(A) is enrolled in an accredited public, private, or independent  
institution of higher education; and~~

~~(B) provides evidence described by Subsection (d) to the  
department]~~

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Farrar offered the following amendment to **HB 2730**:

Amend **HB 2730** (house committee report) by adding the following  
appropriately numbered article to the bill and renumbering subsequent articles of  
the bill accordingly:

ARTICLE \_\_\_\_ . DISCLOSURE OF CRIMINAL HISTORY RECORD  
INFORMATION REGARDING PUBLIC SCHOOL EMPLOYEES

SECTION \_\_\_\_ .01. Section 411.084, Government Code, is amended by  
amending Subsection (a) and adding Subsections (a-1) and (c) to read as follows:

(a) Criminal history record information obtained from the department under  
this subchapter, including any identification information that could reveal the  
identity of a person about whom criminal history record information is requested  
and information that directly or indirectly indicates or implies involvement of a  
person in the criminal justice system:

(1) is for the exclusive use of the authorized recipient of the  
information; and

(2) may be disclosed or used by the recipient only if, and only to the extent that, disclosure or use is authorized or directed by:

- (A) this subchapter;
- (B) another statute;
- (C) a rule adopted under a statute; or
- (D) an order of a court of competent jurisdiction.

(a-1) The term "criminal history record" information under Subsection (a) does not refer to any specific document produced to comply with this subchapter but to the information contained, wholly or partly, in a document's original form or any subsequent form or use.

(c) An agency or individual may not confirm the existence or nonexistence of criminal history record information to any person that is not eligible to receive the information.

SECTION \_\_\_\_.02. Subsections (b) and (c), Section 411.090, Government Code, are amended to read as follows:

(b) Criminal history record information obtained by the board in the original form or any subsequent form ~~under Subsection (a)~~:

(1) may be used only for a ~~any~~ purpose related to the issuance, denial, suspension, or cancellation of a certificate issued by the board;

(2) may not be released to any person except:

(A) the person who is the subject of the information;

(B) the Texas Education Agency;

(C) a local or regional educational entity as provided by Section

411.097; or

(D) by ~~an~~ court order ~~[or with the consent of the applicant for a certificate]; [and]~~

(3) is not subject to disclosure as provided by Chapter 552; and

(4) shall be destroyed by the board after the information is used for the authorized purposes.

(c) The department shall notify the State Board for Educator Certification of the arrest of any educator, as defined by Section 5.001, Education Code, who has fingerprints on file with the department. Any record of the notification and any information contained in the notification is not subject to disclosure as provided by Chapter 552.

SECTION \_\_\_\_.03. Section 411.0901, Government Code, is amended to read as follows:

Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education Agency is entitled to obtain criminal history record information maintained by the department about a person who:

(1) is employed or is an applicant for employment by a school district or open-enrollment charter school;

(2) is employed or is an applicant for employment by a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present; or

(3) is employed or is an applicant for employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement if:

(A) the employee or applicant has or will have continuing duties relating to the contracted services; and

(B) the employee or applicant has or will have direct contact with students.

(b) Criminal history record information obtained by the agency in the original form or any subsequent form:

(1) may be used only for a purpose authorized by the Education Code;

(2) may not be released to any person except:

(A) the person who is the subject of the information;

(B) the State Board for Educator Certification;

(C) a local or regional educational entity as provided by Section 411.097; or

(D) by court order;

(3) is not subject to disclosure as provided by Chapter 552; and

(4) shall be destroyed by the agency after the information is used for the authorized purposes.

SECTION \_\_\_\_\_.04. Section 411.097, Government Code, is amended by amending Subsection (d) and adding Subsection (f) to read as follows:

(d) Criminal history record information obtained by a school district, charter school, private school, service center, commercial transportation company, or shared services arrangement in the original form or any subsequent form:

(1) [~~under Subsection (a), (b), or (c)~~] may not be released [~~or disclosed~~] to any person except:

(A) [~~other than~~] the individual who is the subject of the information;

(B) [~~5~~] the Texas Education Agency;

(C) [~~5~~] the State Board for Educator Certification;

(D) [~~5 or~~] the chief personnel officer of the transportation company, if the information is obtained under Subsection (a)(2); or

(E) by court order;

(2) is not subject to disclosure as provided by Chapter 552; and

(3) shall be destroyed by the school district, charter school, private school, service center, commercial transportation company, or shared services arrangement on the earlier of:

(A) the first anniversary of the date the information was originally obtained; or

(B) the date the information is used for the authorized purpose.

(f) An employee of a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement may request from the employer a copy of any criminal history record information relating to that

employee that the employer has obtained as provided by Subchapter C, Chapter 22, Education Code. The employer may charge a fee to an employee requesting a copy of the information in an amount not to exceed the actual cost of copying the requested criminal history record information.

SECTION \_\_\_\_ .05. Subchapter C, Chapter 22, Education Code, is amended by adding Section 22.08391 to read as follows:

Sec. 22.08391. CONFIDENTIALITY OF INFORMATION.  
(a) Information collected about a person to comply with this subchapter, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records:

(1) may not be released except:

(A) to comply with this subchapter;

(B) by court order; or

(C) with the consent of the person who is the subject of the information;

(2) is not subject to disclosure as provided by Chapter 552, Government Code; and

(3) shall be destroyed by the requestor or any subsequent holder of the information not later than the first anniversary of the date the information is received.

(b) Any criminal history record information received by the State Board for Educator Certification as provided by this subchapter is subject to Section 411.090(b), Government Code.

(c) Any criminal history record information received by the agency as provided by this subchapter is subject to Section 411.0901(b), Government Code.

(d) Any criminal history record information received by a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by this subchapter is subject to Section 411.097(d), Government Code.

SECTION \_\_\_\_ .06. The change in law made by this article applies to information collected, assembled, or maintained before, on, or after the effective date of this article.

Amendment No. 2 was adopted.

### **HB 2730 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE CORTE: Representative Kolkhorst, yesterday on the house floor there was some discussion—when I had an amendment to the amendment—between myself and Representative Farabee, asking questions for legislative intent, and I believe there may have been some confusion over the issue. So, I'd like to ask you some questions that make sure we are clear on the intent, if possible. For the record, is it your understanding that the amendment that I placed on the bill was simply to codify the current practice within the DPS manual on vehicle inspections that deal with combo services?

REPRESENTATIVE KOLKHORST: Correct. You offered an amendment to the amendment that clarified what's already in the manual, that there can be dual services offered, but that the customer has to be notified if they want the repairs.

CORTE: Exactly. And it's your understanding that the current practice: if the customer brings in the vehicle into a shop for inspection, his vehicle fails to pass—and this is where some of the discussion came yesterday—that the customer may either have the vehicle repaired at the shop or he, or she, can go wherever they want to, to get that repaired. Is that not correct?

KOLKHORST: It is my understanding, yes.

CORTE: Is it also your understanding that the fee that is charged for the service of an inspection of the vehicle, that's for the inspection and not for the certificate?

KOLKHORST: In the manual today, I believe it reads, "No charges made to the vehicle owners for the certificate." The fee is for the work in making inspections.

CORTE: And it's also your understanding that under current practice, if the vehicle fails inspection, that the customer does not receive the certificate, that the shop may require payment at the time of that inspection and, of course, they don't have to pay twice. They can come back after the repairs are made to get their certificate. Is that not correct?

KOLKHORST: I believe the intent of your amendment to the amendment is to allow the customer to have a choice. They may either go and have their vehicle repaired—let's say it's a tail light—and come back, and at that point they do not pay again. They get their certificate or they may have that work done at the inspection station where they are.

CORTE: I'm getting almost to the end here—one more question to make sure we put this to rest. Also, is it your understanding that the customer that does choose to take the vehicle elsewhere for repair, and they pay for the inspection—I want to make sure this is very clear—state law allows them one free re-inspection after the repair, at which point they will receive their certificate—because there's been some confusion if they get multiple inspections. So, it's very clear in state law, they get one free re-inspection?

KOLKHORST: It's my understanding.

### REMARKS ORDERED PRINTED

Representative Corte moved to print remarks between Representative Kolkhorst and Representative Corte.

The motion prevailed.

**HB 2730**, as amended, was passed by (Record 841): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias;



Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Anderson; Hughes.

### **HB 1657 ON THIRD READING**

**(by Giddings, Solomons, Eiland, Hughes, Smithee, et al.)**

**HB 1657**, A bill to be entitled An Act relating to workers' compensation insurance coverage regarding certain contractors.

The vote of the house was taken on the passage of **HB 1657** and the vote was announced yeas 73, nays 72.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 842): 73 Yeas, 71 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Crabb; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Gutierrez; Hamilton; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Howard, D.; Hughes; Kent; King, T.; Leibowitz; Maldonado; Mallory Caraway; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Pickett; Pierson; Quintanilla; Raymond; Ritter; Rodriguez; Smith, T.; Smithee; Solomons; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Geren; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, S.;

Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Lucio; Madden; Marquez; McCall; Merritt; Miller, D.; Miller, S.; Morrison; Orr; Otto; Parker; Patrick; Paxton; Phillips; Riddle; Rios Ybarra; Rose; Sheffield; Shelton; Smith, W.; Strama; Swinford; Taylor; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Guillen; Hartnett; Peña.

The speaker stated that **HB 1657** was passed by the above vote.

### STATEMENTS OF VOTE

When Record No. 842 was taken, I was temporarily out of the house chamber. I would have voted yes.

Peña

When Record No. 842 was taken, I was excused to attend a meeting of the Conference Committee on **SB 1**. Had I been present, I would have voted no.

Pitts

### COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Transportation, upon lunch recess today, Desk 15, for a formal meeting, to consider pending business.

County Affairs, upon lunch recess today, Desk 44, for a formal meeting, to consider pending business.

Technology, Economic Development, and Workforce, upon lunch recess today, Desk 137, for a formal meeting, to consider **SB 108**, **SB 783**, **SB 1600**, and **SB 1833**.

### FIVE-DAY POSTING RULE SUSPENDED

Representative Truitt moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Pensions, Investments, and Financial Services to consider **SB 2233**.

The motion prevailed.

### COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Pensions, Investments, and Financial Services, upon lunch recess today, E2.016, for a public hearing, to consider **SB 2233** and pending business.

### RECESS

At 12:23 p.m., the speaker announced that the house would stand recessed until 1 p.m. today.

**AFTERNOON SESSION**

The house met at 1 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. 30).

**FIVE-DAY POSTING RULE SUSPENDED**

Representative Rose moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Human Services to consider previously posted bills.

The motion prevailed.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Human Services, 10:30 a.m. or upon final adjournment tomorrow, E2.028, for a public hearing, to consider previously posted bills.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Hunter requested permission for the Committee on Judiciary and Civil Jurisprudence to meet while the house is in session, at 2 p.m. today, in 3W.9, for a formal meeting, to consider pending business.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Judiciary and Civil Jurisprudence, 2 p.m. today, 3W.9, for a formal meeting, to consider pending business.

**HB 4299 ON THIRD READING**

(by Rose)

**HB 4299**, A bill to be entitled An Act relating to rainwater harvesting and other water conservation initiatives.

**HB 4299** was passed by (Record 843): 89 Yeas, 34 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bolton; Burnam; Callegari; Cohen; Coleman; Cook; Crabb; Craddick; Crownover; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Farabee; Farias; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Keffer; King, T.; Legler; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller, S.; Moody; Oliveira; Orr; Ortiz; Otto; Parker; Peña; Phillips; Pickett; Quintanilla; Raymond; Rios Ybarra;

Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Zerwas.

Nays — Aycock; Berman; Bohac; Bonnen; Brown, B.; Brown, F.; Button; Creighton; Darby; Davis, J.; Eissler; Elkins; Fletcher; Flynn; Gattis; Hancock; Hardcastle; Harless; Harper-Brown; Isett; Jackson; Kleinschmidt; Kolkhorst; Laubenberg; Madden; McCall; Miller, D.; Patrick; Paxton; Riddle; Sheffield; Shelton; Weber; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Anderson; Branch; Castro; Chavez; Chisum; Christian; Corte; Driver; Edwards; Farrar; Hartnett; Hilderbran; Hughes; Jones; Kent; King, P.; King, S.; Miklos; Morrison; Naishtat; Olivo; Pierson; Thompson; Villarreal.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 843. I intended to vote yes.

Bohac

When Record No. 843 was taken, I was temporarily out of the house chamber. I would have voted no.

Branch

When Record No. 843 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

I was shown voting yes on Record No. 843. I intended to vote no.

C. Howard

I was shown voting yes on Record No. 843. I intended to vote no.

Hunter

I was shown voting no on Record No. 843. I intended to vote yes.

D. Miller

When Record No. 843 was taken, I was in the house but away from my desk. I would have voted yes.

Pierson

### HB 4833 ON THIRD READING (by Hunter)

**HB 4833**, A bill to be entitled An Act relating to the creation of district courts and statutory county courts and to the composition of the juvenile boards in certain counties.

**HB 4833** was passed by (Record 844): 132 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Burnam; Castro; Corte; Crossover; Driver; Dunnam; Gutierrez; Hartnett; Hilderbran; Hochberg; Howard, C.; Isett; Keffer; Martinez Fischer; Taylor.

### STATEMENTS OF VOTE

When Record No. 844 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

When Record No. 844 was taken, I was in the house but away from my desk. I would have voted yes.

Crossover

When Record No. 844 was taken, my vote failed to register. I would have voted yes.

Gutierrez

When Record No. 844 was taken, I was temporarily out of the house chamber. I would have voted yes.

Hilderbran

When Record No. 844 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

**GENERAL STATE CALENDAR  
HOUSE BILLS  
THIRD READING**

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

**HB 4009 ON THIRD READING  
(by Weber, Anchia, Thompson, Naishtat, Alvarado, et al.)**

**HB 4009**, A bill to be entitled An Act relating to the establishment of a victim assistance program to provide services to domestic victims of trafficking.

**HB 4009** was passed by (Record 845): 133 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Castro; Corte; Driver; Dunnam; Hartnett; Hilderbran; Isett; Kent; Martinez Fischer; Moody; Naishtat; Olivo; Pierson; Villarreal.

**STATEMENTS OF VOTE**

When Record No. 845 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

When Record No. 845 was taken, I was temporarily out of the house chamber. I would have voted yes.

Hilderbran

When Record No. 845 was taken, I was temporarily out of the house chamber. I would have voted yes.

Moody

When Record No. 845 was taken, I was in the house but away from my desk. I would have voted yes.

Pierson

### **HB 972 ON THIRD READING** **(by Quintanilla)**

**HB 972**, A bill to be entitled An Act relating to inclusion on certain advertising documents of the license or certificate of registration number of certain individuals regulated by this state who solicit business in consumers' homes; providing a civil penalty.

**HB 972** was passed by (Record 846): 72 Yeas, 56 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bolton; Brown, B.; Brown, F.; Burnam; Cohen; Coleman; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Isett; Keffer; King, T.; Legler; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McClendon; McReynolds; Menendez; Moody; Naishtat; Oliveira; Ortiz; Peña; Pickett; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Anderson; Berman; Bohac; Bonnen; Branch; Button; Callegari; Chisum; Christian; Cook; Crabb; Craddick; Creighton; Darby; Davis, J.; Eissler; England; Farabee; Fletcher; Flynn; Gattis; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Homer; Hopson; Jackson; Jones; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; McCall; Merritt; Miller, D.; Miller, S.; Morrison; Orr; Otto; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Swinford; Truitt; Weber.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Aycock; Castro; Chavez; Corte; Crownover; Hartnett; Hilderbran; Howard, C.; Hughes; Hunter; Kent; King, S.; Lewis; Martinez Fischer; Miklos; Olivo; Pierson; Smith, W.; Taylor.

**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 846. I intended to vote no.

F. Brown

When Record No. 846 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

When Record No. 846 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 846 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

When Record No. 846 was taken, I was in the house but away from my desk. I would have voted no.

C. Howard

When Record No. 846 was taken, I was in the house but away from my desk. I would have voted no.

Hunter

I was shown voting yes on Record No. 846. I intended to vote no.

T. King

When Record No. 846 was taken, I was in the house but away from my desk. I would have voted yes.

Pierson

When Record No. 846 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

I was shown voting yes on Record No. 846. I intended to vote no.

Woolley

**HB 2000 ON THIRD READING**  
(by McCall)

**HB 2000**, A bill to be entitled An Act relating to health benefit plan coverage for certain amino acid-based elemental formulas.

**HB 2000** was passed by (Record 847): 99 Yeas, 28 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Bohac; Bolton; Branch; Burnam; Button; Callegari; Cohen; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Edwards; Eiland; Elkins; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jackson; Jones; Keffer; King, P.; King, T.; Laubenberg; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Orr; Ortiz; Otto; Parker; Paxton; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter;



Rodriguez; Rose; Shelton; Smith, T.; Smithee; Solomons; Strama; Swinford; Thibaut; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Berman; Bonnen; Brown, B.; Brown, F.; Chisum; Christian; Cook; Crabb; Craddick; Creighton; Darby; Driver; Eissler; Fletcher; Flynn; Hunter; Kleinschmidt; Kolkhorst; Legler; Lewis; Miller, S.; Patrick; Phillips; Riddle; Sheffield; Weber; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Castro; Chavez; Corte; Crownover; Dunnam; Gattis; Hamilton; Hartnett; Hilderbran; Howard, C.; Hughes; Isett; Kent; King, S.; Martinez Fischer; Miklos; Olivo; Smith, W.; Taylor; Thompson.

### STATEMENTS OF VOTE

When Record No. 847 was taken, I was in the house but away from my desk. I would have voted no.

Corte

When Record No. 847 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 847 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

When Record No. 847 was taken, I was in the house but away from my desk. I would have voted no.

C. Howard

When Record No. 847 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

### HB 2783 ON THIRD READING (by Anchia, et al.)

**HB 2783**, A bill to be entitled An Act relating to the adoption of energy efficient building standards.

**HB 2783** was passed by (Record 848): 76 Yeas, 55 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Bolton; Burnam; Christian; Coleman; Cook; Crabb; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; England; Farias; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hardcastle; Heflin; Hernandez; Herrero; Hochberg; Hodge; Hopson; Howard, D.; Jones; Keffer; King, T.; Leibowitz; Lewis; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; McClendon; McReynolds; Menendez; Merritt; Moody; Naishtat; Oliveira; Orr; Ortiz; Otto; Peña; Phillips; Pickett; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Craddick; Creighton; Darby; Davis, J.; Driver; Eissler; Elkins; Farabee; Fletcher; Flynn; Gattis; Geren; Hamilton; Hancock; Harless; Harper-Brown; Homer; Howard, C.; Hughes; Hunter; Isett; Jackson; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Madden; McCall; Miller, D.; Miller, S.; Morrison; Parker; Patrick; Paxton; Riddle; Sheffield; Shelton; Solomons; Swinford; Taylor; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Castro; Chavez; Cohen; Corte; Crownover; Edwards; Eiland; Farrar; Hartnett; Hilderbran; Kent; King, S.; Martinez Fischer; Miklos; Olivo; Pierson.

### STATEMENTS OF VOTE

When Record No. 848 was taken, I was in the house but away from my desk. I would have voted no.

Corte

When Record No. 848 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

I was shown voting no on Record No. 848. I intended to vote yes.

Farabee

When Record No. 848 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

When Record No. 848 was taken, I was in the house but away from my desk. I would have voted yes.

Pierson

### HB 2919 ON THIRD READING (by S. King and Vaught)

**HB 2919**, A bill to be entitled An Act relating to the regulation of land use to ensure compatible development with military facilities in certain counties.

**HB 2919** was passed by (Record 849): 135 Yeas, 0 Nays, 1 Present, not voting.

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

Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Castro; Chavez; Corte; Crownover; Hartnett; Heflin; Hilderbran; King, T.; McReynolds; Miklos; Olivo; Taylor.

### STATEMENTS OF VOTE

When Record No. 849 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

When Record No. 849 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 849 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

When Record No. 849 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

### HB 2989 ON THIRD READING (by Phillips)

**HB 2989**, A bill to be entitled An Act relating to the reactivation of a peace officer license for certain peace officers.

**HB 2989** was passed by (Record 850): 138 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Anchia; Brown, F.; Castro; Chavez; Corte; Hartnett; Hilderbran; Martinez Fischer; Smith, W.

### STATEMENTS OF VOTE

When Record No. 850 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

When Record No. 850 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

### HB 3232 ON THIRD READING (by J. Davis)

**HB 3232**, A bill to be entitled An Act relating to the establishment of a service conversion opportunity grant program.

**HB 3232** was passed by (Record 851): 140 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Castro; Chavez; Corte; Gallego; Hartnett; Hilderbran; Smith, W.

### STATEMENTS OF VOTE

When Record No. 851 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

When Record No. 851 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

### HB 3594 ON THIRD READING (by McReynolds)

**HB 3594**, A bill to be entitled An Act relating to the preservation of evidence that contains biological material.

(Pitts now present)

**HB 3594** was passed by (Record 852): 142 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent — Corte; Hartnett; Hilderbran; Smith, T.; Smith, W.; Truitt.

### STATEMENTS OF VOTE

When Record No. 852 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

When Record No. 852 was taken, I was temporarily out of the house chamber. I would have voted yes.

Hilderbran

### HB 3864 ON THIRD READING (by Smithee)

**HB 3864**, A bill to be entitled An Act relating to the acceptance of certain donated building projects by the Parks and Wildlife Department.

**HB 3864** was passed by (Record 853): 136 Yeas, 0 Nays, 1 Present, not voting.

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

Patrick; Paxton; Phillips; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smithee; Solomons; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent — Burnam; Corte; Davis, Y.; Edwards; Giddings; Hartnett; Hilderbran; King, S.; Peña; Pickett; Smith, W.; Strama.

### STATEMENTS OF VOTE

When Record No. 853 was taken, I was in the house but away from my desk. I would have voted yes.

Corte

When Record No. 853 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

When Record No. 853 was taken, I was temporarily out of the house chamber. I would have voted yes.

Peña

### HB 3790 ON THIRD READING (by Morrison)

**HB 3790**, A bill to be entitled An Act relating to performance incentive funding for public institutions of higher education and to recognition of certain student achievement on degree completion.

**HB 3790** was passed by (Record 854): 144 Yeas, 0 Nays, 1 Present, not voting.

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent — Corte; Hartnett; Hilderbran; Ritter.

**HB 3480 ON THIRD READING**  
**(by Truitt and Menendez)**

**HB 3480**, A bill to be entitled An Act relating to certain investment products made available to certain public school employees and the companies authorized to provide those products; providing civil penalties.

Representative Truitt moved to postpone consideration of **HB 3480** until 1:40 p.m. today.

The motion prevailed.

**HB 3255 ON THIRD READING**  
**(by Gattis, Pickett, and Vaught)**

**HB 3255**, A bill to be entitled An Act relating to the impoundment of a motor vehicle if operated without financial responsibility or a driver's license.

**HB 3255** was passed by (Record 855): 139 Yeas, 4 Nays, 2 Present, not voting.

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

Nays — Alonzo; Davis, Y.; Gonzalez Toureilles; Thompson.

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

Absent, Excused — Kuempel.

Absent — Corte; Hilderbran; Howard, C.; Truitt.

**STATEMENT OF VOTE**

I was shown voting yes on Record No. 855. I intended to vote no.

Mallory Caraway

**HB 3857 ON THIRD READING**  
**(by Herrero and Edwards)**

**HB 3857**, A bill to be entitled An Act relating to foreclosure of liens on real property and certain personal property owned by members or dependents of the military; providing a criminal penalty.

**HB 3857** was passed by (Record 856): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb;

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

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent — Castro; Davis, J.; Mallory Caraway.

### STATEMENT OF VOTE

When Record No. 856 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

### HB 3601 ON THIRD READING (by Paxton)

**HB 3601**, A bill to be entitled An Act relating to the authority of a county clerk to post official and legal notices by electronic display.

**HB 3601** was passed by (Record 857): 146 Yeas, 0 Nays, 1 Present, not voting.

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



Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent — Flores; McClendon.

**HB 3672 ON THIRD READING**  
**(by Harper-Brown)**

**HB 3672**, A bill to be entitled An Act relating to the disclosure of personal information under the Motor Vehicle Records Disclosure Act; providing a penalty.

**Amendment No. 1**

Representative Giddings offered the following amendment to **HB 3672**:

Amend **HB 3672**, second reading engrossment, as follows:

(1) On page 2, between lines 25 and 26, by inserting the following:

(4) requires each of those others to post a surety bond with the requestor, in the amount of \$5,000, conditioned and payable to the State of Texas on the faithful performance of the written agreement under Subdivision (3);

(2) On page 2, line 26, strike "(4)" and substitute "(5)".

(3) On page 3, line 9, strike "(5)" and substitute "(6)".

Amendment No. 1 was adopted.

**HB 3672**, as amended, was passed by (Record 858): 138 Yeas, 1 Nays, 1 Present, not voting.

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

Nays — Jackson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent — Corte; Edwards; Flores; Hartnett; McClendon; McReynolds; Patrick; Peña; Rose.

**HB 313 ON THIRD READING**  
**(by Raymond and Dutton)**

**HB 313**, A bill to be entitled An Act relating to certain personal information contained in a decree of dissolution of a marriage or an order in a suit affecting the parent-child relationship.

**HB 313** was passed by (Record 859): 141 Yeas, 1 Nays, 1 Present, not voting.

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

Nays — Riddle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent — Heflin; McClendon; Peña; Rose; Smith, T.; Smith, W.

**POSTPONED BUSINESS**

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

**HB 3480 ON THIRD READING**  
**(by Truitt and Menendez)**

**HB 3480**, A bill to be entitled An Act relating to certain investment products made available to certain public school employees and the companies authorized to provide those products; providing civil penalties.

**HB 3480** was read third time earlier today and was postponed until this time.

**Amendment No. 1**

On behalf of Representative Thompson, Representative Truitt offered the following amendment to **HB 3480**:

Amend **HB 3480** on third reading (second reading engrossment) as follows:

(1) On page 6, between lines 10 and 11, insert:

SECTION 5. Chapter 22 (**SB 17**), Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), is amended by adding Sections 9A and 9B to read as follows:

Sec. 9A. (a) A person may not enter into or renew a contract with an educational institution to provide services for or administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986, if the person is:

(1) a company that certifies to the retirement system under Section 5 or 8 of this Act;

(2) a company owned by or otherwise affiliated by common ownership or control with a company described by Subdivision (1) of this section; or

(3) an agent of a company described by Subdivision (1) or (2) of this section.

(b) This section does not apply to a contract entered into or renewed with an independent school district located in a county with a population of more than 3 million.

Sec. 9B. (a) A person, other than an employee of an educational institution, or an affiliate of the person may not enter into or renew a contract under which the person is to provide services for or administer a plan offered by the institution under Section 403(b), Internal Revenue Code of 1986, unless the person:

(1) holds a license or certificate of authority issued by the Texas Department of Insurance;

(2) is registered as a securities dealer or agent or investment advisor with the State Securities Board; or

(3) is a financial institution that:

(A) is authorized by state or federal law to exercise fiduciary powers; and

(B) has its main office, a branch office, or a trust office in this state.

(b) This section does not apply to a contract entered into or renewed with an independent school district located in a county with a population of more than 3 million.

(2) Renumber subsequent, existing SECTIONS of the bill accordingly.

(Hopson in the chair)

Amendment No. 1 failed of adoption by (Record 860): 65 Yeas, 73 Nays, 3 Present, not voting.

Yeas — Alonzo; Alvarado; Anchia; Anderson; Brown, B.; Button; Chisum; Christian; Cook; Crabb; Darby; Davis, Y.; Driver; Dukes; England; Farabee; Flores; Flynn; Gattis; Geren; Giddings; Guillen; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hodge; Homer; Hopson(C); Hunter; Jackson; Jones; Keffer; King, S.; Kolkhorst; Legler; Lewis; Martinez Fischer; McClendon;

Menendez; Merritt; Miklos; Miller, D.; Moody; Oliveira; Olivo; Otto; Parker; Patrick; Phillips; Pickett; Pitts; Quintanilla; Raymond; Ritter; Sheffield; Shelton; Smith, T.; Smithee; Thompson; Truitt; Walle; Woolley; Zerwas.

Nays — Allen; Aycock; Berman; Bohac; Bolton; Bonnen; Branch; Brown, F.; Burnam; Callegari; Chavez; Cohen; Coleman; Corte; Craddick; Creighton; Crownover; Davis, J.; Deshotel; Dunnam; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frost; Gallego; Gonzales; Gonzalez Toureilles; Harless; Hernandez; Herrero; Howard, C.; Howard, D.; Hughes; Isett; King, P.; King, T.; Kleinschmidt; Laubenberg; Leibowitz; Lucio; Madden; Maldonado; Marquez; Martinez; McCall; McReynolds; Miller, S.; Morrison; Naishtat; Orr; Ortiz; Paxton; Peña; Pierson; Riddle; Rios Ybarra; Rodriguez; Rose; Smith, W.; Solomons; Strama; Taylor; Thibaut; Turner, C.; Vaught; Veasey; Villarreal; Vo; Weber.

Present, not voting — Mr. Speaker; Edwards; Hilderbran.

Absent, Excused — Kuempel.

Absent — Castro; Gutierrez; Heflin; Hochberg; Kent; Mallory Caraway; Swinford; Turner, S.

#### STATEMENTS OF VOTE

I was shown voting no on Record No. 860. I intended to vote yes.

Herrero

I was shown voting yes on Record No. 860. I intended to vote no.

Hodge

I was shown voting yes on Record No. 860. I intended to vote no.

Homer

**HB 3480** was passed by (Record 861): 134 Yeas, 8 Nays, 3 Present, not voting.

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

Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Berman; Creighton; Eissler; Fletcher; Isett; McReynolds; Quintanilla; Riddle.

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

Absent, Excused — Kuempel.

Absent — Burnam; Crabb; Martinez; Villarreal.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 861. I intended to vote yes.

Berman

I was shown voting no on Record No. 861. I intended to vote yes.

Eissler

I was shown voting no on Record No. 861. I intended to vote yes.

Isett

(Speaker in the chair)

### CSSB 1011 ON SECOND READING

#### (Harper-Brown - House Sponsor)

**CSSB 1011**, A bill to be entitled An Act relating to the continuation and functions of the Texas Commission on Fire Protection.

**CSSB 1011** was considered in lieu of **CSHB 3390**.

**CSSB 1011** was read second time.

### LEAVE OF ABSENCE GRANTED

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

Eiland on motion of Hardcastle.

### CSSB 1011 - (consideration continued)

#### Amendment No. 1

Representatives McReynolds, Isett, Hopson, Lewis, Kuempel, Chisum, F. Brown, D. Miller, Flynn, Bonnen, S. King, Cook, Ritter, Frost, Heflin, Kolkhorst, Otto, Swinford, Smithee, Hughes, Keffer, Aycocock, Farias, Harless, Gonzales, Phillips, D. Howard, Geren, Sheffield, Jones, Creighton, Gonzalez Tourelles, Kleinschmidt, Taylor, Moody, Harper-Brown, C. Howard, Anderson, B. Brown, Deshotel, Quintanilla, Darby, and Alonzo offered the following amendment to **CSSB 1011**:

Amend **CSSB 1011** (House Committee Report) as follows:

(1) Strike SECTION 15 (page 10, lines 6-13), SECTION 16 (page 10, line 14, through page 11, line 7), and SECTION 27 (page 18, lines 10-26) of the bill and renumber remaining SECTIONS of the bill accordingly.

(2) On page 22, lines 16 and 17, strike "Subsections (b) and (c)" and substitute "Subsection (b)".

(3) On page 22, strike lines 20 and 21.

### **CSSB 1011 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE LEGLER: I'm from Pasadena, which has the largest volunteer fire department in the nation that might have a concern. My fire chief asked me—he's worried that if something comes up and this equipment comes to them, and when it goes out, that they're going to have to be liable for paying for it. Are they going to be liable for extenuating items later that the state won't help them on? What can I tell him?

REPRESENTATIVE Y. DAVIS: Let me just suggest to you that the state has invested in the volunteer fire program already by providing grants and resources, and certainly, as the state becomes more involved in the kind of disasters we've had, we are going to have to make even more commitment to these efforts. The goal right now is for us to just recognize that 80 percent of this state is covered by volunteer firefighters, and, right now, we don't know what that means in terms of what our strength and our capabilities are if we have a state disaster. So I would suggest to you that you would go back and tell your fire department, your chief, that the goal is to at least know what it is we have and what we need to do. Right now, we don't have any way to measure that.

LEGLER: I understand, but like I said, we are the best, I believe. They're going to come and tell me, "so after this is done, we're going to have to pay for this?"

Y. DAVIS: No, we actually put money in, and there's been money allocated over a period of years for training. Much of it has been utilized for equipment, but you've got departments that don't have any training. You're unique in Pasadena in that you are so closely associated and affiliated with the larger departments, but many of the volunteer departments consist of five or six folks, and they have nothing. So what we're suggesting is that, at the very least, they would have some baseline training—just like we do lifeguards, CPR, EMS—they have some baseline training so that when you say you have that certification, it means something other than, "I just went to visit with my friends and talk about fires." We're suggesting that we've outgrown not requiring us to know, number one, what it means; number two, what our capabilities are, and how safe is the state. So, to the extent that we are dealing with these kinds of issues, and the fact that we have parts of the fire department in different agencies, we really need to look at that and figure out a comprehensive approach to address the more than 80 percent of our state that's protected by fire departments.

LEGLER: So your intent, then, is not to mandate unfunded mandates for my volunteer fire department?

Y. DAVIS: No, I am not trying to do unfunded mandates. In fact, I think it behooves us as a state to make an investment on not only human resources, but also financial resources to protect our state. Otherwise, we find ourselves in the situations we've currently found with the disasters and having overwhelming losses, overwhelming places where we can't even address them in a timely manner. So, we're just trying to be prospective, proactive, and recognizing that the state has outgrown this passive approach, and rather, add a way to address it earlier on.

### REMARKS ORDERED PRINTED

Representative Legler moved to print remarks between Representative Y. Davis and Representative Legler.

The motion prevailed.

### COMMITTEE GRANTED PERMISSION TO MEET

Representative Oliveira requested permission for the Committee on Ways and Means to meet while the house is in session, at 3:30 p.m. today, in 3W.15, for a formal meeting, to consider pending business.

Permission to meet was granted.

### COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Ways and Means, 3:30 p.m. today, 3W.15, for a formal meeting, to consider pending business.

### CSSB 1011 - (consideration continued)

#### Amendment No. 2

Representative Y. Davis offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Davis of Dallas to **CSSB 1011** by striking the text of the amendment and substituting the following:

Amend **CSSB 1011** (House Committee Report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) The legislature shall establish a joint interim committee to examine the feasibility and desirability of consolidating and expanding functions relating to volunteer firefighters and volunteer fire departments with the Texas Fire Protection Agency. The committee is composed of:

(1) five members of the house of representatives appointed by the speaker of the house of representatives, one of whom must be the chair of the standing house committee with oversight of the Texas Fire Protection Agency; and

(2) five members of the senate appointed by the lieutenant governor, one of whom must be the chair of the standing senate committee with oversight of the Texas Fire Protection Agency.

(b) The speaker and the lieutenant governor shall jointly select the presiding officer and assistant presiding officer of the committee from among the committee members. The committee may designate other officers as the committee considers appropriate.

(c) The study shall address:

(1) transferring the Rural Volunteer Fire Department Assistance Program under Subchapter G, Chapter 614, Government Code, from the Texas Forest Service of The Texas A&M University System to the Texas Fire Protection Agency;

(2) establishing minimum educational and training standards for volunteer firefighters, including a system of certification, proficiency examinations, and continuing education requirements;

(3) adopting a uniform curriculum for volunteer firefighters and approving courses for that curriculum;

(4) providing educational and other assistance to volunteer fire departments and volunteer firefighters;

(5) establishing standards for volunteer fire departments and monitoring compliance with those standards; and

(6) establishing and enforcing uniform statewide firefighter safety standards for the safety of firefighters and the general public.

(d) Not later than January 1, 2011, the joint interim committee shall report its findings to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with oversight of the Texas Fire Protection Agency.

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

Amendment No. 1, as amended, was adopted. (The vote was reconsidered later today, and Amendment No. 1 was amended by Amendment No. 5 and was adopted, as amended.)

### **MESSAGE FROM THE SENATE**

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

### **CSSB 1011 - (consideration continued)**

#### **Amendment No. 3**

Representative Harper-Brown offered the following amendment to **CSSB 1011**:

Amend **CSSB 1011** (House Committee Report) as follows:

(1) Strike the recital to SECTION 6 of the bill (page 2, lines 5-6) and substitute the following:

Sections 419.004(a) and (e), Government Code, are amended to read as follows:

(a) The commission is composed of the following 13 members:



(1) two members to be selected from a list of five names submitted by the Texas Fire Chiefs Association who are chief officers with a minimum rank that is equivalent to the position immediately below that of the fire chief and who are employed in fire departments as defined by Section 419.021 that are under the jurisdiction of the commission, at least one of whom must be the head of a fire department and one of whom must be employed by a political subdivision with a population of less than 100,000 [~~50,000~~];

(2) two members to be selected from a list of five names submitted by the Texas State Association of Fire Fighters who are fire protection personnel as defined by Section 419.021 with the rank of battalion chief or below and who are employed in fire departments or other appropriate local authorities under the jurisdiction of the commission, one of whom must be employed by a political subdivision with a population of less than 100,000 [~~50,000~~];

(3) two members to be selected from a list of five names submitted by the State Firemen's and Fire Marshals' Association of Texas who are volunteer fire chiefs or volunteer fire fighters;

(4) one certified fire protection engineer;

(5) one certified arson investigator or certified fire protection inspector;

(6) one fire protection instructor from an institution of higher education as defined by Section 61.003, Education Code; and

(7) four public members.

(2) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 419.0082(a), Government Code, is amended to read as follows:

(a) In adopting or amending a rule under Section 419.008(a) or any other law, the commission shall seek the input of the fire fighter advisory committee and, when appropriate, the funds allocation advisory committee. The commission shall permit the appropriate advisory committee to review and comment on any proposed rule, including a proposed amendment to a rule, before the rule is adopted. The recommendations of an advisory committee are subject to modification or rejection by the commission, in the commission's sole discretion, without the resubmission of the matter to the advisory committee.

(3) In the recital to SECTION 17 of the bill (page 11, line 9) strike "amending Subsection (e) and".

(4) In SECTION 17 of the bill, strike amended Section 419.023(e), Government Code (page 11, lines 11-16).

(5) In SECTION 31 of the bill, add the following appropriately lettered subsection and reletter subsequent subsections accordingly:

(\_\_\_\_\_) Section 419.0082, Government Code, as amended by this Act, applies to a rule adopted on or after the effective date of this Act. A rule adopted before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

Amendment No. 3 was adopted.

**Amendment No. 4**

Representative Harper-Brown offered the following amendment to **CSSB 1011**:

Amend **CSSB 1011** (House Committee Report) as follows:

(1) Strike SECTION 2 of the bill (page 1, lines 8-11) and substitute the following:

SECTION 2. Section 419.001, Government Code, is amended to read as follows:

Sec. 419.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas [~~Commission on~~] Fire Protection Agency.

(2) Except as otherwise provided in this chapter, "volunteer [~~Volunteer~~] fire fighter" and "volunteer fire chief" do not include a person who is also employed full-time in the fire service.

(2) Strike the recital to SECTION 6 of the bill (page 2, lines 5-6) and substitute the following:

SECTION 6. Section 419.004, Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(3) In SECTION 6 of the bill (page 2, between lines 24 and 25) insert the following new Section 419.004(f), Government Code:

(f) For purposes of this section, "volunteer fire fighter" and "volunteer fire chief" mean a person who is a member of a nonprofit volunteer fire department, and the term may include a person who is also employed full-time in the fire service.

Amendment No. 4 was adopted.

**CSSB 1011**, as amended, was passed to third reading. (Riddle recorded voting no.) (The vote was reconsidered later today, and **CSSB 1011** was further amended and was passed to third reading, as amended.)

**CSHB 3390 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Harper-Brown moved to lay **CSHB 3390** on the table subject to call.

The motion prevailed.

**CSHB 2669 ON SECOND READING  
(by Crownover, et al.)**

**CSHB 2669**, A bill to be entitled An Act relating to the implementation of projects involving the capture, injection, sequestration, or geologic storage of carbon dioxide.

**CSHB 2669** was read second time on May 12, postponed until May 13, and was again postponed until 6 a.m. today.

Representative P. King moved to postpone consideration of **CSHB 2669** until 6 p.m. today.

The motion prevailed.

**CSHB 3245 ON SECOND READING**  
**(by Solomons, et al.)**

**CSHB 3245**, A bill to be entitled An Act relating to certain protections for customers in the restructured electric services market.

**CSHB 3245** was read second time on May 13, amendments were offered and disposed of, and **CSHB 3245** was postponed until 7 a.m. today. Amendment No. 5 was pending at the time of postponement.

**CSHB 3245 - POINT OF ORDER**

Representative S. Miller raised a point of order against further consideration of **CSHB 3245** under Rule 4, Section 18 of the House Rules on the grounds that committee minutes of the April 23 meeting are inaccurate.

The speaker sustained the point of order and submitted the following statement:

Mr. S. Miller raises a point of order against further consideration of **CSHB 3245** in that the minutes of the committee meeting at which the bill was passed are in violation of Rule 4, Section 18. In particular, it is argued that the committee minutes of the April 23, 2009, meeting are inaccurate as the minutes state the committee was given permission to meet while the house was in session, and that the House Journal does not reflect that permission was given for the meeting.

The chair has reviewed this claim and determined that the minutes are inaccurate on this matter. Past precedent indicates that inaccurate minutes are "especially harmful" to the house and that the minutes should be "held to the highest standard of accuracy." (House Journal, 80th Regular Session (2007), page 2537) Points of order have consistently been sustained against bills with inaccurate minutes. (House Journal, 79th Regular Session (2005), page 1723; House Journal, 78th Regular Session (2003), page 3804; House Journal, 75th Regular Session (1997), page 3591)

The point of order is well taken and sustained.

**CSHB 3245** was returned to the Committee on State Affairs.

**HB 3201 ON SECOND READING**  
**(by P. King)**

**HB 3201**, A bill to be entitled An Act relating to the designation of certain fire marshals and related officers, inspectors, and investigators as peace officers.

**HB 3201** was read second time on May 13 and was postponed until 8 a.m. today.

**Amendment No. 1**

Representative T. King offered the following amendment to **HB 3201**:

Amend **HB 3201** (House Committee Report) as follows:

- (1) On page 4, line 19, strike "and".
- (2) On page 4, line 22, between "Code" and the period, insert the following:  
; and

(37) railroad peace officers appointed by the public safety director of the Department of Public Safety under Article 2.121, subject to the limitations imposed by that article

(3) On page 4, between lines 22 and 23, insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Article 2.121, Code of Criminal Procedure, is amended to read as follows:

Art. 2.121. RAILROAD PEACE OFFICERS. (a) The public safety director of the Department of Public Safety may appoint [~~up to 250~~] railroad peace officers who are employed by a railroad company to aid law enforcement agencies in the protection of railroad property and the protection of the persons and property of railroad passengers and employees. Each appointed officer has all the powers, privileges, and immunities of a peace officer while carrying out duties as a railroad peace officer within the boundaries of this state.

~~(b) [Except as provided by Subsection (c) of this article, a railroad peace officer may make arrests and exercise all authority given peace officers under this code when necessary to prevent or abate the commission of an offense involving injury to passengers and employees of the railroad or damage to railroad property or to protect railroad property or property in the custody or control of the railroad.~~

~~[(c) A railroad peace officer may not issue a traffic citation for a violation of Chapter 521, Transportation Code, or Subtitle C, Title 7, Transportation Code.~~

~~[(d)]~~ A railroad peace officer is not entitled to state benefits normally provided by the state to a peace officer.

~~(c)~~ ~~[(e)]~~ A person may not serve as a railroad peace officer for a railroad company unless:

(1) the Texas Railroad Association submits the person's application for appointment and certification as a railroad peace officer to the public safety director of the Department of Public Safety and to the executive director of the Commission on Law Enforcement Officer Standards and Education;

(2) the public safety director of the department issues the person a certificate of authority to act as a railroad peace officer; and

(3) the executive director of the commission determines that the person meets minimum standards required of peace officers by the commission relating to competence, reliability, education, training, morality, and physical and mental health and issues the person a license as a railroad peace officer; and

(4) the person has met all standards for certification as a peace officer by the Commission on Law Enforcement Officer Standards and Education.

~~(d)~~ ~~[(f)]~~ For good cause, the public safety director of the department may revoke a certificate of authority issued under this article and the executive director of the commission may revoke a license issued under this article. Termination of employment with a railroad company, or the revocation of a railroad peace officer license, constitutes [~~shall constitute~~] an automatic revocation of a certificate of authority to act as a railroad peace officer.

~~(e)~~ ~~[(g)]~~ A railroad company is liable for any act or omission by a person serving as a railroad peace officer for the company that is within the person's scope of employment. Neither the state nor any political subdivision or agency of

the state is ~~shall be~~ liable for any act or omission by a person appointed as a railroad peace officer. The employing railroad company shall pay all [A+] expenses incurred by the granting or revocation of a certificate of authority to act as a railroad peace officer [shall be paid by the employing railroad company].

(f) ~~(H)~~ A railroad peace officer who is a member of a railroad craft may not perform the duties of a member of any other railroad craft during a strike or labor dispute.

(g) ~~(I)~~ The public safety director of the department and the executive director of the commission may adopt ~~shall have the authority to promulgate~~ rules necessary for the effective administration and performance of the duties and responsibilities delegated to the directors [them] by this article.

Amendment No. 1 was adopted.

**HB 3201**, as amended, was passed to engrossment.

**CSHB 55 ON SECOND READING**  
**(by Branch, Menendez, and Bolton)**

**CSHB 55**, A bill to be entitled An Act relating to an offense of using a wireless communication device while operating a motor vehicle.

**CSHB 55** was read second time on May 13 and was postponed until 8 a.m. today.

**Amendment No. 1**

Representative C. Howard offered the following amendment to **CSHB 55**:

Amend **CSHB 55** (house committee printing) as follows:

(1) On page 1, between lines 22 and 23, insert:

(b-1) A municipality, county, or other political subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards requiring that a sign required to be posted under this subsection inform an operator that:

(1) the use of a wireless communication device is prohibited in the school crossing zone; and

(2) the operator is subject to the fine described by Subsection (f) if the operator uses a wireless communication device in the school crossing zone.

(2) On page 2, strike lines 3-14 and substitute:

(d) It is an affirmative defense to prosecution of an offense under this section that:

(1) the wireless communication device was used to make an emergency call to:

(A) an emergency response service, including a rescue, emergency medical, or hazardous material response service;

(B) a hospital;

(C) a fire department;

(D) a health clinic;

- (E) a medical doctor's office;  
(F) an individual to administer first aid treatment; or  
(G) a police department; or

(2) a sign required by Subsection (b-1) was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.

(3) On page 2, between lines 21 and 22, insert:

- (f) An offense under this section is a misdemeanor punishable by a fine of:  
(1) not more than \$25 for the first offense; and  
(2) not more than \$50 for each subsequent offense.

Amendment No. 1 was adopted.

### **Amendment No. 2**

On behalf of Representative Hochberg, Representative Branch offered the following amendment to **CSHB 55**:

Amend **CSHB 55** on page 2, line 21, between the "device" and the period by inserting "while operating a device of the type that the person is licensed to operate".

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative Branch offered the following amendment to **CSHB 55**:

Amend **CSHB 55** on page 1, line 19, between "crossing zone" and "unless" by inserting ", as defined by Section 541.302, Transportation Code,".

Amendment No. 3 was adopted.

**CSHB 55**, as amended, was passed to engrossment. (Hunter recorded voting no.)

### **HB 2573 ON SECOND READING** **(by Gonzalez Toureilles)**

**HB 2573**, A bill to be entitled An Act relating to the amount of a county expenditure for which competitive bidding is required.

**HB 2573** was read second time on April 23, postponed until May 1, postponed until May 5, postponed until May 11, and was again postponed until 9 a.m. today.

Representative Gonzalez Toureilles moved to postpone consideration of **HB 2573** until 10 a.m. Wednesday, June 3.

The motion prevailed.

### **CSSB 1011 - VOTE RECONSIDERED**

Representative Harper-Brown moved to reconsider the vote by which **CSSB 1011**, as amended, was passed to third reading.

The motion to reconsider prevailed.

**CSSB 1011 ON SECOND READING**  
**(Harper-Brown - House Sponsor)**

The speaker laid before the house, on its second reading and passage to third reading,

**CSSB 1011**, A bill to be entitled An Act relating to the continuation and functions of the Texas Commission on Fire Protection.

**CSSB 1011** was read second time earlier today and was passed to third reading, as amended.

**Amendment No. 1 - Vote Reconsidered**

Representative Y. Davis moved to reconsider the vote by which Amendment No. 1, as amended, was adopted.

The motion to reconsider prevailed.

**Amendment No. 2 - Vote Reconsidered**

Representative Y. Davis moved to reconsider the vote by which Amendment No. 2 was adopted.

The motion to reconsider prevailed.

Amendment No. 2 was withdrawn.

**Amendment No. 5**

Representative Y. Davis offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by McReynolds to **CSSB 1011** by adding the following Section to the McReynolds amendment:

SECTION \_\_\_\_\_. (a) The legislature shall establish a joint interim committee to examine the feasibility and desirability of consolidating and expanding functions relating to volunteer firefighters and volunteer fire departments with the Texas Fire Protection Agency. The committee is composed of:

(1) five members of the house of representatives appointed by the speaker of the house of representatives, one of whom must be the chair of the standing house committee with oversight of the Texas Fire Protection Agency; and

(2) five members of the senate appointed by the lieutenant governor, one of whom must be the chair of the standing senate committee with oversight of the Texas Fire Protection Agency.

(b) The speaker and the lieutenant governor shall jointly select the presiding officer and assistant presiding officer of the committee from among the committee members. The committee may designate other officers as the committee considers appropriate.

(c) The study shall address:

(1) transferring the Rural Volunteer Fire Department Assistance Program under Subchapter G, Chapter 614, Government Code, from the Texas Forest Service of The Texas A&M University System to the Texas Fire Protection Agency;

(2) establishing minimum educational and training standards for volunteer firefighters, including a system of certification, proficiency examinations, and continuing education requirements;

(3) adopting a uniform curriculum for volunteer firefighters and approving courses for that curriculum;

(4) providing educational and other assistance to volunteer fire departments and volunteer firefighters;

(5) establishing standards for volunteer fire departments and monitoring compliance with those standards; and

(6) establishing and enforcing uniform statewide firefighter safety standards for the safety of firefighters and the general public.

(d) Not later than January 1, 2011, the joint interim committee shall report its findings to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with oversight of the Texas Fire Protection Agency.

Amendment No. 5 was adopted.

Amendment No. 1, as amended, was adopted.

**CSSB 1011**, as amended, was passed to third reading.

**CSHB 280 ON SECOND READING**  
(by Anchia, Farrar, Burnam, Kent, et al.)

**CSHB 280**, A bill to be entitled An Act relating to energy efficiency goals and programs and demand reduction targets; creating an office of energy efficiency deployment in the state energy conservation office.

**CSHB 280** was read second time on May 13 and was postponed until 9 a.m. today.

Representative Anchia moved to postpone consideration of **CSHB 280** until 5 p.m. today.

The motion prevailed.

**HJR 128 ON SECOND READING**  
(by Ritter)

**HJR 128**, A joint resolution proposing a constitutional amendment providing for the issuance of additional general obligation bonds by the Texas Water Development Board.

**HJR 128** was read second time on May 11 and was postponed until 10 a.m. today.

**HJR 128** was adopted by (Record 862): 142 Yeas, 1 Nays, 1 Present, not voting.

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



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

Nays — Hartnett.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Eiland; Kuempel.

Absent — Hamilton; Hughes; Rodriguez; Smith, T.

**HB 1326 ON SECOND READING**  
**(by Rios Ybarra, et al.)**

**HB 1326**, A bill to be entitled An Act relating to a plan to replenish the food supplies of food banks or food pantries following a disaster.

**HB 1326** was read second time on May 11 and was postponed until 10 a.m. today.

**HB 1326** was passed to engrossment.

**CSHB 3219 ON SECOND READING**  
**(by Chavez)**

**CSHB 3219**, A bill to be entitled An Act relating to the creation and operation of a council to increase state efforts to offer service-enriched housing through increased coordination of housing and health services.

**CSHB 3219** was read second time on May 5, postponed until May 6, postponed until May 12, and was again postponed until 10 a.m. today.

Representative Chavez moved to postpone consideration of **CSHB 3219** until 10 p.m. today.

The motion prevailed.

**CSHB 2081 ON SECOND READING**  
**(by Isett)**

**CSHB 2081**, A bill to be entitled An Act relating to the continuation and functions of the Texas Racing Commission, the abolishment of the Equine Research Account Advisory Committee, and the authority of Texas AgriLife Research.

**CSHB 2081** was read second time on May 12 and was postponed until 10 a.m. today.

Representative Isett moved to postpone consideration of **CSHB 2081** until 9:45 p.m. today.

The motion prevailed.

**CSHB 808 ON SECOND READING**  
**(by Gallego)**

**CSHB 808**, A bill to be entitled An Act relating to the availability of automated external defibrillators at certain athletic clubs.

**CSHB 808** was read second time on May 8 and was postponed until 11:30 p.m. today.

Representative Lucio moved to postpone consideration of **CSHB 808** until 5 p.m. today.

The motion prevailed.

**MAJOR STATE CALENDAR**  
**HOUSE BILLS**  
**SECOND READING**

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

**CSSB 98 ON SECOND READING**  
**(Lucio, Martinez, Peña, Oliveira, Rios Ybarra, et al. - House Sponsors)**

**CSSB 98**, A bill to be entitled An Act relating to establishing a health science center and medical school in South Texas.

**CSSB 98** was considered in lieu of **HB 65**.

**Amendment No. 1**

Representative Herrero offered the following amendment to **CSSB 98**:

Amend **CSSB 98** (house committee printing) on page 1, line 19, between "Kleberg," and "Starr", by inserting "Nueces,".

Amendment No. 1 was adopted.

**CSSB 98**, as amended, was passed to third reading. (Laubenberg recorded voting no.)

**HB 65 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Lucio moved to lay **HB 65** on the table subject to call.

The motion prevailed.

**HR 2026 - PREVIOUSLY ADOPTED**  
**(by Leibowitz)**

The chair laid out the following previously adopted resolution:

**HR 2026**, Honoring The University of Texas at San Antonio on the 40th anniversary of its establishment.

### INTRODUCTION OF GUESTS

The speaker recognized Representative Leibowitz who introduced representatives of The University of Texas at San Antonio.

#### **HR 2084 - ADOPTED** **(by Hilderbran and Gattis)**

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 2084**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2084**, Congratulating James Avery Craftsman, Inc., on the opening of its 50th retail store.

**HR 2084** was adopted.

#### **CSHB 3445 ON SECOND READING** **(by Anchia and Kolkhorst)**

**CSHB 3445**, A bill to be entitled An Act relating to requirements governing registration and authorized activities of certain lobbyists.

**CSHB 3445** was passed to engrossment.

#### **CSHB 4583 ON SECOND READING** **(by Pitts)**

**CSHB 4583**, A bill to be entitled An Act relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

#### **Amendment No. 1**

On behalf of Representative Eiland, Representative Raymond offered the following amendment to **CSHB 4583**:

Amend **CSHB 4583** (house committee printing) as follows:

(1) Add the following section to the bill, numbered appropriately, and renumber subsequent sections of the bill accordingly:

SECTION \_\_\_\_\_. HEALTHY TEXAS SMALL EMPLOYER PREMIUM STABILIZATION FUND. Sections 2 and 7 of this Act do not apply to the healthy Texas small employer premium stabilization fund created by **SB 6** or similar legislation, or to dedicated revenue deposited to that account.

(2) On page 2, between lines 20 and 21, insert the following subdivision, numbered appropriately, and renumber subsequent subdivisions of that section accordingly:

(\_\_\_\_) the honesty-in-premium account created in the general revenue fund by **HB 2750**, **SB 1257**, or similar legislation;

(3) On page 4, between lines 11 and 12, insert the following subdivision, numbered appropriately, and renumber subsequent subdivisions of that section accordingly:

( ) all dedications or rededications of revenue to the Texas Department of Insurance operating account;

(4) On page 6, line 11, between "legislation," and "or", insert "to the fund account established for the deposit of money held by the fund,".

(5) On page 6, line 12, between "fund" and the period, insert "or fund account".

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative Creighton offered the following amendment to **CSHB 4583**:

Amend **CSHB 4583** (House Committee printing), 81st Legislative Session, by amending and adding appropriately numbered Section(s) of the bill to read as follows:

SECTION \_\_\_\_\_. SEPARATE FUNDS IN THE TREASURY. Effective September 1, 2009, the following fund in the state treasury and the revenue deposited to the credit of the fund is exempt from Section 2 of this Act and is created as a separate fund in the state treasury, if created by an Act of the 81st Legislature, Regular Session, 2009, that becomes law:

(1) FLOODPLAIN MANAGEMENT fund created by **HB 2536** or similar legislation.

Amendment No. 2 was adopted.

**CSHB 4583**, as amended, was passed to engrossment.

### **CSHB 2511 ON SECOND READING** **(by T. Smith, Anchia, Merritt, and McCall)**

**CSHB 2511**, A bill to be entitled An Act relating to political contributions and expenditures; providing criminal penalties.

(Bonnen in the chair)

### **Amendment No. 1**

Representative T. Smith offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** (house committee printing) as follows:

(1) On page 2, line 9, between "or" and "political", insert "by a".

(2) On page 3, line 20, between "public" and the semicolon, insert "in support of or opposition to a candidate".

(3) On page 3, strike lines 23 and 24, and renumber the subsequent subparagraphs accordingly.

(4) On page 7, lines 21 and 22, strike "own" both places it appears.

(5) On page 7, line 23, strike "fund" and substitute "funds".

(6) On page 9, line 7, strike "on any subject".

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative T. Smith offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** (house committee printing) on page 5, line 1, following the period by inserting the following:

The term:

(A) includes a communication that is not susceptible to any reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate, with any reasonable doubt resolved in favor of permitting the communication; and

(B) does not include a communication that:

(i) exclusively discusses a legislative, judicial, or executive matter or issue;

(ii) urges an officeholder to take a particular position or action regarding a matter or issue;

(iii) urges the public to adopt a particular position and to contact an officeholder regarding the matter or issue;

(iv) does not mention an election, candidacy, political party, opposing candidate, or voting by the general public; and

(v) does not take a position on any candidate's or officeholder's character, qualifications, or fitness for office.

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative T. Smith offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** as follows:

(1) On page 1, line 7, strike "(28)" and substitute "(29)".

(2) On page 5, line 1, after the period, insert "An electioneering communication does not include a voter guide distributed by an organization exempt from federal income taxation under Section 501(c)(3) or (4), Internal Revenue Code of 1986".

(3) On page 7, between lines 15 and 16, insert the following:

(29) "Voter guide" means a printed document distributed to the public:

(A) that consists of two or more candidates' positions presented in a neutral and unbiased manner on issues;

(B) that may include neutral and unbiased biographical information on each candidate, including the candidate's education, employment positions, offices held, and community involvement;

(C) in which all candidates seeking a seat or office or the nomination of a particular political party in a contested primary election or appearing on the general election ballot are provided an equal opportunity to include responses, except questions may be directed only to candidates who are seeking the nomination of a particular political party in a contested primary election or appearing on the general election ballot in the jurisdiction in which the voter guide is distributed;

(D) in which a candidate does not receive greater prominence or substantially more space for responses than other participating candidates;

(E) that does not contain or is not accompanied by material containing an electioneering message or editorial comments aimed at inducing voters in a particular way; and

(F) that does not score or rate or is not accompanied by material that scores or rates a candidate's response in a manner that conveys an electioneering message.

Amendment No. 3 was adopted.

#### **Amendment No. 4**

Representative Dunnam offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** by adding the following appropriately-numbered SECTIONS:

SECTION \_\_\_\_\_. Section 251.002(a), Government Code, is amended to read as follows:

Sec. 251.002. OFFICEHOLDERS COVERED. (a) The provisions of this title applicable to an officeholder apply only to a person who holds an elective public office ~~[and to the secretary of state]~~.

SECTION \_\_\_\_\_. Section 405.005, Government Code, is amended to read as follows:

Sec. 405.005. ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS; REPORTING; AUDIT. (a) The secretary of state may accept or solicit gifts, grants, and donations of money or property from private persons, foundations, or organizations. Property provided by those entities and money donated to the secretary of state become the property of the state and are under the control of the secretary of state.

(a-1) The secretary of state shall use gifts of money made to the secretary of state for the purpose specified by the grantor, if any. All donations accepted shall be used [on behalf of the state] for any lawful public purpose related to the office or duties of the secretary of state, including an officeholder expenditure. As used in this section, "officeholder expenditure" has the meaning assigned by Section 251.001(9), Election Code.

(b) The secretary of state shall adopt rules to govern the secretary's acceptance of private gifts, grants, and donations to ensure that the use of the money or property supports the secretary of state's primary functions. The secretary of state may decline to accept a gift, grant, or donation that is made for a specific purpose if the secretary of state determines the gift may not be used reasonably or economically for the designated purpose.

(c) Money and securities donated to the secretary of state shall be held in trust outside the treasury by the comptroller in a special fund to be known as the secretary of state extraordinary fund. The comptroller shall manage and invest the fund on behalf of the secretary of state as directed or agreed to by the secretary of state.

(d) Interest, dividends, and other income of the fund shall be credited to the fund.

(e) The secretary of state by rule shall establish an acquisition policy for accepting property and art objects.

(f) Notwithstanding any other provision of law, the financial transactions of the secretary of state made out of the fund are subject to annual audit by the state auditor.

(g) The secretary of state shall prepare annually a complete and detailed written report accounting for the fund showing all money received and disbursed by the secretary of state during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

SECTION \_\_\_\_\_. If, on the effective date of this Act, the secretary of state has an officeholder account established under Title 15, Election Code, the secretary of state shall terminate the account on the effective date of the Act and remit any unexpended contributions in that account to one or more of the following:

(1) the comptroller for deposit to the credit of the secretary of state extraordinary fund established by this Act;

(2) one or more persons from whom political contributions were received, in accordance with Section 254.204(d), Election Code.

Amendment No. 4 was adopted.

#### **Amendment No. 5**

Representative Dunnam offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** by adding the following appropriately numbered SECTIONS.

SECTION \_\_\_\_\_. Section 302.011, Government Code, is amended to read as follows:

Sec. 302.011. DEFINITIONS. In this subchapter:

(1) "Contribution," "expenditure," "labor organization," and "political committee" have the meanings assigned by Section 251.001, Election Code.

(2) "Speaker campaign advertising" means a communication supporting or opposing a speaker candidate that:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television;

(B) appears in a letter, pamphlet, circular, flier, billboard or other sign, bumper sticker, button, or similar form of written communication; or

(C) appears on an Internet website.

(3) "Speaker campaign contribution" means a contribution to a speaker candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for speaker. Whether a contribution is made before, during, or after an election for speaker does not affect its status as a speaker campaign contribution.

(4) "Speaker candidate" means a member of or candidate for the house of representatives who has announced the member's [his] candidacy for or who by the member's [his] actions, words, or deeds seeks election to the office of speaker of the house of representatives.

(5) "Speaker campaign [~~(2) "Campaign~~] expenditure" means an [the] expenditure made by a person in connection with a campaign for speaker. Whether an expenditure is made before, during, or after an election for speaker does not affect its status as a speaker campaign expenditure [of money or the use of services or any other thing of value to aid or defeat the election of a speaker candidate].

(6) "Speaker campaign [~~(3) "Campaign~~] funds" means the speaker candidate's personal funds that are devoted to the campaign for speaker and any money, services, or other things of value that are contributed or loaned to the speaker candidate for use in the candidate's campaign for speaker.

(7) "Speaker election cycle" means the period beginning on the day after the date a speaker is elected and ending on the date a new speaker is elected.

SECTION \_\_\_\_\_. Subchapter B, Chapter 302, Government Code, is amended by adding Section 302.0111 to read as follows:

Sec. 302.0111. APPLICATION OF ELECTION CODE. The restrictions on contributions and expenditures and reporting requirements of Title 15, Election Code, apply to a campaign for speaker except as expressly provided by this subchapter.

SECTION \_\_\_\_\_. Section 302.012(b), Government Code, is amended to read as follows:

(b) The records must be kept separate from the records required under the [~~Texas~~] Election Code for the speaker candidate's campaign for any other public office.

SECTION \_\_\_\_\_. Sections 302.0121(c) and (e), Government Code, are amended to read as follows:

(c) Except as provided by Subsection (e), a speaker candidate may not knowingly accept a speaker campaign contribution [~~, loan, or promise of a contribution or loan~~] in connection with the speaker candidacy or make or authorize a speaker campaign expenditure at a time when a declaration of candidacy for the speaker candidate is not in effect.

(e) A former speaker candidate whose declaration of speaker candidacy is terminated under Subsection (d) may make a speaker campaign expenditure in connection with a debt incurred during the period the former speaker candidate's declaration of candidacy was in effect.

SECTION \_\_\_\_\_. Section 302.014, Government Code, is amended to read as follows:

Sec. 302.014. CONTENTS OF STATEMENT. (a) Each statement must list the following information for the period since the last filing date:

(1) each speaker campaign contribution of money the speaker candidate or the speaker candidate's agent, servant, staff member, or employee received for the campaign, the complete name and address of the contributor, and the date and amount of the contribution;



(2) each speaker campaign contribution of services and other things of value other than money that the speaker candidate or the speaker candidate's agent, servant, staff member, or employee received for the campaign, the nature of the contribution, the complete name and address of the contributor, and the date and value of the contribution;

(3) each loan made to the speaker candidate or to the speaker candidate's agent, servant, staff member, or employee for the campaign, including all loans listed in previous filings that are as yet unpaid or that were paid during the period covered by the present filing, the complete name and address of the lender and each person other than the speaker candidate who is responsible on the note, the date and amount of the note, the intended source of funds to repay the note, and any payments already made on the note and the source of the payments; ~~and~~

(4) each expenditure of speaker campaign funds that the speaker candidate or the speaker candidate's agent, servant, staff member, or employee made for the campaign, the complete name and address of each person to whom a payment of more than \$10 was made, and the purpose of each expenditure;

(5) the total amount of all speaker campaign contributions accepted and the total amount of all speaker campaign expenditures made during the reporting period; and

(6) as of the last day of a reporting period for which the person is required to file a statement, the total amount of speaker campaign contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which speaker campaign contributions are deposited as of the last day of the reporting period.

(b) A de minimis error in calculating or reporting a cash balance under Subsection (a)(6) is not a violation of this section.

(c) If no reportable activity occurs during a reporting period, the person required to file a statement shall indicate that fact in the statement.

SECTION \_\_\_\_\_. Section 302.016, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) The Texas Ethics Commission shall make each statement or report filed with the commission under this subchapter available to the public on the Internet not later than the second business day after the date the statement or report is filed.

(d) The access allowed by this section to statements and reports is in addition to the public's access to the information through other electronic or print distribution of the information.

(e) Before making a statement or report filed under this subchapter available on the Internet, the commission shall remove each portion, other than city, state, and zip code, of the address of a person listed as having made a speaker campaign contribution to the speaker candidate filing the statement or report. The address information removed must remain available on the statement or report maintained in the commission's office but may not be available electronically at that office.

SECTION \_\_\_\_\_. The heading to Section 302.017, Government Code, is amended to read as follows:

Sec. 302.017. CONTRIBUTIONS AND LOANS FROM AND EXPENDITURES BY ORGANIZATIONS.

SECTION \_\_\_\_. Section 302.017, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A ~~[Except as provided by Subsection (b), a]~~ corporation, partnership, association, firm, labor organization ~~[union]~~, foundation, committee, club, or other organization or group of persons may make a contribution to, or an expenditure on behalf of, ~~[not contribute or lend or promise to contribute or lend money or other things of value to]~~ a speaker candidate or to any other person, directly or indirectly, to aid or defeat the election of a speaker candidate only if:

(1) the corporation, partnership, association, firm, labor organization, foundation, committee, club, or other organization or group of persons is permitted to make a contribution to or expenditure for a candidate under Title 15, Election Code;

(2) the contribution or expenditure is made as prescribed by that title;  
and

(3) the contribution or expenditure is reported to the Texas Ethics Commission in the manner provided by that title for reporting contributions and expenditures made under that title.

(a-1) A report under this section shall be made separately from other reports required to be filed under Title 15, Election Code.

(a-2) A speaker candidate may not knowingly accept speaker campaign contributions from a corporation, partnership, association, firm, labor organization, foundation, committee, club, or other organization or group of persons that in the aggregate exceed \$1,000 in a speaker election cycle.

SECTION \_\_\_\_. Section 302.019, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1), (d), and (e) to read as follows:

(a) Except as provided by this section, a speaker candidate may not knowingly accept speaker campaign contributions from an individual that in the aggregate exceed \$1,000 in a speaker election cycle.

(a-1) A speaker campaign contribution consisting of personal travel expenses or personal services to aid or defeat a speaker candidate incurred by ~~[Section 302.017 or 302.018,]~~ an individual other than the speaker candidate for which the individual is not reimbursed or compensated:

(1) is not subject to the limit prescribed by Subsection (a); and

(2) is not required to be reported under this subchapter ~~[may contribute personal services and traveling expenses to aid or defeat a speaker candidate].~~

(b) Except as otherwise provided by law, an ~~[An]~~ individual other than the speaker candidate not acting in concert with another person may make one or more expenditures to aid or defeat the election of a speaker candidate from the individual's own property if:

(1) the expenditures do not constitute a contribution to the speaker candidate;

(2) the total expenditures on any one or more speaker candidates do not exceed ~~[expend a total of not more than]~~ \$100; and

(3) the individual receives no reimbursement for the expenditures [for the cost of correspondence to aid or defeat the election of a speaker candidate].

(d) Except as otherwise provided by law, an individual not acting in concert with another person may make one or more expenditures to aid or defeat the election of a speaker candidate from the individual's own property that exceed \$100 on any one or more candidates if:

(1) the expenditures do not constitute a contribution to the speaker candidate;

(2) the individual complies with Chapter 254, Election Code, as if the individual were a campaign treasurer of a political committee; and

(3) the individual receives no reimbursement for the expenditures.

(e) An individual making an expenditure under this section is not required to file a campaign treasurer appointment under Title 15, Election Code.

SECTION \_\_\_\_\_. Section 302.020, Government Code, is amended to read as follows:

Sec. 302.020. SPEAKER CAMPAIGN [PERMITTED] EXPENDITURES.

(a) A speaker candidate may expend speaker campaign funds for:

(1) travel for the speaker candidate and the speaker candidate's immediate family and campaign staff;

(2) the employment of clerks and stenographers;

(3) clerical and stenographic supplies;

(4) printing and stationery;

(5) office rent;

(6) telephone, telegraph, postage, freight, and express expenses;

(7) advertising and publicity;

(8) the expenses of holding political and other meetings designed to promote the candidacy;

(9) the employment of legal counsel; and

(10) the retirement of campaign loans.

(b) A speaker candidate may not expend speaker campaign funds on professional fund-raising services.

SECTION 11. Sections 302.0201(a), (c), and (d), Government Code, are amended to read as follows:

(a) A former speaker candidate may:

(1) use unexpended speaker campaign funds to retire debt incurred in connection with the speaker candidacy; or

(2) remit unexpended speaker campaign funds to one or more of the following:

(A) one or more persons from whom speaker campaign funds were received, in accordance with Subsection (c); or

(B) the comptroller for deposit in the general revenue fund to the credit of the house of representatives [a recognized charitable organization formed for educational, religious, or scientific purposes that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, and its subsequent amendments].

(c) The amount of speaker campaign funds disposed of under Subsection (a)(2)(A) to one person may not exceed the aggregate amount accepted from that person in connection with the former speaker candidate's most recent campaign for election to the office of speaker.

(d) Not later than January 15 of each year, a former speaker candidate who retains unexpended speaker campaign funds shall file a sworn report with the Texas Ethics Commission that includes:

(1) the full name and address of each person to whom a payment from unexpended speaker campaign funds is made;

(2) the date and amount of each payment reported under Subdivision (1); and

(3) the information required by Section 302.014 as to any contribution, loan, or expenditure not previously reported on a statement filed under Section 302.013.

SECTION \_\_\_\_\_. Subchapter B, Chapter 302, Government Code, is amended by adding Section 302.0202 to read as follows:

Sec. 302.0202. REQUIRED DISCLOSURE ON SPEAKER CAMPAIGN ADVERTISING. (a) A person may not knowingly enter into a contract or other agreement to print, publish, or broadcast speaker campaign advertising that does not indicate in the advertising:

(1) that it is speaker campaign advertising;

(2) the full name of the individual who personally entered into the contract or agreement with the printer, publisher, or broadcaster and the name of the person, if any, that the individual represents; and

(3) in the case of advertising that is printed or published, the address of the individual who personally entered into the agreement with the printer or publisher and the address of the person, if any, that the individual represents.

(b) Subsection (a) does not apply to a printer, publisher, or broadcaster of speaker campaign advertising or an agent or employee of the printer, publisher, or broadcaster if:

(1) the person entering into the contract or agreement with the printer, publisher, or broadcaster is not the actual sponsor of the advertising but is the sponsor's professional advertising agent conducting business in this state; or

(2) the advertising is procured by the actual sponsor of the speaker campaign advertising and, before the performance of the contract or agreement, the sponsor is given written notice as provided by Subsection (d).

(c) A professional advertising agent conducting business in this state who seeks to procure the printing, publication, or broadcasting of speaker campaign advertising on behalf of the sponsor of the advertising may not enter into a contract or agreement for the printing, publication, or broadcasting of speaker campaign advertising unless, before the performance of the contract or agreement, the agent gives the sponsor written notice as provided by Subsection (d).

(d) The notice required by Subsections (b) and (c) must be substantially as follows:

"Section 302.0202, Government Code, requires speaker campaign advertising to disclose certain information. A person who knowingly enters into a contract or other agreement to print, publish, or broadcast speaker campaign advertising that does not contain the information required under that section commits an offense that is a Class A misdemeanor."

SECTION \_\_\_\_\_. Section 302.021, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1), (b-2), and (g) to read as follows:

(a) A speaker candidate or former speaker candidate commits an offense if the person:

(1) knowingly fails to file the declaration of candidacy required by Section 302.0121;

(2) knowingly fails to file the statement required by Section 302.013;

(3) knowingly accepts a speaker campaign contribution, loan, or promise of a speaker campaign contribution or loan in violation of Section 302.0121(c);

(4) knowingly accepts a speaker campaign contribution, loan, or promise of a speaker campaign contribution or loan prohibited by Section 302.017 from a corporation, partnership, association, firm, labor organization [~~union~~], foundation, committee, club, or other organization or group of persons;

(5) knowingly accepts a speaker campaign contribution from an individual that, when aggregated with each other speaker campaign contribution from the individual accepted during the same speaker campaign cycle, exceeds the limit prescribed by Section 302.019(a);

(6) knowingly accepts a speaker campaign contribution from a person who uses political contributions, interest earned on political contributions, or an asset purchased with political contributions to make the speaker campaign contribution in violation of Section 302.0191;

(7) [~~(6)~~] expends speaker campaign funds for any purpose other than those enumerated in Section 302.020(a) [~~302.020~~];

(8) [~~(7)~~] knowingly retains speaker campaign contributions, assets purchased with speaker campaign contributions, or interest or other income earned on speaker campaign contributions in violation of Section 302.0201(b); or

(9) [~~(8)~~] knowingly fails to file the report of unexpended speaker campaign funds as required by Section 302.0201(d).

(b) An individual or an agent, officer, or director of a corporation, partnership, association, firm, labor organization [~~union~~], foundation, committee, club, or other organization or group of persons commits an offense if the individual or agent, officer, or director consents to a contribution or expenditure [~~loan, or promise of a contribution or loan~~] prohibited by this subchapter.

(b-1) A person commits an offense if the person enters into a contract or other agreement to print, publish, or broadcast speaker campaign advertising that does not contain the disclosure required by Section 302.0202(a).

(b-2) A professional advertising agent commits an offense if the agent seeks to procure the printing, publication, or broadcasting of speaker campaign advertising on behalf of the sponsor of the advertising without giving the sponsor written notice as required by Sections 302.0202(c) and (d).

(g) A speaker candidate who commits an offense under this section is not entitled to have the speaker candidate's name placed in nomination for election as speaker.

SECTION \_\_\_\_\_. Subchapter B, Chapter 302, Government Code, is amended by adding Section 302.023 to read as follows:

Sec. 302.023. ENFORCEMENT BY TEXAS ETHICS COMMISSION. The Texas Ethics Commission may enforce this subchapter in the same manner as the commission enforces Title 15, Election Code.

SECTION \_\_\_\_\_. Sections 302.019(c) and 302.021(d) and (e), Government Code, are repealed.

SECTION \_\_\_\_\_. (a) Subchapter B, Chapter 302, Government Code, as amended by this Act, applies only to an offense committed on or after September 1, 2009. For purposes of this section, an offense is committed before September 1, 2009, if any element of the offense occurs before that date.

(b) An offense committed before September 1, 2009, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION \_\_\_\_\_. This Act takes effect September 1, 2009.

Amendment No. 5 was adopted.

### LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the Conference Committee on **SB 1**:

Pitts on motion of Homer.

Raymond on motion of Homer.

### CSHB 2511 - (consideration continued)

#### Amendment No. 6

Representative Hartnett offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 253.0351, Election Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) A candidate or officeholder may:

(1) deposit the candidate's or officeholder's personal funds in one or more accounts in which political contributions are deposited;

(2) report the amount deposited under Subdivision (1) as a loan; and

(3) reimburse those personal funds from political contributions in the amount of the reported loan.

(b) Section 253.035(h) applies if the person does not report an amount as a loan as authorized by Subsection (a) or (a-1).

Amendment No. 6 was adopted.

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

Representative Thompson offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** by adding the following appropriately numbered sections and renumbering the subsequent sections appropriately.

SECTION \_\_\_\_\_. Section 253.035, Election Code, is amended by adding Subsection (j) to read as follows:

(j) "Personal use" includes the use of contributions to pay a civil penalty imposed by the commission.

SECTION \_\_\_\_\_. Section 253.041(a), Election Code, is amended to read as follows:

(a) A candidate or officeholder or a specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not knowingly make or authorize a payment from a political contribution if the payment is made for personal services rendered by the candidate, ~~[or]~~ officeholder, or a person related to ~~[by the spouse or dependent child of]~~ the candidate or officeholder within the third degree by consanguinity or the second degree by affinity, as determined under Subchapter B, Chapter 573, Government Code, to:

(1) the candidate, officeholder, or a person related to the candidate or officeholder within the third degree by consanguinity or the second degree by affinity, as determined under Subchapter B, Chapter 573, Government Code; or

(2) a business in which a person described by Subdivision (1) ~~[the candidate or officeholder]~~ has a participating interest of more than 10 percent, holds a position on the governing body of the business, or serves as an officer of the business ~~[- or~~

~~[(2) the candidate or officeholder or the spouse or dependent child of the candidate or officeholder].~~

Amendment No. 7 was adopted. (The vote was reconsidered later today, and Amendment No. 7 was withdrawn.)

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

Representative Thompson offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** by adding an appropriately numbered SECTION \_\_\_\_ to read as follows and renumber the subsequent sections appropriately.

SECTION \_\_\_\_\_. Sections 462.057, 463.057, and 2602.056, Insurance Code, are repealed.

Amendment No. 8 was withdrawn.

#### **Amendment No. 9**

Representative Christian offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** by striking SECTIONS 1, 2, 6, 8, 9, 10 and 11 from the bill and insert the following appropriately numbered SECTIONS and renumber the remaining SECTIONS accordingly.

SECTION \_\_\_\_\_. Section 253.100, Election Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) A corporation, acting alone or with one or more other corporations, may make one or more political expenditures to finance the establishment or administration of a general-purpose committee. In addition to any other expenditure that is considered permissible under this section, a corporation may make an expenditure for the maintenance and operation of a general-purpose committee, including an expenditure for:

(1) office space maintenance and repairs;  
(2) telephone and Internet services;  
(3) office equipment;  
(4) utilities;  
(5) general office and meeting supplies;  
(6) salaries for routine clerical, data entry, and administrative assistance necessary for the proper administrative operation of the committee;  
(7) legal and accounting fees for the committee's compliance with this title;

(8) routine administrative expenses incurred in establishing and administering a general-purpose political committee;

(9) management and supervision of the committee, including expenses incurred in holding meetings of the committee's governing body to interview candidates and make endorsements relating to the committee's support;

(10) the recording of committee decisions;

(11) expenses incurred in hosting candidate forums in which all candidates for a particular office in an election are invited to participate on the same terms; or

(12) expenses incurred in preparing and delivering committee contributions.

(c) A labor organization may engage in activity authorized for a corporation by this section ~~[Subsections (a) and (b)]~~. For purposes of this section, the members of a labor organization are considered to be corporate stockholders.

(d) A corporation or labor organization may not make expenditures under this section for:

(1) political consulting to support or oppose a candidate;

(2) telephoning or telephone banks to communicate with the public;

(3) brochures and direct mail supporting or opposing a candidate;

(4) partisan voter registration and get-out-the-vote drives;

(5) political fund-raising;

(6) voter identification efforts, voter lists, or voter databases that include persons other than its stockholders or members, as applicable, or the families of its stockholders or members;



(7) polling designed to support or oppose a candidate other than of its stockholders or members, as applicable, or the families of its stockholders or members; or

(8) recruiting candidates.

(e) Subsection (d) does not apply to a corporation or labor organization making an expenditure to communicate with its stockholders or members, as applicable, or with the families of its stockholders or members as provided by Section 253.098.

SECTION \_\_\_\_\_. The change in law made by this Act applies only to a political expenditure made under Section 253.100, Election Code, as amended by this Act, on or after the effective date of this Act. A political expenditure made under Section 253.100, Election Code, before the effective date of this Act is governed by the law in effect at the time the expenditure is made, and the former law is continued in effect for that purpose.

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

#### **Amendment No. 9 - Point of Order**

Representative Dunnam raised a point of order against further consideration of Amendment No. 9 under Rule 11, Section 6(e) of the House Rules on the grounds that the amendment was improperly filed.

The chair sustained the point of order.

The ruling precluded further consideration of Amendment No. 9.

#### **Amendment No. 7 - Vote Reconsidered**

Representative Christian moved to reconsider the vote by which Amendment No. 7 was adopted.

The motion to reconsider prevailed.

Amendment No. 7 was withdrawn.

#### **Amendment No. 10**

Representative Hilderbran offered the following amendment to **CSHB 2511**:

Amend **CSHB 2511** by adding the following SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 302.001, Government Code, is amended to read as follows:

Sec. 302.001. ELECTION. (a) When the house of representatives first convenes in regular session and a quorum is present and has been qualified, the house shall elect a speaker unless a majority of the members present decides to defer the election.

(b) The election of the speaker shall be governed by the rules of the house of representatives.

SECTION \_\_\_\_\_. Section 571.061(a), Government Code, is amended to read as follows:

(a) The commission shall administer and enforce:

- (1) Chapters ~~302,~~ 303, 305, 572, and 2004;
- (2) Subchapter C, Chapter 159, Local Government Code, in connection with a county judicial officer, as defined by Section 159.051, Local Government Code, who elects to file a financial statement with the commission;
- (3) Title 15, Election Code; and
- (4) Sections 2152.064 and 2155.003.

SECTION \_\_\_\_\_. Section 571.091(a), Government Code, is amended to read as follows:

(a) The commission shall prepare a written opinion answering the request of a person subject to any of the following laws for an opinion about the application of any of these laws to the person in regard to a specified existing or hypothetical factual situation:

- (1) ~~Chapter 302;~~  
~~(2)~~ Chapter 303;
- (2) ~~(3)~~ Chapter 305;
- (3) ~~(4)~~ Chapter 2004;
- (4) ~~(5)~~ Chapter 572;
- (5) ~~(6)~~ Subchapter C, Chapter 159, Local Government Code, as provided by Section 571.061(a)(2);
- (6) ~~(7)~~ Title 15, Election Code;
- (7) ~~(8)~~ Chapter 36, Penal Code;
- (8) ~~(9)~~ Chapter 39, Penal Code;
- (9) ~~(10)~~ Section 2152.064; or
- (10) ~~(11)~~ Section 2155.003.

SECTION \_\_\_\_\_. Subchapter B, Chapter 302, Government Code, is repealed.

SECTION \_\_\_\_\_. (a) The repeal by this Act of Section 302.021, Government Code, does not apply to an offense committed under that section before September 1, 2009. For purposes of this section, an offense is committed before September 1, 2009, if any element of the offense occurs before that date.

(b) An offense committed before September 1, 2009, is covered by that section as it existed when the offense was committed, and the former law is continued in effect for that purpose.

Amendment No. 10 was adopted.

### CSHB 2511 - POINT OF ORDER

Representative Christian raised a point of order against further consideration of **CSHB 2511** under Rule 8, Section 3 of the House Rules on the grounds that the bill violates the one subject rule.

The point of order was withdrawn.

Representative T. Smith moved to postpone consideration of **CSHB 2511** until 5 p.m. today.

The motion prevailed.

### **CSHB 2962 ON SECOND READING**

**(by Coleman, Dukes, Zerwas, J. Davis, Naishtat, et al.)**

**CSHB 2962**, A bill to be entitled An Act relating to the administration and funding of and eligibility for the child health plan, medical assistance, and other programs.

#### **Amendment No. 1**

Representative Coleman offered the following amendment to **CSHB 2962**:

Amend **CSHB 2962** as follows:

(1) On page 6, strike lines 2 through 7 and substitute the following:

(3) ensure that required premiums and costs for the coverage for a child under this subchapter:

(A) are at least equal to the cost to the commission of otherwise providing child health plan coverage, including dental benefits, to another child who is the same age, and who resides in the same state service delivery area, as the child receiving coverage under this subchapter; and

(B) include:

(i) a fee in an amount determined by the commission to offset all or part of the cost of prescription drugs provided to enrollees under this subchapter;

(ii) fees to offset administrative costs incurred under this subchapter; and

(iii) additional deductibles, coinsurance, or other cost-sharing payments as determined by the executive commissioner; and

(2) On page 6, line 8, strike "(5)" and substitute "(4)".

(3) On page 6, strike lines 12 through 13 and substitute the following: this subchapter only if the child was eligible for the medical assistance program under Chapter 32, Human Resources Code, or the child health plan program under Section 62.101 and was enrolled in the applicable program, but the

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

SECTION \_\_\_\_\_. Subchapter D, Chapter 62, Health and Safety Code, is amended by adding Section 62.1551 to read as follows:

Sec. 62.1551. TERMINATION OF COVERAGE FOR NONPAYMENT OF PREMIUMS. The executive commissioner by rule shall establish a process that allows for the termination of coverage under the child health plan of an enrollee whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level if the enrollee does not pay the premiums required under Section 62.153(a-1).

Amendment No. 1 was adopted. (Phillips recorded voting no.)

**Amendment No. 2**

Representative Coleman offered the following amendment to **CSHB 2962**:

Amend **CSHB 2962** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 531, Government Code, is amended by adding Subchapter M-1 to read as follows:

SUBCHAPTER M-1. ELIGIBILITY DETERMINATION STREAMLINING  
AND IMPROVEMENT

Sec. 531.471. DEFINITIONS. In this subchapter:

(1) "Benefits program" includes:

(A) the child health plan program;

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

(C) the medical assistance program under Chapter 32, Human Resources Code, including long-term care services provided under the program; and

(D) the food stamp program under Chapter 33, Human Resources Code.

(2) "SAVERR" means the System of Application, Verification, Eligibility, Referral, and Reporting.

(3) "TIERS" means the Texas Integrated Eligibility Redesign System.

Sec. 531.472. CORRECTIVE ACTION PLAN. If for three consecutive months less than 90 percent of the applications or eligibility recertifications for benefits programs are accurately processed through SAVERR or TIERS, or otherwise for the child health plan program, within the applicable processing time requirements established by state and federal law, the executive commissioner by rule shall adopt a corrective action plan for all benefits programs that:

(1) identifies the steps necessary to improve the timeliness of application processing and the accuracy of eligibility determinations; and

(2) to the extent possible within the staffing levels authorized by the General Appropriations Act, ensures that benefits program eligibility determinations are accurately made within applicable processing time requirements established by state and federal law.

Sec. 531.473. REDUCTION OF DENIALS FOR MISSING INFORMATION. (a) The executive commissioner by rule shall adopt processes designed to reduce denials of eligibility for benefits programs due to information missing from an application. The processes must include providing comprehensive information to an applicant, enrollee, or recipient regarding acceptable documentation of income for purposes of an eligibility determination.

(b) Before imposing a denial of eligibility for a benefits program for failure to provide information needed to complete an application, including an application for recertification, the commission shall:

(1) attempt to contact the applicant, enrollee, or recipient by telephone or mail to describe the specific information that must be provided to complete the application; and

(2) allow the person a period of at least 10 business days to provide the missing information instead of requiring the person to submit a new application.

Sec. 531.474. CALL RESOLUTION STANDARDS. The executive commissioner shall establish telephone call resolution standards and processes for each call center established under Section 531.063, including a call center operated by a contractor, to ensure that telephone calls regarding questions, issues, or complaints received at call centers are accurately handled by call center staff and are successfully resolved by call center or agency staff.

Amendment No. 2 was adopted. (Phillips recorded voting no.)

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

Representative Merritt requested permission for the Committee on Public Safety to meet while the house is in session, at 4:45 p.m. today, in 3W.9, for a formal meeting, to consider pending business.

Permission to meet was granted.

### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Public Safety, 4:45 p.m. today, 3W.9, for a formal meeting, to consider pending business.

### **CSHB 2962 - (consideration continued)**

#### **Amendment No. 3**

Representative Coleman offered the following amendment to **CSHB 2962**:

Amend **CSHB 2962** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Chapter 33, Human Resources Code, is amended by adding Section 33.0151 to read as follows:

Sec. 33.0151. FOOD STAMP ELIGIBILITY PERIOD AND PERIODIC REPORTING REQUIREMENTS. (a) The department, to the maximum extent allowed by federal law, shall provide that a person who is determined to be eligible for benefits under the food stamp program remains eligible for those benefits for a period of at least 12 months unless the department determines that a shorter eligibility period is necessary to ensure program integrity.

(b) The department may require food stamp recipients to periodically report changes in household circumstances in accordance with Section 6(c)(1)(A), Food and Nutrition Act of 2008 (7 U.S.C. Section 2015(c)(1)(A)).

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

#### **Amendment No. 4**

Representatives Dukes, Coleman, S. King, and Zerwas offered the following amendment to **CSHB 2962**:

Amend **CSHB 2962** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. RESTORATION OF MEDICALLY NEEDY PROGRAM. (a) In this section:

(1) "FMAP" means the federal medical assistance percentage by which state expenditures under the Medicaid program are matched with federal funds.

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

(b) Subject to Subsection (c) of this section, during the state fiscal biennium beginning September 1, 2009, the medically needy program under Section 32.024(i), Human Resources Code, as amended by Chapters 198 (**HB 2292**) and 1251 (**SB 1862**), Acts of the 78th Legislature, Regular Session, 2003, that serves certain pregnant women, children, and caretakers must, at a minimum, serve recipients, including adult recipients, in the same manner and at the same level as services were provided to recipients under the medically needy program during the state fiscal biennium ending August 31, 2003.

(c) The Health and Human Services Commission is required to expand the number of recipients served and the services provided in accordance with Subsection (b) of this section only if:

(1) for any portion of the period beginning September 1, 2009, and ending December 31, 2010:

(A) this state's FMAP is increased as authorized by Section 5001(c), American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5); and

(B) the applicable percent used in computing that increase is the percent specified in Section 5001(c)(3)(A)(ii) or (iii), American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5); and

(2) the receipt by this state of federal funds resulting from the increased FMAP described by Subdivision (1) of this subsection results in general revenue funds otherwise appropriated to the Health and Human Services Commission becoming available for the purposes of this section.

(d) The Health and Human Services Commission:

(1) may use appropriated funds that become available as described by Subsection (c)(2) of this section for purposes of this section; and

(2) is not required to obtain prior approval from the governor, the Legislative Budget Board, or any other person or entity to use those funds for purposes of this section.

(e) This section expires September 2, 2011.

Amendment No. 4 was adopted. (Phillips recorded voting no.)

#### **Amendment No. 5**

Representative Naishtat offered the following amendment to **CSHB 2962**:

Amend **CSHB 2962** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 31.032(d), Human Resources Code, is amended to read as follows:

(d) In determining whether an applicant is eligible for assistance, the department shall exclude from the applicant's available resources:

(1) \$1,000 for the applicant's household, including a household in which there is a person with a disability or a person who is at least 60 years of age; ~~and~~

(2) the fair market value of each motor vehicle:

(A) in which the applicant or any other person in the applicant's household has an ownership interest; and

(B) the fair market value of which is less than \$4,650;

(3) each motor vehicle that may be excluded under 7 C.F.R. Section 273.8(e)(3);

(4) the fair market value of the motor vehicle, other than a motor vehicle that is excluded, or the value of which is excluded, under Subdivision (2) or (3):

(A) in which the applicant or any other person in the applicant's household has an ownership interest; and

(B) that has the greatest fair market value as compared to each other motor vehicle in which the applicant or any other person in the applicant's household has an ownership interest; and

(5) with respect to each motor vehicle in which the applicant has an ownership interest, other than the motor vehicles that are otherwise excluded, or the values of which are otherwise excluded, under this subsection, the greater of:

(A) the difference between the fair market value of the motor vehicle and the value of the applicant's equity in the motor vehicle; or

(B) \$4,650 [in a motor vehicle, but not more than the amount determined according to the following schedule:

~~[(A) \$4,550 on or after September 1, 1995, but before October 1, 1995;~~

~~[(B) \$4,600 on or after October 1, 1995, but before October 1, 1996;~~

~~[(C) \$5,000 on or after October 1, 1996, but before October 1, 1997; and~~

~~[(D) \$5,000 plus or minus an amount to be determined annually beginning on October 1, 1997, to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics].~~

SECTION \_\_\_\_\_. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0265 to read as follows:

Sec. 32.0265. DETERMINATION OF RESOURCES: MOTOR VEHICLE ALLOWANCES. (a) To the extent allowed by federal law and except as provided by Subsection (b), for purposes of determining whether a person meets the resource requirements for eligibility for medical assistance, the department shall

exclude from the person's resources the motor vehicle allowances that would be excluded under Section 31.032(d) if the person were an applicant for financial assistance.

(b) Subsection (a) does not apply in determining the eligibility of a person for medical assistance if a less restrictive provision relating to motor vehicle allowances would otherwise apply in determining the person's eligibility for a specific category of medical assistance.

SECTION \_\_\_\_\_. Chapter 33, Human Resources Code, is amended by adding Section 33.014 to read as follows:

Sec. 33.014. DETERMINATION OF RESOURCES: MOTOR VEHICLE ALLOWANCES. For purposes of determining whether a person meets the resource requirements for eligibility for food stamps, the department shall exclude from the person's resources the motor vehicle allowances that would be excluded under Section 31.032(d) if the person were an applicant for financial assistance.

Amendment No. 5 was adopted by (Record 863): 75 Yeas, 69 Nays, 1 Present, not voting.

(Raymond now present)

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hunter; Kent; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Strama; Thibaut; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle.

Nays — Aycock; Berman; Bohac; Bonnen(C); Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Hughes; Isett; Jackson; Jones; Keffer; King, P.; Kolkhorst; Laubenberg; Legler; Lewis; Madden; McCall; Miller, D.; Miller, S.; Morrison; Orr; Otto; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Vaught; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Eiland; Kuempel.

Absent, Excused, Committee Meeting — Pitts.

Absent — Kleinschmidt; Thompson.



**STATEMENTS OF VOTE**

I was shown voting yes on Record No. 863. I intended to vote no.

Anderson

I was shown voting yes on Record No. 863. I intended to vote no.

Farabee

I was shown voting yes on Record No. 863. I intended to vote no.

Hunter

**Amendment No. 6**

Representative S. Turner offered the following amendment to **CSHB 2962**:

Amend **CSHB 2962** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3) "FMAP" means the federal medical assistance percentage by which state expenditures under the Medicaid program are matched with federal funds.

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

(b) Notwithstanding Section 32.0261, Human Resources Code, and subject to Subsection (c) of this section and availability of appropriated funds, rules adopted by the executive commissioner under Section 32.0261, Human Resources Code, providing for a period of continuous eligibility under the Medicaid program during the state fiscal biennium beginning September 1, 2009, for a child under 19 years of age who is determined eligible for Medicaid shall provide that the child remains eligible, without additional review and regardless of changes in the child's resources or income, until the earlier of:

(1) the first anniversary of the date the child's eligibility was determined; or

(2) the child's 19th birthday.

(c) The executive commissioner is required to adopt rules providing for a period of continuous eligibility prescribed by Subsection (b) of this section only if:

(1) for any portion of the period beginning September 1, 2009, and ending December 31, 2010:

(A) this state's FMAP is increased as authorized by Section 5001(c), American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5); and

(B) the applicable percent used in computing that increase is the percent specified in Section 5001(c)(3)(A)(ii) or (iii), American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5); and

(2) the receipt by this state of federal funds resulting from the increased FMAP described by Subdivision (1) of this subsection results in general revenue funds otherwise appropriated to the commission becoming available for the purposes of this section.

(d) The commission:

(1) may use appropriated funds that become available as described by Subsection (c)(2) of this section for purposes of this section; and

(2) is not required to obtain prior approval from the governor, the Legislative Budget Board, or any other person or entity to use those funds for purposes of this section.

Amendment No. 6 was adopted. (Phillips recorded voting no.)

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

Representative Villarreal offered the following amendment to **CSHB 2962**:

Amend **CSHB 2962** (House committee printing) as follows:

(1) On page 8, line 16, strike "or".

(2) On page 8, strike line 19 and substitute the following:

1986; or

(4) any taxable credit-only savings account that is opened in a child's name and gifted to the child by a postsecondary education awards program and that is exclusively accessible by the program administrator.

(3) On page 12, line 26, strike "or".

(4) On page 13, strike line 2 and substitute the following:

1986; or

(4) any taxable credit-only savings account that is opened in a child's name and gifted to the child by a postsecondary education awards program and that is exclusively accessible by the program administrator.

(5) On page 13, line 15, strike "or".

(6) On page 13, strike line 18 and substitute the following:

1986; or

(4) any taxable credit-only savings account that is opened in a child's name and gifted to the child by a postsecondary education awards program and that is exclusively accessible by the program administrator.

Amendment No. 7 was adopted. (Phillips recorded voting no.)

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

Representative Villarreal offered the following amendment to **CSHB 2962**:

Amend **CSHB 2962** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.095 to read as follows:

Sec. 531.095. IMPLEMENTATION OF MEASURES TO ACHIEVE CASELOAD AND COST-SAVINGS ESTIMATES. (a) To attain the state and federal cost-savings and reduced rates of unintended pregnancies estimated in the

waiver application, or any renewal waiver application, submitted to the Centers for Medicare and Medicaid Services for implementation of the demonstration project authorized under Section 32.0248, Human Resources Code, the commission shall implement effective education, outreach, and other measures designed to increase participation in the demonstration project and through the increased participation achieve the caseload and cost-saving estimates stated in the waiver application.

(b) The commission, in complying with Subsection (a), may not take any action to decrease the level of programs and services designed to reduce the number of unintended pregnancies and lower the rates of sexually transmitted diseases to below the level of programs and services provided on September 1, 2009.

SECTION \_\_\_\_\_. Section 32.0248, Human Resources Code, is amended by adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b-1) The department shall identify women potentially eligible for participation in the demonstration project following pregnancies for which the women received benefits through the medical assistance program and assist those women in establishing eligibility for the demonstration project. Benefits received through the demonstration project shall begin as soon as possible after eligibility for the medical assistance program terminates.

(b-2) The department shall modify any applicable administrative procedures to allow a woman described by Subsection (b-1) to seamlessly transition from participation in the medical assistance program to participation in the demonstration project without a gap in medical coverage.

(b-3) The department shall require any entity that provides information and services to participants in the medical assistance program to provide the following information to women who are potentially eligible for the demonstration project:

(1) a description of benefits available through the demonstration project; and

(2) information on how to apply for enrollment in the demonstration project.

Amendment No. 8 was withdrawn.

### **Amendment No. 9**

Representative Alonzo offered the following amendment to **CSHB 2962**:

Amend **CSHB 2962** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

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

(jj) The department shall provide to a child who is a recipient of medical assistance a mental health screening through the early and periodic screening, diagnosis, and treatment program following the child's initial determination of

eligibility for medical assistance. The screening must be conducted using an appropriate mental health screening tool, as determined by the child's health care provider.

Amendment No. 9 was withdrawn.

### LEAVES OF ABSENCE GRANTED

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

Bohac on motion of Oliveira.

The following member was granted leave of absence temporarily for today to attend a meeting:

Vaught on motion of Kent.

(Eiland now present)

### CSHB 2962 - (consideration continued)

**CSHB 2962**, as amended, was passed to engrossment by (Record 864): 80 Yeas, 63 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Darby; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hunter; Keffer; Kent; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Patrick; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Anderson; Aycock; Berman; Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Howard, C.; Hughes; Isett; Jackson; Jones; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Madden; McCall; Miller, D.; Miller, S.; Morrison; Orr; Otto; Parker; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Weber; Woolley.

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

Absent, Excused — Bohac; Kuempel; Vaught.

Absent, Excused, Committee Meeting — Pitts.

Absent — Merritt.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 864. I intended to vote no.

Hunter

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Oliveira requested permission for the Committee on Ways and Means to meet while the house is in session, at 5:30 p.m. today, in 3W.15.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Ways and Means, 5:30 p.m. today, 3W.15, for a formal meeting, to consider pending business.

**CSHB 3676 ON SECOND READING**

(by Heflin, Swinford, Strama, Kolkhorst, and Gallego)

**CSHB 3676**, A bill to be entitled An Act relating to the Texas Economic Development Act.

**Amendment No. 1**

Representative Heflin offered the following amendment to **CSHB 3676**:

Amend **CSHB 3676** (House committee printing) as follows:

(1) On page 7, line 1, strike "Subsection (a)" and substitute "Subsections (a), (b), and (d)".

(2) On page 8, between lines 8 and 9, insert the following:

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value that is filed with the governing body under Subsection (a). If the governing body of the school district does elect to consider an application, the governing body shall deliver three copies of the application to the comptroller and request that the comptroller provide an economic impact evaluation of the application to the school district. Except as provided by Subsection (b-1), the comptroller shall conduct or contract with a third person to conduct the evaluation, which shall be completed and provided to the governing body of the school district as soon as practicable. The governing body shall provide to the comptroller or third person any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the evaluation to the applicant on request. The comptroller may charge and collect a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application before the 151st ~~[121st]~~ day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(d) Before the 91st ~~[61st]~~ day after the date the comptroller receives the copy of the application, the comptroller shall submit a recommendation to the governing body of the school district as to whether the application should be approved or disapproved.

(3) On page 14, strike line 19 and substitute the following:

exceeds the period beginning with the period described by Section 313.021(4) and ending with the period described by Section 313.104(2)(B)

(4) On page 21, strike lines 15-19 and substitute the following:

SECTION 15. (a) Except as provided by Subsection (b) of this section:

(1) 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; and

(2) if this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

(b) Sections 313.025(a-1), (h), and (i) and 313.0265, Tax Code, as added by this Act, take effect January 1, 2010.

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative Strama offered the following amendment to **CSHB 3676**:

Amend **CSHB 3676** (house committee report) as follows:

(1) On page 6, strike lines 11-16 and substitute the following:

(5) "County average weekly wage for manufacturing jobs" means:

(A) the average weekly wage in a county for manufacturing jobs during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission; or

(B) the average weekly wage for manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, in which the county is located during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission.

(2) On page 21, line 12, strike "Sections 313.021(1)(A) and (2)" and substitute "Sections 313.021(1)(A), (2), and (5)".

(3) On page 21, at the end of line 14, add the following:

The clarification made by Section 313.021(5), Tax Code, as amended by this Act, is necessary to allow the Texas Workforce Commission to implement that subdivision in conformance with the data collection requirements imposed by the federal government.

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative Strama offered the following amendment to **CSHB 3676**:

Amend **CSHB 3676** (house committee printing) as follows:

(1) Insert the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 313.024(b), Tax Code, is amended to read as follows:

(b) To be eligible for a limitation on appraised value under this subchapter, the entity must use the property in connection with:

- (1) manufacturing;
- (2) research and development;
- (3) a clean coal project, as defined by Section 5.001, Water Code;
- (4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code;
- (5) renewable energy electric generation;
- (6) electric power generation using integrated gasification combined cycle technology; ~~or~~
- (7) nuclear electric power generation; or
- (8) a computer center primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity.

(2) On page 6, line 18, strike "Subdivision (5)" and substitute "Subdivisions (5) and (6)".

(3) On page 6, between lines 26 and 27, insert the following:

(6) "Computer center" means an establishment primarily engaged in providing electronic data processing and information storage.

Amendment No. 3 was adopted.

#### **Amendment No. 4**

On behalf of Representative Kuempel, Representative Heflin offered the following amendment to **CSHB 3676**:

Amend **CSHB 3676** (house committee report) on page 5 by striking lines 12-14 and substituting the following:

- (E) pays at least 110 percent of:
- (i) the county average weekly wage for manufacturing jobs in the county where the job is located; or
  - (ii) the county average weekly wage for all jobs in the county where the job is located, if the property owner creates more than 1,000 jobs in that county.

Amendment No. 4 was adopted.

#### **Amendment No. 5**

Representative McCall offered the following amendment to **CSHB 3676**:

Amend **CSHB 3676** by inserting the following new SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly as follows:

(1) Amend Section 313.103, Tax Code as follows:

APPLICATION. An application for a tax credit under this subchapter must be made to the governing body of the school district to which the ad valorem taxes were paid. The application must be:

- (1) made on the form prescribed for that purpose by the comptroller and verified by the applicant;
- (2) accompanied by:

(A) a tax receipt from the collector of taxes for the school district showing full payment of school district ad valorem taxes on the qualified property for the applicable qualifying time period; and

(B) any other document or information that the comptroller or the governing body considers necessary for a determination of the applicant's eligibility for the credit or the amount of the credit; ~~and~~

~~(3) filed before September 1 of the year immediately following the applicable qualifying time period.~~

(2) Amend Section 313.104, Tax Code as follows:

Sec. 313.104. ACTION ON APPLICATION; GRANT OF CREDIT. Before ~~granting the 90th day after the date~~ the application for a tax credit is filed, the governing body of the school district shall:

(1) determine the person's eligibility for a tax credit under this subchapter; and

(2) if the person's application is approved, by order or resolution direct the collector of taxes for the school district:

(A) in the second and subsequent six tax years that begin after the date the application is approved, to credit against the taxes imposed on the qualified property by the district in that year an amount equal to one-seventh of the total amount of tax credit to which the person is entitled under Section 313.102, except that the amount of a credit granted in any of those tax years may not exceed 50 percent of the total amount of ad valorem school taxes imposed on the qualified property by the school district in that tax year; and

(B) in the first three tax years that begin on or after the date the person's eligibility for the limitation under Subchapter B or C expires, to credit against the taxes imposed on the qualified property by the district an amount equal to the portion of the total amount of tax credit to which the person is entitled under Section 313.102 that was not credited against the person's taxes under Paragraph (A) in a tax year covered by Paragraph (A), except that the amount of a tax credit granted under this paragraph in any tax year may not exceed the total amount of ad valorem school taxes imposed on the qualified property by the school district in that tax year.

Amendment No. 5 was adopted.

### **Amendment No. 6**

Representative Villarreal offered the following amendment to **CSHB 3676**:

Amend **CSHB 3676** (house committee report) as follows:

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

SECTION \_\_\_\_\_. Section 313.008, Tax Code, as added by Chapter 1270 (**HB 3430**), Acts of the 80th Legislature, Regular Session, 2007, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report assessing the progress of each agreement entered into under this chapter. The report must be



based on data that is certified to the comptroller by each recipient of a limitation on appraised value under this chapter and is verified by the comptroller and must state for each agreement:

- (1) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;
- (2) the number of qualifying jobs each recipient created;
- (3) the median wage of the new jobs each recipient created;
- (4) the amount of the qualified investment each recipient committed to expend or allocate per project;
- (5) the amount of the qualified investment each recipient expended or allocated per project;
- (6) the market value of the qualified property of each recipient as determined by the applicable chief appraiser;
- (7) the limitation on appraised value for the qualified property of each recipient;
- (8) the dollar amount of the taxes that would have been imposed on the market value of the qualified property if the property had not received a limitation on appraised value;
- (9) the dollar amount of the taxes imposed on the qualified property;
- (10) the number of new jobs created by each recipient in each sector of the North American Industry Classification System; and
- (11) of the number of new jobs each recipient created, the number of jobs created that provide health benefits for employees.

(d) Each school district that is a party to an agreement entered into under this chapter shall assist the comptroller in collecting any data required to complete the report.

SECTION \_\_\_\_\_. The heading to Section 313.105, Tax Code, is amended to read as follows:

Sec. 313.105. REMEDY FOR ERRONEOUS CREDIT OR LIMITATION.

SECTION \_\_\_\_\_. Section 313.105(a), Tax Code, is amended to read as follows:

(a) If the comptroller or ~~and~~ the governing body of a school district determines ~~determine~~ that a person who received a tax credit under this subchapter or a limitation under Subchapter B or C for any reason was not entitled to the credit or limitation received or was entitled to a lesser amount of tax benefit ~~credit~~ than the amount of the tax benefit ~~credit~~ received, an additional tax is imposed on the qualified property equal to the ~~full credit or the~~ amount of the tax benefit received ~~credit~~ to which the person was not entitled, ~~as applicable,~~ plus interest at an annual rate of seven percent calculated from the date the credit or limitation was issued.

(2) On page 7, line 1, strike "Subsection (a)" and substitute "Subsections (a) and (f-1)".

(3) On page 8, between lines 17 and 18, insert the following:

(f-1) Notwithstanding any other provision of this chapter to the contrary, including Section 313.003(2) or 313.004(3)(A) or (B)(iii), the governing body of a school district may waive the new jobs creation requirement in Section

313.021(2)(A)(iv)(b) or 313.051(b) and approve an application if the governing body makes a finding that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application and the comptroller verifies the finding.

(4) On page 13, line 3, strike "Subsection (f)" and substitute "Subsections (e) and (f)".

(5) On page 13, between lines 4 and 5, insert the following:

(e) The agreement must describe with specificity the qualified [~~investment that the person will make on or in connection with the person's qualified~~] property that is subject to the limitation on appraised value under this subchapter. Other property of the person that is not specifically described in the agreement is not subject to the limitation unless the governing body of the school district, by official action and with the approval of the comptroller, provides that the other property is subject to the limitation.

Amendment No. 6 was withdrawn.

**CSHB 3676**, as amended, was passed to engrossment.

### **CSHB 2942 ON SECOND READING**

**(by Dunnam, Crownover, Coleman, S. Turner, and Gattis)**

**CSHB 2942**, A bill to be entitled An Act relating to fiscal accountability and transparency in government operations by providing for effective legislative oversight; providing penalties.

### **MESSAGE FROM THE SENATE**

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

### **CSHB 2942 - (consideration continued)**

#### **Amendment No. 1**

Representative Dunnam offered the following amendment to **CSHB 2942**:

Amend **CSHB 2942** on page 63, line 10, by striking the word "2010" and inserting the word "2009".

Amendment No. 1 was adopted.

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

Representative Hughes offered the following amendment to **CSHB 2942**:

Amend **CSHB 2942** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE \_\_\_\_ . PROVISIONS APPLICABLE TO CERTAIN COUNTIES

SECTION \_\_\_\_ .01. Subchapter A, Chapter 112, Local Government Code, is amended by adding Section 112.011 to read as follows:

Sec. 112.011. ELECTRONIC CHECKING ACCOUNT TRANSACTION REGISTER. (a) This section applies only to a county with a population of 250,000 or more.

(b) The county treasurer shall maintain the transaction register for the county's checking account as a list in a searchable electronic spreadsheet format, such as a portable document format (PDF) or similar file type, in which the transaction register is readily available for purposes of Subsection (d). Except as provided by Subsection (c), the electronic checking account transaction register must include for each check written from a county checking account:

(1) the transaction amount;

(2) the name of the payee; and

(3) a statement of the purpose of the expenditure for which the check was written.

(b-1) Notwithstanding Subsection (b), beginning September 1, 2010, a county's electronic checking account transaction register must contain the information required by Subsections (b)(1) and (2) for each check dated on or after August 1, 2010. Beginning September 1, 2011, a county's electronic checking account transaction register must contain the information required by Subsections (b)(1) through (3) for each check dated on or after August 1, 2011. This subsection expires October 1, 2011.

(c) A county may not include in the county's electronic checking account transaction register a check issued to:

(1) a county employee in payment of:

(A) salary, wages, or an employment stipend; or

(B) a workers' compensation income benefit, medical benefit, death benefit, or burial benefit that is issued by a county operating as a self-insurer under Chapter 504, Labor Code; or

(2) a court-appointed attorney, including an attorney in a juvenile justice court.

(d) A county shall post the electronic checking account transaction register at all times on the county's Internet website for viewing and downloading by interested persons. The county may not charge a fee to a person who views or downloads the electronic checking account transaction register under this subsection.

(e) A county shall:

(1) update the electronic checking account transaction register at least once each month, not later than the 30th day after the closing date of the most recent monthly statement for the checking account; and

(2) maintain each transaction or listing in the electronic checking account transaction register on the county's Internet website until the first anniversary of the date of the transaction or listing.

(f) The county treasurer may consult with the comptroller in developing an electronic checking account transaction register under this section.

(g) This section does not apply to a county that maintains a check registry or a similar comprehensive monthly financial report that was posted on the county's Internet website for public viewing and downloading on or before August 1, 2010.

(h) Nothing in this section shall be construed as requiring a county to provide access to the county's bank account statement or to post additional information, including check numbers, not required under Subsection (b).

### **Amendment No. 3**

Representative Hughes offered the following amendment to Amendment No. 2:

Amend Floor Amendment No. 2 to **CSHB 2942**, by Hughes on page 1, line 9, between "more" and the underlined period, by inserting "that has received funds under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5), and is subject to audit by the office of the state auditor".

Amendment No. 3 was adopted.

Amendment No. 2, as amended, was adopted.

### **Amendment No. 4**

Representative Gattis offered the following amendment to **CSHB 2942**:

Amend **CSHB 2942** (house committee printing) as follows:

(1) On page 8, lines 18 and 19, strike ", inspectors general, deputy inspectors general, assistant inspectors general,".

(2) On page 9, strike lines 24-26.

(3) On page 9, line 27, strike "(d)" and substitute "(c)".

(4) Strike page 23, line 27 through page 41, line 13.

(5) Strike page 60, line 5 through page 61, line 8, and renumber subsequent SECTIONS of the article accordingly.

(6) Add the following appropriately numbered ARTICLE to the bill and renumber remaining ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . INSPECTOR GENERAL

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

CHAPTER 422. OFFICE OF INSPECTOR GENERAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 422.001. SHORT TITLE. This chapter may be cited as the Office of Inspector General Act.

Sec. 422.002. DEFINITIONS. In this chapter:

(1) "Agency" means a board, commission, committee, department, office, division, or other agency of the executive branch of state government. The term does not include an institution of higher education as defined by Section 61.003, Education Code.

(2) "Commission" means the Health and Human Services Commission.

(3) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or some other person. The term includes any act that constitutes fraud under applicable federal or state law.

(4) "Furnished," in reference to items or services:

(A) means items or services provided directly by, provided under the direct supervision of, or ordered by:

(i) a physician or other individual licensed under state law to practice the individual's profession, either as an employee or in the individual's own capacity;

(ii) a provider; or

(iii) another supplier of services; and

(B) does not include services ordered by one party but billed for and provided by or under the supervision of another.

(5) "Hold on payment" means the temporary denial of reimbursement under a federal program for items or services furnished by a specified provider.

(6) "Inspector general" means the inspector general appointed under Section 422.101.

(7) "Office" means the office of inspector general established under this chapter.

(8) "Program exclusion" means the suspension of a provider's authorization under a federal program to request reimbursement for items or services furnished by that provider.

(9) "Provider" means a person, firm, partnership, corporation, agency, association, institution, or other entity that was or is approved by the commission to provide:

(A) medical assistance under contract or provider agreement with the commission; or

(B) third-party billing vendor services under a contract or provider agreement with the commission.

(10) "Review" includes an audit, inspection, investigation, evaluation, or similar activity.

(11) "State funds" or "state money" includes federal funds or money received and appropriated by the state or for which the state has oversight responsibility.

Sec. 422.003. APPLICATION OF SUNSET ACT. The office of inspector general is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2021.

Sec. 422.004. AGENCY ESTABLISHMENT OF INSPECTOR GENERAL OFFICE. An agency may not establish an office of inspector general without specific legislative authorization.

Sec. 422.005. REFERENCE IN OTHER LAW. (a) Notwithstanding any other provision of law, a reference in law or rule to an agency's office of inspector general means the office of inspector general established under this chapter.

(b) Notwithstanding any other provision of law, a reference in law or rule to the commission's office of investigations and enforcement or the commission's office of inspector general means the office of inspector general established under this chapter.

[Sections 422.006-422.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION

Sec. 422.051. OFFICE OF INSPECTOR GENERAL. (a) The office of inspector general is an agency of this state.

(b) The office is governed by the inspector general.

(c) The office shall have its principal office and headquarters in Austin.

(d) The office consists of the inspector general, deputy inspectors general, and other personnel necessary to carry out the duties of the inspector general.

Sec. 422.052. INDEPENDENCE OF OFFICE. (a) Except as otherwise provided by this chapter, the office and inspector general operate independently of any other agency.

(b) The inspector general, a deputy inspector general, and the office staff are not employees of any other agency.

Sec. 422.053. ADMINISTRATIVE ATTACHMENT. A person designated by the inspector general to serve as the deputy inspector general for an agency, together with office staff assigned to the deputy inspector general, are administratively attached to the assigned agency. The assigned agency shall provide to office personnel administrative support services.

Sec. 422.054. SERVICE LEVEL AGREEMENT. (a) The office and each agency to which a deputy inspector general is appointed shall enter into a service level agreement that establishes the performance standards and deliverables with regard to administrative support provided to the office by the agency.

(b) The service level agreement must be reviewed at least annually to ensure that services and deliverables are provided in accordance with the agreement.

(c) The commission shall provide to the deputy inspector general designated for the commission and that person's staff, for the state fiscal biennium beginning September 1, 2009, the same level of administrative support the commission provided to the office established under former Section 531.102 for the state fiscal biennium beginning September 1, 2007. This subsection expires January 1, 2012.

[Sections 422.055-422.100 reserved for expansion]

SUBCHAPTER C. INSPECTOR GENERAL AND PERSONNEL

Sec. 422.101. APPOINTMENT. (a) From a list of three or more names submitted to the governor by the Legislative Budget Board, the governor, with the advice and consent of the senate, shall appoint an inspector general to serve as director of the office.

(b) The appointment shall be made without regard to race, color, disability, sex, religion, age, or national origin.

(c) In preparing the list and in making the appointment, the Legislative Budget Board and the governor, respectively, shall consider the person's knowledge of laws, experience in the enforcement of law, honesty, integrity,

education, training, executive ability, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, criminal justice administration, or other closely related fields.

Sec. 422.102. TERM; VACANCY. (a) The inspector general serves a two-year term that expires on February 1 of each odd-numbered year. The inspector general may be reappointed to one or more subsequent terms.

(b) The governor shall fill a vacancy in the office of inspector general for the unexpired term in the same manner as the inspector general is appointed under Section 422.101(a).

Sec. 422.103. ELIGIBILITY. (a) A person is not eligible for appointment as inspector general or designation as a deputy inspector general if the person or the person's spouse:

(1) is an officer or paid consultant of a business entity or other organization that holds a license, certificate of authority, or other authorization from an agency for which a deputy inspector general is appointed or that receives funds from an agency for which a deputy inspector general is appointed;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from an agency for which a deputy inspector general is appointed; or

(3) uses or receives a substantial amount of tangible goods or funds from an agency for which a deputy inspector general is appointed, other than compensation or reimbursement authorized by law.

(b) A person is not eligible to serve as inspector general or deputy inspector general if the person or the person's spouse is required to register as a lobbyist under Chapter 305 because of the person's or spouse's activities for compensation related to the operation of an agency for which a deputy inspector general is appointed.

(c) A person who is a former or current executive or manager of an agency may not be appointed as the inspector general or a deputy inspector general for that agency before the fifth anniversary of the person's last day of service with the agency.

(d) The inspector general, a deputy inspector general, or an employee of the office may not during the person's term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold another elected or appointed public office except for an appointment on a governmental advisory board or study commission or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) actively participate in any campaign for any elective office.

Sec. 422.104. CONFLICT OF INTEREST. (a) The inspector general may not serve as an ex officio member on the governing body of a governmental entity.

(b) The inspector general may not have a financial interest in the transactions of the office or an agency.

(c) The inspector general and the deputy inspector general designated for the commission may not have a financial interest in the transactions of a provider.

Sec. 422.105. REMOVAL. The governor, with the advice and consent of the senate, may remove the inspector general from office as provided by Section 9, Article XV, Texas Constitution.

Sec. 422.106. DEPUTY INSPECTORS GENERAL. (a) Subject to available appropriations and as necessary to carry out the powers and duties of the inspector general under this chapter and other laws granting jurisdiction to or applicable to the inspector general, the inspector general may designate a person to serve as the deputy inspector general for any agency or serve as a deputy inspector general for more than one agency.

(b) The inspector general shall designate persons to serve as the deputy inspectors general for each of the following agencies:

- (1) the Health and Human Services Commission;
- (2) the Texas Youth Commission;
- (3) the Texas Department of Criminal Justice;
- (4) the Texas Education Agency; and
- (5) the Texas Department of Transportation.

(c) A deputy inspector general is an at-will employee and may be discharged by the inspector general without a hearing.

(d) A deputy inspector general shall report to and perform duties as directed by the inspector general.

(e) Each agency to which a deputy inspector general is appointed shall provide to the agency's designated deputy inspector general facilities and support services, including suitable office space, furniture, computer and communications equipment, administrative support, and salary and benefits as provided by the General Appropriations Act.

Sec. 422.107. PEACE OFFICERS. (a) The office may employ and commission peace officers to assist the inspector general in carrying out the duties of the office relating to detection, investigation, and prevention of criminal wrongdoing, malfeasance, misfeasance, or fraud, waste, and abuse in programs at an agency or in programs receiving state or federal funds that are implemented, administered, or overseen by or for an agency.

(b) A commissioned peace officer or otherwise designated law enforcement officer employed by the office is not entitled to supplemental benefits from the law enforcement and custodial officer supplemental retirement fund unless the officer transfers from a position, without a break in service, that qualifies for supplemental retirement benefits from the fund.

Sec. 422.108. IN-HOUSE GENERAL COUNSEL. The inspector general shall employ an in-house general counsel. The general counsel must:

- (1) be an attorney licensed to practice law in this state;
- (2) be in good standing with the State Bar of Texas; and
- (3) have at least five years of continuing experience in advising senior executive management in the public or private sector on contracts and contract management.



Sec. 422.109. EXPERTS. Subject to the availability of funds, the inspector general and deputy inspectors general may contract with certified public accountants, qualified management consultants, or other professional experts as necessary to independently perform the functions of the office.

Sec. 422.110. EMPLOYEES; TRAINING. (a) The inspector general may appoint, employ, promote, and remove personnel as the inspector general considers necessary for the efficient and effective administration of the office.

(b) The inspector general shall train office personnel to pursue, efficiently and as necessary, fraud, waste, and abuse cases in programs at an agency or in other state or federally funded programs implemented, administered, or overseen by or for the agency.

Sec. 422.111. ASSISTANCE BY AGENCY EMPLOYEES. (a) The inspector general may require employees of an agency to provide information, resources, or other assistance to the office as the inspector general considers necessary to fulfill the duties and responsibilities imposed on the office under this chapter and other law in connection with the investigation of fraud, waste, and abuse in the provision of services for programs at an agency or in state or federally funded programs implemented, administered, or overseen by or for the agency.

(b) The inspector general or the deputy inspector general for the commission may also require employees of any health and human services agency to provide assistance under Subsection (a).

Sec. 422.112. MERIT SYSTEM. (a) The office may establish a merit system for its employees.

(b) The merit system may be maintained in conjunction with other agencies that are required by federal law to operate under a merit system.

[Sections 422.113-422.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL POWERS AND DUTIES

Sec. 422.151. GENERAL RESPONSIBILITIES. (a) The office is responsible for:

(1) the investigation of any matter pertaining to or involving an agency that receives state or federal funds; and

(2) the investigation, prevention, and detection of criminal misconduct and wrongdoing and of fraud, waste, and abuse, as defined in applicable state and federal law, in the provision or funding of services by or for an agency or under a program implemented, administered, or overseen by or for the agency.

(b) The inspector general shall set clear objectives, priorities, and performance standards for the office that emphasize:

(1) coordinating investigative efforts to aggressively recover money;

(2) allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and

(3) maximizing opportunities for referral of cases to the office of the attorney general in accordance with this chapter and other applicable law.

(c) The inspector general shall investigate allegations of fraud, waste, abuse, misconduct, nonfeasance, misfeasance, and malfeasance, and violations of this chapter or other law.

(d) The office may:

(1) conduct criminal, civil, and administrative investigations and initiate reviews of an agency as considered appropriate by the inspector general; and

(2) receive and investigate complaints from any source on its own initiative.

(e) The inspector general shall perform all other duties and exercise all other powers granted to the inspector general's office by this chapter or another law.

Sec. 422.152. GENERAL POWERS. The office has all the powers necessary or appropriate to carry out its responsibilities and functions under this chapter and other law. In addition to performing functions and duties otherwise provided by law, the office may:

(1) audit the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person or an agency;

(2) conduct reviews, investigations, and inspections relating to the funds described by Subdivision (1);

(3) recommend policies promoting economical and efficient administration of the funds described by Subdivision (1) and the prevention and detection of fraud, waste, and abuse in administration of those funds; and

(4) conduct internal affairs investigations in instances of fraud, waste, and abuse and in instances of misconduct by employees, contractors, subcontractors, and vendors.

Sec. 422.153. RULEMAKING BY INSPECTOR GENERAL. (a) Notwithstanding Section 531.0055(e) and any other law, the inspector general shall adopt the rules necessary to administer the functions of the office, including rules to address the imposition of sanctions and penalties for violations and due process requirements for imposing sanctions and penalties.

(b) A rule, standard, or form adopted by an agency that is necessary to accomplish the duties of the office is considered to also be a rule, standard, or form of the office and remains in effect as a rule, standard, or form of the office until changed by the inspector general.

(c) The rules must include standards for the office that emphasize:

(1) coordinating investigative efforts to aggressively recover money;

(2) allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and

(3) maximizing opportunities for referral of cases to the office of the attorney general.

Sec. 422.154. STATE AUDITOR AUDITS, INVESTIGATIONS, AND ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law related to the operation of the inspector general does not:

(1) take precedence over the authority of the state auditor to conduct audits under Chapter 321 or other law; or

(2) prohibit the state auditor from conducting an audit, investigation, or other review or from having full and complete access to all records and other information, including witnesses and electronic data, that the state auditor considers necessary for the audit, investigation, or other review.

Sec. 422.155. PUBLIC PAMPHLET. (a) The office shall provide information of public interest in the form of a pamphlet that describes:

(1) the functions of the office, including the functions of the inspector general;

(2) the matters or issues that may be subject to an investigation or review performed by the office; and

(3) the manner in which a person may report an allegation of fraud, abuse, or criminal wrongdoing to the office.

(b) The office shall make the information described by Subsection (a) available to state officers and employees and to the public.

Sec. 422.156. INTERNET WEBSITE. (a) The office shall maintain an Internet website accessible to the public.

(b) The office shall post in a conspicuous place on the office's Internet website the public interest pamphlet prepared under Section 422.155.

(c) The office shall ensure that the office's Internet website allows a person to report to the office an allegation of fraud, abuse, or criminal wrongdoing related to an agency. A report submitted through the office's Internet website, in person, or through another means of communication may be anonymous.

Sec. 422.157. SEAL. The seal of the office shall be a five-pointed star in the center with the words "Office of Inspector General, State of Texas" engraved around the margin. The seal shall be used to authenticate official documents issued by the office.

Sec. 422.158. EXECUTIVE ORDERS. (a) The governor may issue executive orders directing agencies to implement recommendations issued by the office for corrective or remedial actions promoting the economical and efficient administration of money and the detection of fraud.

(b) The governor shall submit to the lieutenant governor, the speaker of the house of representatives, the state auditor, and the comptroller a report of the executive orders issued under this chapter and the compliance by agencies with those orders.

Sec. 422.159. DEFENSE BY ATTORNEY GENERAL. The attorney general shall defend any action brought against the inspector general, a deputy inspector general, or an employee or officer of the office as a result of that person's official act or omission, whether or not the person has terminated service with the office at the time the action is instituted.

Sec. 422.160. INTERAGENCY COORDINATION. (a) The office and the attorney general shall enter into a memorandum of understanding to develop and implement joint written procedures for processing cases of suspected fraud, waste, or abuse, as those terms are defined by state or federal law, or other violations of state or federal law under programs at an agency for which a deputy inspector general is appointed or in programs at any agency receiving state or federal funds that are implemented, administered, or overseen by the agency.

(b) The memorandum of understanding shall require:

(1) the office and the attorney general to set priorities and guidelines for referring cases to appropriate agencies or other entities for investigation, prosecution, or other disposition to enhance deterrence of fraud, waste, abuse, or

other violations of state or federal law, including a violation of Chapter 102, Occupations Code, in programs and to maximize the imposition of penalties, the recovery of money, and the successful prosecution of cases;

(2) the office to refer each case of suspected fraud, waste, or abuse to the attorney general not later than the 20th business day after the date the office determines that the existence of fraud, waste, or abuse is reasonably indicated;

(3) the attorney general to take appropriate action in response to each case referred to the attorney general, which action may include direct initiation of prosecution, with the consent of the appropriate local district or county attorney, direct initiation of civil litigation, referral to an appropriate United States attorney, a district attorney, or a county attorney, or referral to a collection agency for initiation of civil litigation or other appropriate action;

(4) the office to keep detailed records for cases processed by the office or the attorney general, including information on the total number of cases processed and, for each case:

(A) the agency and division to which the case is referred for investigation;

(B) the date on which the case is referred; and

(C) the nature of the suspected fraud, waste, or abuse;

(5) the office to notify each appropriate division of the office of the attorney general of each case referred by the office of inspector general;

(6) the attorney general to ensure that information relating to each case investigated by the attorney general is available to each division of the attorney general's office with responsibility for investigating suspected fraud, waste, or abuse;

(7) the attorney general to notify the office of each case the attorney general declines to prosecute or prosecutes unsuccessfully;

(8) representatives of the office and the attorney general to meet not less than quarterly to share case information and determine the appropriate agency and division to investigate each case; and

(9) the office and the attorney general to submit information requested by the comptroller about each resolved case for the comptroller's use in improving fraud detection.

(c) An exchange of information under this section between the attorney general and the office or any other agency does not affect whether the information is subject to disclosure under Chapter 552.

(d) With respect to Medicaid fraud, in addition to the provisions required by Subsection (b), the memorandum of understanding required by this section must also ensure that no barriers to direct fraud referrals to the attorney general's Medicaid fraud control unit or unreasonable impediments to communication between Medicaid agency employees and the Medicaid fraud control unit are imposed and must include procedures to facilitate the referral of cases directly to the attorney general.

Sec. 422.161. INFORMATION AND TECHNOLOGY. The office may obtain information or technology necessary to enable the office to meet its responsibilities under this chapter or other law.

[Sections 422.162-422.200 reserved for expansion]

SUBCHAPTER E. REVIEWS, INVESTIGATIONS, AND AUDITS

Sec. 422.201. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY.

(a) The inspector general may evaluate any activity or operation of:

- (1) an agency;
- (2) a provider, in connection with an activity listed in Section 422.002(9) or in connection with the provider's relationship with the commission or a health and human services agency as defined by Section 531.001; or
- (3) a person in this state in relation to the investigation, detection, or prevention of fraud, waste, abuse, or employee misconduct in a program at an agency or in a state or federally funded program implemented, administered, or overseen by or for the agency.

(b) A review may include an investigation or other inquiry into a specific act or allegation of, or a specific financial transaction or practice that may involve, impropriety, malfeasance, or nonfeasance in the obligation, spending, receipt, or other use of state or federal money.

(c) The office shall conduct reviews and inspections to protect the public and detect and prevent fraud, waste, and abuse in the provision or funding of services or programs by or for an agency.

(d) An agency or the governing body or governing officer of an agency may not impair or prohibit the inspector general from initiating or completing a review.

(e) With respect to an agency, the inspector general may audit and review the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person or agency receiving the funds in connection with an agency or state or federally funded program implemented, administered, or overseen by or for the agency.

Sec. 422.202. CLAIMS CRITERIA FOR INVESTIGATIONS. The office by rule shall set specific claims criteria that, when met, require the office to begin an investigation.

Sec. 422.203. INITIATION OF REVIEW. The inspector general may initiate a review:

- (1) on the inspector general's own initiative;
- (2) at the request of an agency or the governing body or governing officer of the agency; or
- (3) based on a complaint from any source concerning a matter described by Section 422.201.

Sec. 422.204. ACCESS TO INFORMATION. (a) To further a review conducted by the office, the inspector general or a deputy inspector general is entitled to access all books, records, accounts, documents, reports, vouchers, databases, systems, or other information, including confidential information, electronic data, and internal records relevant to the functions of the office that are maintained by or for a person, agency, or provider, if applicable, in connection with an agency or a state or federally funded program implemented, administered, or overseen by or for the agency. The inspector general's authority under this subsection supersedes any claim of privilege.

(b) The inspector general or deputy inspector general may not access data or other information the release of which is restricted under federal law unless the appropriate federal agency approves the release to the office or its agent.

Sec. 422.205. COOPERATION REQUIRED. To further a review conducted by the inspector general's office, the inspector general or deputy inspector general may require medical or other professional assistance from an agency or an auditor, accountant, or other employee of the agency.

Sec. 422.206. EMPLOYEE REPORTS. The inspector general may require employees at an agency to report to the office information regarding fraud, waste, misuse or abuse of funds or resources, corruption, or illegal acts.

Sec. 422.207. SUBPOENAS. (a) The inspector general may issue a subpoena to compel the attendance of a relevant witness at a hearing or deposition under this chapter or to compel the production, for inspection or copying, of books, papers, records, documents, or other relevant materials, including electronic data, in connection with a review, hearing, or deposition conducted under this chapter. The inspector general may issue a subpoena for the records of any person receiving any funds from an agency under a contract for the delivery of goods or services to this state.

(b) The inspector general may delegate the authority to issue subpoenas to a deputy inspector general.

(c) A subpoena may be served personally or by certified mail. If a person fails to comply with a subpoena, the inspector general, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may hold in contempt a person who fails to obey the court order.

(e) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103.

(f) Nothing in this section limits or alters a person's rights under state or federal law.

Sec. 422.208. INTERNAL AUDITOR. (a) In this section, "internal auditor" means a person appointed under Section 2102.006.

(b) The internal auditor for an agency shall provide the inspector general with a copy of the agency's internal audit plan to:

(1) assist in the coordination of efforts between the inspector general and the internal auditor; and

(2) limit duplication of effort regarding reviews by the inspector general and internal auditor.

(c) The internal auditor shall provide to the inspector general all final audit reports concerning audits of any:

(1) part or division of the agency;

(2) contract, procurement, or grant; and

(3) program conducted by the agency.

Sec. 422.209. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) The inspector general may provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

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

(c) The inspector general may enter into a memorandum of understanding with a law enforcement or prosecutorial agency, including the attorney general, to assist in conducting a review under this chapter.

(d) The office may conduct joint investigations with the attorney general or law enforcement agencies.

(e) The attorney general or prosecutor shall inform the inspector general on whether an investigation is ongoing with regard to any matter referred by the inspector general.

(f) The attorney general or a prosecutor that decides not to investigate or prosecute a complaint alleging criminal conduct referred to the attorney general or prosecutor by the inspector general shall promptly notify the inspector general of that decision.

Sec. 422.210. COOPERATION AND COORDINATION WITH STATE AUDITOR. (a) The state auditor may, on request of the inspector general, provide appropriate information or other assistance to the inspector general or office, as determined by the state auditor.

(b) The inspector general may meet with the state auditor's office to coordinate a review conducted under this chapter, share information, or schedule work plans.

(c) The state auditor is entitled to access all information maintained by the inspector general, including vouchers, electronic data, internal records, and information obtained under Section 422.204 or subject to Section 422.253.

(d) Any information obtained or provided by the state auditor under this section is confidential and not subject to disclosure under Chapter 552.

Sec. 422.211. PREVENTION. (a) The inspector general may recommend to an agency or the presiding officer of the agency policies on:

(1) promoting economical and efficient administration of state or federal funds administered by an individual or entity that received the funds from an agency; and

(2) preventing and detecting fraud, waste, and abuse in the administration of those funds.

(b) The inspector general may provide training or other education regarding the prevention of fraud, waste, and abuse to employees of an agency. The training or education provided must be approved by the presiding officer of the agency.

Sec. 422.212. AWARD FOR REPORTING FRAUD, WASTE, ABUSE, OR OVERCHARGES. (a) If the office determines that the report results in the recovery of an administrative or civil penalty imposed by law, the office may grant an award to an individual who reports:

(1) activity that constitutes fraud, waste, or abuse of money related to any agency programs or in programs receiving state or federal funds that are implemented, administered, or overseen by the agency; or

(2) overcharges in a program described by Subdivision (1).

(b) The office may not grant an award to an individual in connection with a report if the office or attorney general had independent knowledge of the activity reported by the individual.

(c) The office shall determine the amount of an award granted under this section. The amount may not exceed five percent of the amount of the administrative or civil penalty imposed by law that resulted from the individual's report.

(d) In determining the amount of an award granted under this section, the office:

(1) shall consider the importance of the report in ensuring the fiscal integrity of the program; and

(2) may consider whether the individual participated in the reported fraud, waste, abuse, or overcharge.

(e) A person who brings an action under Subchapter C, Chapter 36, Human Resources Code, is not eligible for an award under this section.

Sec. 422.213. RULEMAKING BY PRESIDING OFFICER OF AGENCY. An agency may adopt rules governing the agency's response to reports and referrals from the inspector general on issues identified by the inspector general related to the agency or a contractor of the agency.

Sec. 422.214. ALLEGATIONS OF MISCONDUCT AGAINST PRESIDING OFFICER. If a review by the inspector general involves allegations that a presiding officer of the governing body of an agency, or if applicable the single state officer who governs the agency, has engaged in misconduct, the inspector general shall report to the governor during the review until the report is completed or the review is closed without a finding.

Sec. 422.215. RIGHT TO DECLINE INVESTIGATION. The inspector general may decline to investigate a complaint that the inspector general determines:

(1) is trivial, frivolous, or vexatious;

(2) was not made in good faith;

(3) is based on a situation for which too much time has passed to justify an investigation;

(4) may not be adequately investigated with the resources available, considering established priorities; or

(5) addresses a matter that is not within the inspector general's investigatory authority.

[Sections 422.216-422.250 reserved for expansion]

#### SUBCHAPTER F. REPORTS

Sec. 422.251. REPORTING OFFICE FINDINGS. Unless the findings would compromise an ongoing investigation by the attorney general or law enforcement, the inspector general shall report the findings of the office in connection with a review conducted under this chapter to:



(1) the presiding officer of the governing body of the agency, or if applicable the single state officer who governs the agency;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the comptroller;

(6) the state auditor; and

(7) the attorney general.

Sec. 422.252. FLAGRANT VIOLATIONS. The inspector general may report to the presiding officer of the governing body of the agency associated with the review, or if applicable the single state officer who governs the agency, the governor, and the state auditor a particularly serious or flagrant problem relating to the administration of a program, operation of the agency, or interference with an inspector general review.

Sec. 422.253. INFORMATION CONFIDENTIAL. (a) Except as provided by this chapter, all information and material compiled by the inspector general during a review under this chapter is:

(1) confidential and not subject to disclosure under Chapter 552; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the state auditor's office, the agency that is the subject of a review, or the office or its agents involved in the review related to that information or material.

(b) As the inspector general determines appropriate, information relating to a review may be disclosed to:

(1) a law enforcement agency;

(2) the attorney general;

(3) the state auditor; or

(4) the agency that is the subject of a review.

(c) A person that receives information under Subsection (b) may not disclose the information except to the extent that disclosure is consistent with the authorized purpose for which the person received the information.

Sec. 422.254. DRAFT OF FINAL REVIEW REPORT; AGENCY RESPONSE. (a) Except in cases in which the office has determined that potential fraud, waste, or abuse exists, the office shall provide a draft of the final review report of any investigation, audit, or review of the operations of an agency to the presiding officer of the governing body of the agency, or if applicable to the single state officer who governs the agency, before publishing the office's final review report.

(b) The agency may provide a response to the office's draft report in the manner prescribed by the office not later than the 10th day after the date the draft report is received by the agency. The inspector general by rule shall specify the format of and requirements for the agency response.

(c) Notwithstanding Subsection (a), the office may not provide a draft report to the presiding officer of the governing body of the agency, or if applicable to the single state officer who governs the agency, if in the inspector general's opinion providing the draft report could negatively affect any anticipated civil or criminal proceedings.

(d) The office may include any portion of the agency's response in the office's final report.

Sec. 422.255. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a) The inspector general shall prepare a final report for each review conducted under this chapter. The final report must include:

(1) a summary of the activities performed by the inspector general in conducting the review;

(2) a determination of whether wrongdoing was found; and

(3) a description of any findings of wrongdoing.

(b) The inspector general's final review reports are subject to disclosure under Chapter 552.

(c) All working papers and other documents related to compiling the final review reports remain confidential and are not subject to disclosure under Chapter 552.

(d) Not later than the 60th day after the date the office issues a final report that identifies deficiencies or inefficiencies in, or recommends corrective measures in the operations of, an agency, the agency shall file a response that includes:

(1) an implementation plan and timeline for implementing corrective measures; or

(2) the agency's rationale for declining to implement corrective measures for the identified deficiencies or inefficiencies or the office's recommended corrective measures, as applicable.

Sec. 422.256. COSTS. (a) The inspector general shall maintain information regarding the cost of reviews.

(b) The inspector general may cooperate with appropriate administrative and prosecutorial agencies, including the attorney general, in recovering costs incurred under this chapter from nongovernmental entities, including contractors or individuals involved in:

(1) violations of applicable state or federal rules or statutes;

(2) abusive or wilful misconduct; or

(3) violations of a provider contract or program policy.

Sec. 422.257. SEMIANNUAL REPORT; LEGISLATIVE REPORT. (a) The office shall prepare and submit a semiannual report to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, the comptroller, and each member of the legislature concerning:

(1) any completed final review; and

(2) the activities of the office and the attorney general in detecting and preventing fraud, waste, and abuse under any agency programs or in programs receiving state or federal funds that are implemented, administered, or overseen by an agency that is reviewed by the office under this chapter.

(b) Not later than December 1 of each even-numbered year, the office shall issue to each member of the legislature a report that contains the information required under Subsection (a) for the two years immediately preceding the legislative session. The office shall make the report available to the public.

[Sections 422.258-422.300 reserved for expansion]

#### SUBCHAPTER G. HEALTH AND HUMAN SERVICES POWERS AND DUTIES

Sec. 422.301. GENERAL HEALTH AND HUMAN SERVICES POWERS. The office has all the powers necessary or appropriate to carry out its responsibilities and functions under this chapter and other law in relation to health and human services matters. In addition to performing functions and duties otherwise provided by law, the office may provide for coordination between the office and special investigative units formed by managed care organizations under Section 531.113 or entities with which managed care organizations contract under that section.

Sec. 422.302. HEALTH AND HUMAN SERVICES RESPONSIBILITIES. The office is responsible for:

(1) the investigation of fraud, waste, and abuse in the provision or funding of health or human services by this state;

(2) the enforcement of state law relating to the provision of those services to protect the public; and

(3) the prevention and detection of crime relating to the provision of those services.

Sec. 422.303. INTEGRITY REVIEW FOR MEDICAID PROGRAM. (a) The deputy inspector general designated for the commission shall conduct an integrity review to determine whether there is sufficient basis to warrant a full investigation on receipt of any complaint of fraud, waste, or abuse of funds in the state Medicaid program from any source.

(b) An integrity review under this section must begin not later than the 30th day after the date the office receives a complaint or has reason to believe that Medicaid fraud, waste, or abuse has occurred. An integrity review shall be completed not later than the 90th day after the date the review began.

(c) If the findings of an integrity review give the office reason to believe that an incident of fraud involving possible criminal conduct has occurred in the state Medicaid program, the office must take the following action, as appropriate, not later than the 30th day after the completion of the integrity review:

(1) if a provider is suspected of fraud involving criminal conduct, the office must refer the case to the state's Medicaid fraud control unit, provided that the criminal referral does not preclude the office from continuing its investigation of the provider or preclude the imposition of appropriate administrative or civil sanctions; or

(2) if there is reason to believe that a recipient of funds has defrauded the Medicaid program, the office may conduct a full investigation of the suspected fraud.

Sec. 422.304. REFERRAL TO STATE MEDICAID FRAUD CONTROL UNIT. (a) At the time the office learns or has reason to suspect that a health or human services provider's records related to participation in the state Medicaid program are being withheld, concealed, destroyed, fabricated, or in any way falsified, the office shall immediately refer the case to the state's Medicaid fraud control unit.

(b) A criminal referral under Subsection (a) does not preclude the office from continuing its investigation of a health or human services provider or the imposition of appropriate administrative or civil sanctions.

Sec. 422.305. HOLD ON CLAIM REIMBURSEMENT PAYMENT; EXCLUSION FROM PROGRAMS. (a) In addition to other instances authorized under state or federal law, the office shall impose without prior notice a hold on payment of claims for reimbursement submitted by a health or human services provider to compel production of records related to participation in the state Medicaid program or on request of the state's Medicaid fraud control unit, as applicable.

(b) The office must notify the health or human services provider of the hold on payment not later than the fifth working day after the date the payment hold is imposed.

(c) The office shall, in consultation with the state's Medicaid fraud control unit, establish guidelines under which holds on payment or exclusions from a health and human services program:

(1) may permissively be imposed on a health or human services provider; or

(2) shall automatically be imposed on a provider.

(d) A health or human services provider subject to a hold on payment or excluded from a program under this section is entitled to a hearing on the hold or exclusion. A hearing under this subsection is a contested case hearing under Chapter 2001. The State Office of Administrative Hearings shall conduct the hearing. After the hearing, the office, subject to judicial review, shall make a final determination. The commission, a health and human services agency, and the attorney general are entitled to intervene as parties in the contested case.

Sec. 422.306. REQUEST FOR EXPEDITED HEARING. (a) On timely written request by a health or human services provider subject to a hold on payment under Section 422.305, other than a hold requested by the state's Medicaid fraud control unit, the office shall file a request with the State Office of Administrative Hearings for an expedited administrative hearing regarding the hold.

(b) The health or human services provider must request an expedited hearing not later than the 10th day after the date the provider receives notice from the office under Section 422.305(b).

Sec. 422.307. INFORMAL RESOLUTION. (a) The inspector general shall adopt rules that allow a health or human services provider subject to a hold on payment under Section 422.305, other than a hold requested by the state's Medicaid fraud control unit, to seek an informal resolution of the issues identified by the office in the notice provided under that section.

(b) A health or human services provider that seeks an informal resolution must do so not later than the 10th day after the date the provider receives notice from the office under Section 422.305(b).

(c) A health or human services provider's decision to seek an informal resolution does not extend the time by which the provider must request an expedited administrative hearing under Section 422.306.

(d) A hearing initiated under Section 422.305 shall be stayed at the office's request until the informal resolution process is completed.

[Sections 422.308-422.450 reserved for expansion]

#### SUBCHAPTER J. PENALTIES

Sec. 422.451. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

(a) The office may request that the attorney general obtain an injunction to prevent a person from disposing of an asset identified by the office as potentially subject to recovery by the office due to the person's fraud, waste, or abuse.

(b) The office may act for an agency in assessing administrative or civil penalties the agency is authorized to assess under applicable law if:

(1) the inspector general is required to designate a deputy inspector general for the agency under Section 422.106;

(2) the agency is a health and human services agency as defined by Section 531.001; or

(3) the penalty is imposed in connection with fraud, waste, or abuse in the use of state or federal funds.

(c) If the office imposes an administrative or civil penalty under Subsection (b) for an agency:

(1) the agency may not impose an administrative or civil penalty against the same person for the same violation; and

(2) the office shall impose the penalty under applicable rules of the office, this chapter, and applicable laws governing the imposition of a penalty by the agency.

SECTION \_\_\_\_\_. Section 20.038, Business & Commerce Code, is amended to read as follows:

Sec. 20.038. EXEMPTION FROM SECURITY FREEZE. A security freeze does not apply to a consumer report provided to:

(1) a state or local governmental entity, including a law enforcement agency or court or private collection agency, if the entity, agency, or court is acting under a court order, warrant, subpoena, or administrative subpoena;

(2) a child support agency as defined by Section 101.004, Family Code, acting to investigate or collect child support payments or acting under Title IV-D of the Social Security Act (42 U.S.C. Section 651 et seq.);

(3) the office of inspector general [~~Health and Human Services Commission~~] acting to investigate fraud, waste, or abuse in state agencies under Chapter 422, Government Code, or other law [~~under Section 531.102, Government Code~~];

(4) the comptroller acting to investigate or collect delinquent sales or franchise taxes;

(5) a tax assessor-collector acting to investigate or collect delinquent ad valorem taxes;

(6) a person for the purposes of prescreening as provided by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), as amended;

(7) a person with whom the consumer has an account or contract or to whom the consumer has issued a negotiable instrument, or the person's subsidiary, affiliate, agent, assignee, prospective assignee, or private collection agency, for purposes related to that account, contract, or instrument;

(8) a subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under Section 20.037(b);

(9) a person who administers a credit file monitoring subscription service to which the consumer has subscribed;

(10) a person for the purpose of providing a consumer with a copy of the consumer's report on the consumer's request;

(11) a check service or fraud prevention service company that issues consumer reports:

(A) to prevent or investigate fraud; or

(B) for purposes of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment;

(12) a deposit account information service company that issues consumer reports related to account closures caused by fraud, substantial overdrafts, automated teller machine abuses, or similar negative information regarding a consumer to an inquiring financial institution for use by the financial institution only in reviewing a consumer request for a deposit account with that institution; or

(13) a consumer reporting agency that:

(A) acts only to resell credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies; and

(B) does not maintain a permanent database of credit information from which new consumer reports are produced.

SECTION \_\_\_\_\_. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

(1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

- (5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
- (6) law enforcement agents of the Texas Alcoholic Beverage Commission;
- (7) each member of an arson investigating unit commissioned by a city, a county, or the state;
- (8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;
- (9) officers commissioned by the General Services Commission;
- (10) law enforcement officers commissioned by the Parks and Wildlife Commission;
- (11) airport police officers commissioned by a city with a population of more than 1.18 million that operates an airport that serves commercial air carriers;
- (12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates an airport that serves commercial air carriers;
- (13) municipal park and recreational patrolmen and security officers;
- (14) security officers and investigators commissioned as peace officers by the comptroller;
- (15) officers commissioned by a water control and improvement district under Section 49.216, Water Code;
- (16) officers commissioned by a board of trustees under Chapter 54, Transportation Code;
- (17) investigators commissioned by the Texas Medical Board;
- (18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;
- (19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;
- (20) investigators employed by the Texas Racing Commission;
- (21) officers commissioned under Chapter 554, Occupations Code;
- (22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;
- (23) investigators commissioned by the attorney general under Section 402.009, Government Code;
- (24) security officers and investigators commissioned as peace officers under Chapter 466, Government Code;
- (25) an officer employed by the Department of State Health Services under Section 431.2471, Health and Safety Code;
- (26) officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;
- (27) officers commissioned by the state fire marshal under Chapter 417, Government Code;

(28) an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;

(29) apprehension specialists [~~and inspectors general~~] commissioned by the Texas Youth Commission as officers under Section [~~Sections 61.0451 and 61.0931~~], Human Resources Code;

(30) [~~officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;~~

~~(31)~~ investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;

(31) [~~(32)~~] commission investigators commissioned by the Texas Private Security Board under Section 1702.061(f), Occupations Code;

(32) [~~(33)~~] the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code;

(33) [~~(34)~~] officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section; [~~and~~]

(34) [~~(35)~~] investigators commissioned by the Texas Juvenile Probation Commission as officers under Section 141.055, Human Resources Code; and

(35) officers commissioned by the office of inspector general established under Chapter 422, Government Code.

SECTION \_\_\_\_\_.\_\_\_\_. The following sections of the Government Code are repealed:

- (1) Section 531.102;
- (2) Section 531.1021; and
- (3) Section 531.103.

SECTION \_\_\_\_\_.\_\_\_\_. (a) The repeal by this Act of Section 531.102, Government Code, does not affect the validity of a complaint, investigation, or other proceeding initiated under that section before the effective date of this Act. A complaint, investigation, or other proceeding initiated under that section is continued in accordance with the changes in law made by this Act.

(b) The repeal by this Act of Section 531.1021, Government Code, does not affect the validity of a subpoena issued under that section before the effective date of this Act. A subpoena issued under that section before the effective date of this Act is governed by the law that existed when the subpoena was issued, and the former law is continued in effect for that purpose.

SECTION \_\_\_\_\_.\_\_\_\_. (a) As soon as practicable after the effective date of this Act, the Legislative Budget Board shall submit to the governor a list with the names of at least three persons who may be appointed as inspector general for the office of inspector general as required by Chapter 422, Government Code, as added by this Act.

(b) As soon as practicable after the date the governor receives the list under Subsection (a) of this section, the governor shall appoint an inspector general for the office of inspector general established under Chapter 422, Government Code, as added by this Act, to a term expiring February 1, 2011.



(c) A person serving on the effective date of this Act as inspector general for a state agency subject to Chapter 422, Government Code, as added by this Act, shall serve as the deputy inspector general designated for the agency under Chapter 422, Government Code, as added by this Act, unless and until replaced by the inspector general.

SECTION \_\_\_\_\_. \_\_\_\_\_. A contract or proceeding primarily related to a function transferred to the office of inspector general established under this Act is transferred to the office. The transfer does not affect the status of a proceeding or the validity of a contract.

SECTION \_\_\_\_\_. \_\_\_\_\_. (a) All personnel and assets currently assigned to the inspector general of an agency subject to Chapter 422, Government Code, as added by this Act, shall be promptly transferred to the office of inspector general established under Chapter 422 along with any equipment, documents, and records currently assigned to or used by the inspector general of that agency. Inventory of personnel, equipment, documents, records, and assets to be transferred under this section shall be accomplished jointly by the transferring agency and the inspector general serving under Chapter 422. All funds previously appropriated or used, from any source, by the transferring agency in support of the transferred functions, personnel, equipment, documents, records, or assets shall also be contemporaneously transferred to the office.

(b) For purposes of this section, "currently assigned" means:

(1) all personnel and vacant full-time equivalent positions assigned to or supporting a transferred function at any time during the state fiscal biennium beginning September 1, 2007; and

(2) all inventory and equipment assigned to a transferred function or transferring personnel or that was in the possession of transferring personnel on or at any time after October 31, 2008.

(c) All state and federal funding, including funding for overhead costs, support costs, and lease or colocation lease costs, for the functions to be transferred to the office of inspector general established under Chapter 422, Government Code, as added by this Act, shall be reallocated to that office.

(d) For purposes of federal single state agency funding requirements, any federal funds for an agency subject to Chapter 422, Government Code, as added by this Act, that may not be appropriated directly to the office of inspector general shall be transferred from the single state agency receiving the funds to the office of inspector general established under Chapter 422 if the funds are intended for a function performed by the office.

SECTION \_\_\_\_\_. \_\_\_\_\_. On the effective date of this Act:

(1) all functions, activities, employees, rules, forms, money, property, contracts, memorandums of understanding, records, and obligations of a previously established office of inspector general of an agency subject to Chapter 422, Government Code, as added by this Act, become functions, activities, employees, rules, forms, money, property, contracts, memorandums of understanding, records, and obligations of the office of inspector general established under Chapter 422, without a change in status; and

(2) all money appropriated or budgeted for the operations of a previously established office of inspector general at an agency subject to Chapter 422, Government Code, as added by this Act, including money for providing administrative support, is considered appropriated for the use of the office of inspector general established under Chapter 422.

SECTION \_\_\_\_\_. (a) Each agency subject to Chapter 422, Government Code, as added by this Act, shall take all action necessary to provide for the orderly transfer of the assets and responsibilities of any previously established office of inspector general for that agency to the office of inspector general established under Chapter 422.

(b) A rule or form adopted by a previously established office of inspector general of an agency subject to Chapter 422, Government Code, as added by this Act, is a rule or form of the office of inspector general established under Chapter 422 and remains in effect until changed by the office of inspector general.

(c) A reference in law or administrative rule to a previously established office of inspector general of an agency subject to Chapter 422, Government Code, as added by this Act, means the office of inspector general established under Chapter 422.

SECTION \_\_\_\_\_. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

Amendment No. 4 was adopted.

(Bohac now present)

**CSHB 2942**, as amended, was passed to engrossment. (Berman, Button, Christian, Flynn, D. Miller, and Riddle recorded voting no.)

### **POSTPONED BUSINESS**

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

#### **CSHB 280 ON SECOND READING (by Anchia, Farrar, Burnam, Kent, et al.)**

**CSHB 280**, A bill to be entitled An Act relating to energy efficiency goals and programs and demand reduction targets; creating an office of energy efficiency deployment in the state energy conservation office.

**CSHB 280** was read second time on May 13, postponed until 9 a.m. today, and was again postponed until this time.

Representative Anchia moved to postpone consideration of **CSHB 280** until 8 p.m. today.

The motion prevailed.

**CSHB 808 ON SECOND READING****(by Gallego)**

**CSHB 808**, A bill to be entitled An Act relating to the availability of automated external defibrillators at certain athletic clubs.

**CSHB 808** was read second time on May 8 and was postponed until 11:30 p.m. today. The bill was taken up earlier today and was postponed until this time.

Representative Merritt moved to postpone consideration of **CSHB 808** until 11:30 p.m. today.

The motion prevailed.

**CSHB 2511 ON SECOND READING****(by T. Smith, Anchia, Merritt, and McCall)**

**CSHB 2511**, A bill to be entitled An Act relating to political contributions and expenditures; providing criminal penalties.

**CSHB 2511** was read second time earlier today, amendments were offered and disposed of, and **CSHB 2511** was postponed until this time.

Representative T. Smith moved to postpone consideration of **CSHB 2511** until 5:45 p.m. today.

The motion prevailed.

**MAJOR STATE CALENDAR****(consideration continued)****CSHB 3206 ON SECOND READING****(by Edwards, et al.)**

**CSHB 3206**, A bill to be entitled An Act relating to the implementation of the exemption from ad valorem taxation for pollution control property.

**Amendment No. 1**

Representative Edwards offered the following amendment to **CSHB 3206**:

Amend **CSHB 3206** (house committee printing) on page 2 by striking lines 4-11 and substituting the following:

SECTION 3. (a) The change in law made by this Act applies only to a determination under Section 11.31, Tax Code:

(1) issued before the effective date of this Act that is not final as of the effective date of this Act or issued on or after the effective date of this Act; and

(2) the application for which:

(A) was filed before the effective date of this Act but not before January 1, 2009; or

(B) is filed on or after the effective date of this Act.

(b) A determination under Section 11.31, Tax Code, that is final as of the effective date of this Act or the application for which was filed before January 1, 2009, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 1 was adopted.

**CSHB 3206**, as amended, was passed to engrossment. (Flynn and Phillips recorded voting no.)

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

The following members were granted leaves of absence temporarily for today to attend a meeting of the Committee on Ways and Means:

Bohac on motion of Thompson.

Hartnett on motion of Thompson.

Hilderbran on motion of Thompson.

C. Howard on motion of Thompson.

P. King on motion of Thompson.

Otto on motion of Thompson.

Peña on motion of Thompson.

Taylor on motion of Thompson.

Villarreal on motion of Thompson.

The following member was granted leave of absence for the remainder of today to attend a meeting of the Committee on Ways and Means:

Oliveira on motion of Thompson.

#### **CSHB 2279 ON SECOND READING**

**(by Thompson, et al.)**

**CSHB 2279**, A bill to be entitled An Act relating to the provision of and billing for certain diagnostic imaging services.

#### **CSHB 2279 - POINT OF ORDER**

Representative Dutton raised a point of order against further consideration of **CSHB 2279** under Rule 4, Section 32 of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Thompson moved to postpone consideration of **CSHB 2279** until 8 p.m. today.

The motion prevailed.

#### **CSHB 2828 ON SECOND READING**

**(by Menendez, Paxton, Hilderbran, Villarreal, Oliveira, et al.)**

**CSHB 2828**, A bill to be entitled An Act relating to the ad valorem taxation of property used to provide low-income or moderate-income housing.

Representative Menendez moved to postpone consideration of **CSHB 2828** until 6 p.m. today.

The motion prevailed.

**CSHB 498 ON SECOND READING****(by McClendon, Thompson, Gallego, Hodge, Pierson, et al.)**

**CSHB 498**, A bill to be entitled An Act relating to the creation of a commission to investigate and prevent wrongful convictions.

**CSHB 498 - POINT OF ORDER**

Representative Driver raised a point of order against further consideration of **CSHB 498** under Rule 4, Section 18 and Rule 4, Section 32 of the House Rules on the grounds that the committee minutes are incomplete and the bill analysis is incorrect.

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

**CSHB 498 - (consideration continued)**

The point of order was withdrawn.

Representative McClendon moved to postpone consideration of **CSHB 498** until 7:30 p.m. today.

The motion prevailed.

**GENERAL STATE CALENDAR  
HOUSE BILLS  
SECOND READING**

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

**HB 358 ON SECOND READING  
(by Flynn)**

**HB 358**, A bill to be entitled An Act relating to criminal offenses applicable to gambling and gambling devices.

**HB 358** was passed to engrossment.

(Flynn in the chair)

**SB 1672 ON SECOND READING  
(Berman - House Sponsor)**

**SB 1672**, A bill to be entitled An Act relating to extension or modification of restrictive covenants in certain residential real estate subdivisions.

**SB 1672** was considered in lieu of **HB 257**.

**Amendment No. 1**

Representative S. Turner offered the following amendment to **SB 1672**:

Amend **SB 1672** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 201.004, Property Code, is amended by adding Subsection (d) to read as follows:

(d) If existing originally applicable restrictions provide a procedure for extension, that procedure may be used for successive extensions of the originally applicable restrictions unless the original restriction instrument expressly prohibits the procedure from being used for successive extensions.

Amendment No. 1 was adopted.

**SB 1672**, as amended, was passed to third reading.

**SB 1188 ON SECOND READING**  
**(Bonnen - House Sponsor)**

**SB 1188**, A bill to be entitled An Act relating to the interstate purchase of certain firearms.

**SB 1188** was considered in lieu of **HB 267**.

**SB 1188** was passed to third reading.

**HB 267 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Bonnen moved to lay **HB 267** on the table subject to call.

The motion prevailed.

**HB 257 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Berman moved to lay **HB 257** on the table subject to call.

The motion prevailed.

**POSTPONED BUSINESS**

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

**CSHB 2511 ON SECOND READING**  
**(by T. Smith, Anchia, Merritt, and McCall)**

**CSHB 2511**, A bill to be entitled An Act relating to political contributions and expenditures; providing criminal penalties.

**CSHB 2511** was read second time earlier today, amendments were offered and disposed of, and **CSHB 2511** was postponed until this time.

**CSHB 2511 - POINT OF ORDER**

Representative Christian raised a point of order against further consideration of **CSHB 2511** under Rule 8, Section 3 of the House Rules on the grounds that the bill violates the one subject rule.

The chair overruled the point of order.

**CSHB 2511**, as amended, was passed to engrossment. (Anderson, Christian, Craddick, J. Davis, Eissler, Elkins, Flynn, Gattis, Hancock, C. Howard, Hunter, Laubenberg, Lewis, Parker, Phillips, and Woolley recorded voting no.)

**GENERAL STATE CALENDAR**  
**(consideration continued)**

**CSHB 206 ON SECOND READING**

**(by Jackson, Harper-Brown, Kent, Anchia, J. Davis, et al.)**

**CSHB 206**, A bill to be entitled An Act relating to the on-premises consumption of certain alcoholic beverages; providing a penalty.

**CSHB 206** was passed to engrossment.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Thompson requested permission for the Committee on Local and Consent Calendars to meet while the house is in session, at 6:30 p.m. today, in 2W.6, for a formal meeting, to consider an addendum to the calendar.

Permission to meet was granted.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR**  
**ADDENDUM**

On motion of Representative Thompson and by unanimous consent, the Committee on Local and Consent Calendars was granted permission to add **HB 466**, **HB 2035**, **HB 2466**, **HB 3353**, **HB 3760**, **HB 3799**, **HB 3990**, **HB 4741**, and **HB 4787** in an addendum to the local, consent, and resolutions calendar set for tomorrow.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Local and Consent Calendars, 6:30 p.m. today, 2W.6, for a formal meeting, to consider an addendum to the calendar.

**CSHB 222 ON SECOND READING**  
**(by Menendez, et al.)**

**CSHB 222**, A bill to be entitled An Act relating to the authorization and regulation of poker gaming and the duties of the Texas Lottery Commission; providing civil and criminal penalties.

Representative Deshotel moved to postpone consideration of **CSHB 222** until 6:05 p.m. today.

The motion prevailed.

**HB 464 ON SECOND READING**  
**(by Paxton, Hughes, Taylor, Laubenberg, et al.)**

**HB 464**, A bill to be entitled An Act relating to the preparation by the Legislative Budget Board of a dynamic fiscal impact statement for certain bills and joint resolutions affecting taxes and fees.

**Amendment No. 1**

Representative Leibowitz offered the following amendment to **HB 464**:

Amend **HB 464** (house committee printing) on page 2 by inserting the following between lines 22 and 23:

(e) On the fifth anniversary of the effective date of a bill that becomes law for which a dynamic fiscal impact statement was prepared under this section, the comptroller shall prepare and submit to the presiding officer of each house of the legislature a report that assesses the accuracy of the relevant fiscal note prepared for the bill and the accuracy of the relevant dynamic fiscal impact statement prepared for the bill.

Amendment No. 1 was adopted.

**HB 464**, as amended, was passed to engrossment.

**HB 489 ON SECOND READING**  
**(by Pickett)**

**HB 489**, A bill to be entitled An Act relating to the authority of a county or municipality to remove graffiti from private property at the owner's expense.

**Amendment No. 1**

Representative Pickett offered the following amendment to **HB 489**:

Amend **HB 489** (house committee printing) by adding the following appropriately numbered SECTIONS and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 250, Local Government Code, is amended by adding Section 250.007 to read as follows:

Sec. 250.007. GRAFFITI REMOVAL. (a) A county or municipality may require an owner of property within the jurisdiction of the county or municipality to remove graffiti from the owner's property.

(b) Subject to Subsection (e), a requirement adopted under this section shall provide that if an owner of property fails to remove graffiti not later than the 15th day after the date of notice, the county or municipality may:

(1) perform the work necessary to remove the graffiti; or

(2) pay for the removal of the graffiti and charge the expense to the owner of the property.

(c) The notice required by Subsection (b) must be given:

(1) personally to the owner in writing;

(2) by letter sent by certified mail, addressed to the owner at the owner's address as contained in the records of the appraisal district in which the property is located; or

(3) if service cannot be obtained under Subdivision (1) or (2):

(A) by publication at least once;

(B) by posting the notice on or near the front door of each building on the property to which the notice relates; or

(C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates.

(d) This section does not apply to active transportation infrastructure or sites on which moving equipment or other special hazards make graffiti removal impracticable.



(e) Subsection (b) does not apply to:

(1) an electric utility or power generation company as defined by Section 31.002, Utilities Code; or

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code.

SECTION \_\_\_\_\_. Subchapter C, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.067 to read as follows:

Sec. 101.067. GRAFFITI REMOVAL. This chapter does not apply to a claim for property damage caused by the removal of graffiti under Section 250.007, Local Government Code.

Amendment No. 1 was adopted.

**HB 489**, as amended, was passed to engrossment. (Christian and Phillips recorded voting no.)

### POSTPONED BUSINESS

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

#### **CSHB 2828 ON SECOND READING**

**(by Menendez, Paxton, Hilderbran, Villarreal, and Oliveira)**

**CSHB 2828**, A bill to be entitled An Act relating to the ad valorem taxation of property used to provide low-income or moderate-income housing.

**CSHB 2828** was read second time earlier today and was postponed until this time.

#### **Amendment No. 1**

Representative Menendez offered the following amendment to **CSHB 2828**:

Amend **CSHB 2828** (house committee report) as follows:

(1) On page 8, line 16, strike "gross potential" and substitute "net".

(2) On page 8, line 18, between "income" and "of", insert "and expenses".

(3) On page 8, strike lines 24 and 25 and substitute the following:

(B) basing the potential income and expenses of the property on reasonably clear and appropriate evidence, if the construction of the dwelling units in the

(4) On page 9, line 2, strike "reasonable" and substitute "required".

(5) On page 9, line 4, strike "and".

(6) On page 9, between lines 4 and 5, insert the following:

(3) if Subdivision (1)(B) applies, reduce the stabilized value of the property to account for the income lost during the lease-up and construction period and for the percentage of construction yet to be completed; and

(7) On page 9, line 5, strike "(3)" and substitute "(4)".

(8) On page 9, line 5, between "determined" and "by", insert "and published".

Amendment No. 1 was adopted.

**CSHB 2828**, as amended, was passed to engrossment. (Anderson, Button, Hunter, D. Miller, and Riddle recorded voting no.)

**CSHB 2669 ON SECOND READING**  
**(by Crownover, et al.)**

**CSHB 2669**, A bill to be entitled An Act relating to the implementation of projects involving the capture, injection, sequestration, or geologic storage of carbon dioxide.

**CSHB 2669** was read second time on May 12, postponed until May 13, postponed until 6 a.m. today, and was again postponed until this time.

Representative Crownover moved to postpone consideration of **CSHB 2669** until 6:30 p.m. today.

The motion prevailed.

**CSHB 222 ON SECOND READING**  
**(by Menendez, et al.)**

**CSHB 222**, A bill to be entitled An Act relating to the authorization and regulation of poker gaming and the duties of the Texas Lottery Commission; providing civil and criminal penalties.

**CSHB 222** was read second time earlier today and was postponed until this time.

Representative Menendez moved to postpone consideration of **CSHB 222** until 10 a.m. Tuesday, June 2.

The motion prevailed.

(Gattis in the chair)

**GENERAL STATE CALENDAR**  
**(consideration continued)**

**CSHB 518 ON SECOND READING**  
**(by Kolkhorst, Sheffield, Gonzalez Toureilles, and Hodge)**

**CSHB 518**, A bill to be entitled An Act relating to a pilot program to provide student loan repayment assistance to certain correctional officers who graduate from Sam Houston State University or certain other institutions of higher education.

**Amendment No. 1**

Representative Christian offered the following amendment to **CSHB 518**:

Amend **CSHB 518** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 61, Education Code, is amended by adding Subchapter GG to read as follows:

SUBCHAPTER GG. REPAYMENT OF CERTAIN SPEECH-LANGUAGE  
PATHOLOGIST AND AUDIOLOGIST EDUCATION LOANS

Sec. 61.9801. DEFINITIONS. In this subchapter:

(1) "Audiologist" means a person licensed as an audiologist under Chapter 401, Occupations Code.

(2) "Communicative disorders program" means a graduate degree program in audiology or speech-language pathology accredited by the Council on Academic Accreditation in Audiology and Speech-Language Pathology.

(3) "Public school" means a public preschool or primary or secondary school in this state.

(4) "Speech-language pathologist" means a person licensed as a speech-language pathologist under Chapter 401, Occupations Code.

Sec. 61.9802. REPAYMENT ASSISTANCE AUTHORIZED. The board shall provide, in accordance with this subchapter and board rules, assistance in the repayment of student loans for speech-language pathologists and audiologists who apply and qualify for assistance.

Sec. 61.9803. ELIGIBILITY. (a) To be eligible to receive repayment assistance, a speech-language pathologist or an audiologist must:

(1) apply to the board; and

(2) at the time the speech-language pathologist or audiologist applies for the assistance:

(A) have been employed as a speech-language pathologist or as an audiologist, as applicable, for at least one year by, and be currently employed full-time in that capacity by, a public school; or

(B) have been employed as a faculty member of a communicative disorders program at an institution of higher education for at least one year, and be currently employed full-time in that capacity at such an institution.

(b) The board by rule may provide for repayment assistance on a pro rata basis for speech-language pathologists and audiologists employed part-time by a public school or institution of higher education.

Sec. 61.9804. LIMITATION. (a) On qualifying for the assistance, a speech-language pathologist or an audiologist may receive repayment assistance grants for each year of employment, not to exceed five years, by:

(1) a public school; or

(2) a communicative disorders program at an institution of higher education.

(b) The amount of repayment assistance grants that a speech-language pathologist or an audiologist may receive for each year of employment by a public school or a communicative disorders program at an institution of higher education may not exceed 20 percent of the speech-language pathologist's or audiologist's total principal amount of student loans.

(c) The total amount of repayment assistance grants received by a speech-language pathologist or an audiologist under this subchapter may not exceed \$30,000 for an eligible recipient who holds a master's degree but not a doctoral degree, or \$45,000 for an eligible recipient who holds a doctoral degree.

Sec. 61.9805. ELIGIBLE LOANS. (a) The board may provide repayment assistance for the repayment of any student loan for education at an institution of higher education, including loans for undergraduate education, received by a speech-language pathologist or an audiologist through any lender.

(b) The board may not provide repayment assistance for a student loan that is in default at the time of the speech-language pathologist's or audiologist's application.

(c) Each state fiscal biennium, the board shall attempt to provide repayment assistance in amounts sufficient to use all the money appropriated to the board for that biennium for the purpose of providing repayment assistance under this subchapter.

Sec. 61.9806. REPAYMENT. (a) The board shall deliver any repayment made under this subchapter in a lump sum payable to the lender and the speech-language pathologist or audiologist, in accordance with any applicable federal law.

(b) A repayment made under this subchapter may be applied only to the principal amount of the loan.

Sec. 61.9807. ADVISORY COMMITTEES. The board may appoint advisory committees to assist the board in administering this subchapter.

Sec. 61.9808. ACCEPTANCE OF GIFTS. The board may accept gifts, grants, and donations for the purposes of this subchapter.

Sec. 61.9809. RULES. (a) The board shall adopt rules necessary for the administration of this subchapter.

(b) The board shall distribute a copy of the rules adopted under this section and pertinent information regarding this subchapter to:

- (1) each institution of higher education;
- (2) any appropriate state agency; and
- (3) any appropriate professional association.

Amendment No. 1 was adopted.

(Bohac and Otto now present)

**CSHB 518**, as amended, was passed to engrossment. (Anderson, Hunter, and Riddle recorded voting no.)

### **HB 534 ON SECOND READING** **(by Anchia and Thibaut)**

**HB 534**, A bill to be entitled An Act relating to the liability of certain obligors under a residential lease.

#### **Amendment No. 1**

Representative Anchia offered the following amendment to **HB 534**:

Amend **HB 534** (house committee printing ) by striking all text below the enacting clause and substituting the following:

SECTION 1. Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.021 to read as follows:

Sec. 92.021. LIABILITY OF CERTAIN GUARANTORS UNDER LEASE. (a) A person other than a tenant who guarantees a lease is liable only for the original lease term except that a person may specify that the person agrees to guarantee a renewal of the lease as provided by Subsection (b).

(b) A person may specify in writing in an original lease that the person will guarantee a renewal of the lease only if the original lease states:

(1) the last date, as specified by the guarantor, on which the renewal of the lease will renew the obligation of the guarantor;

(2) that the guarantor is liable under a renewal of the lease that occurs on or before that date; and

(3) that the guarantor is liable under a renewal of the lease only if the renewal:

(A) involves the same parties as the original lease; and

(B) does not increase the guarantor's potential financial obligation for rent that existed under the original lease.

(c) Subsection (b) does not prohibit a guarantor from voluntarily entering into an agreement at the time of the renewal of a lease, in a separate written document, to guarantee an increased amount of rent.

(d) This section does not release a guarantor from the obligations of the guarantor under the terms of the original lease or a valid renewal for costs and damages owed to the lessor that arise after the date specified by the guarantor in the original lease in accordance with Subsection (b), if the costs or damages relate to actions of the tenant before that date or arise as a result of the tenant refusing to vacate the leased premises.

SECTION 2. The changes in law made by this Act apply only to a lease agreement that is executed or renewed on or after the effective date of this Act. A lease agreement that is executed or renewed before the effective date of this Act is governed by the law in effect at the time the lease agreement was executed or renewed, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect January 1, 2010.

Amendment No. 1 was adopted.

**HB 534**, as amended, was passed to engrossment.

### **CSHB 562 ON SECOND READING** **(by Madden)**

**CSHB 562**, A bill to be entitled An Act relating to employment qualifications and compensation of certain county employees.

#### **Amendment No. 1**

Representative Madden offered the following amendment to **CSHB 562**:

Amend **CSHB 562** (house committee printing) as follows:

(1) On page 1, line 9, strike "and job qualifications".

(2) On page 1, lines 14-15, strike "meets the job qualifications and who".

Amendment No. 1 was adopted.

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

Representative Guillen offered the following amendment to **CSHB 562**:

Amend **CSHB 562** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 85.003(f), Local Government Code, is amended to read as follows:

(f) A deputy who is included in the coverage of a civil service system created under Chapter 158 may be suspended or removed only for a violation of a civil service rule adopted under that system, except that a deputy who is covered under an agreement adopted under Chapter 174 may be suspended or removed only according to the terms of that agreement.

Amendment No. 2 was adopted.

### **Amendment No. 3**

Representative Hartnett offered the following amendment to **CSHB 562**:

Amend **CSHB 562** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 25.0023, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Notwithstanding any other law and in addition to the judge's annual salary, the commissioners court annually shall pay a judge of a statutory probate court who has continuously served as a judge of a statutory probate court or a statutory county court since August 31, 1995, an additional amount equal to the amount of benefit replacement pay a district judge is entitled to receive from the state under Subchapter H, Chapter 659, for equivalent continuous service [The salary shall be paid in equal monthly installments].

(c) The commissioners court monthly shall pay a statutory probate court judge who has served as a judge of a statutory probate court or a statutory county court for at least 16 years longevity pay in an amount equal to the amount of longevity pay a district judge is entitled to receive from the state for equivalent years of service. The longevity pay is in addition to the judge's monthly salary.

Amendment No. 3 was adopted.

(Vaught now present)

### **Amendment No. 4**

Representative Vaught offered the following amendment to **CSHB 562**:

Amend **CSHB 562** by adding the following appropriately numbered SECTIONS and subsections to the bill:

SECTION 1. Sections 152.071(a) and (b), Local Government Code, are amended to read as follows:

(1) On page 1, add lines 14 through 29, page 2, lines 1 through 6 and page 3, lines 4 through 10:

(a) In a county with a population of more than 75,000, the county government shall classify all positions in its sheriff's department and shall specify the duties and job qualifications and prescribe the salary for each classification.

A person hired for a position that requires the person to be licensed by the state is not eligible to receive the prescribed salary for the position until the person fulfills the licensing requirement. All peace officers within the sheriff's department shall be part of a single "sheriff's department peace officer" classification system.

(a-1) Except for a person appointed by a sheriff under Chapter 158 Subchapter A or Subchapter B or a person appointed to a command level position exempt from overtime compensation under Section 13(a)(1) of the Fair Labor Standards Act as defined by Regulations, 29 CFR 541; a person appointed as a deputy sheriff must be appointed to the entry level classification for peace officers within the sheriff's department.

(a-2) All peace officers within a specific classification must meet the same eligibility requirements and be paid the same base salary. In addition to the base salary each deputy sheriff is entitled to each of the following types of pay as authorized by the county commissioner's court:

- (1) longevity or seniority pay;
- (2) educational incentive pay;
- (3) assignment pay;
- (4) certification pay;
- (5) shift differential pay; and,
- (6) fitness incentive pay.

(b) A member of the sheriff's department who meets the job qualifications and who is required to perform the duties of a particular classification is entitled to be paid the salary prescribed for that position during the time the member performs those duties, except that a member who performs the duties of a classification for which the member was not initially hired is not entitled to be paid the salary prescribed for performing those duties unless:

- (1) the member meets the qualifications for the classification;
- (2) the position within the peace officers classification system was vacant, and;
- (3) the commissioners court had previously authorized the position, or;
- (4) the payment is authorized by the commissioners court before the duties are performed.

Amendment No. 4 was adopted.

Representative Madden moved to postpone consideration of **CSHB 562** until 7 p.m. today.

The motion prevailed.

**CSHB 1976 ON SECOND READING**  
**(by Solomons, Martinez Fischer, et al.)**

**CSHB 1976**, A bill to be entitled An Act relating to the operation of property owners' associations.

**Amendment No. 1**

Representative Solomons offered the following amendment to **CSHB 1976**:

Amend **CSHB 1976** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 5.006(a), Property Code, is amended to read as follows:

(a) In an action based on breach of a restrictive covenant pertaining to real property or a statute pertaining to real property subject to a restrictive covenant or to restrictive covenants to which real property is subject, the court may ~~shall~~ allow to a prevailing party ~~[who asserted the action]~~ reasonable attorney's fees in addition to the party's costs and claim.

SECTION 2. Section 5.012, Property Code, is amended by amending Subsection (a) and adding Subsections (f) and (g) to read as follows:

(a) A seller of residential real property that is subject to membership in a property owners' association and that comprises not more than one dwelling unit located in this state shall give to the purchaser of the property a written notice that reads substantially similar to the following:

NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION  
CONCERNING THE PROPERTY AT (street address) (name of residential community)

As a purchaser of property in the residential community in which this property is located, you are obligated to be a member of a property owners' association. Restrictive covenants governing the use and occupancy of the property and all [•] dedicatory instruments [instrument] governing the establishment, maintenance, or ~~[and]~~ operation of this residential community have been or will be recorded in the Real Property Records of the county in which the property is located. Copies of the restrictive covenants and dedicatory instruments ~~[instrument]~~ may be obtained from the county clerk.

You are obligated to pay assessments to the property owners' association. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party. These documents must be made available to you by the seller on your request.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Purchaser

(f) On the purchaser's request for a resale certificate from the seller, the seller shall:

(1) promptly deliver a copy of a current resale certificate if one has been issued for the property under Chapter 207; or

(2) if the seller does not have a current resale certificate:

(A) request the property owners' association or its agent to issue a resale certificate under Chapter 207; and



(B) promptly deliver a copy of the resale certificate to the purchaser on receipt of the resale certificate from the property owners' association or its agent.

(g) The seller or the purchaser, as agreed to by the parties, shall pay the fee to the property owners' association or its agent for issuing the resale certificate. The property owners' association may not require payment for a resale certificate requested under Chapter 207 until the certificate is available for delivery. The association may not charge a fee if the certificate is not provided in the time prescribed by Section 207.003(a).

SECTION 3. Section 202.001(1), Property Code, is amended to read as follows:

(1) "Dedictory instrument" means each document governing ~~[instrument covering]~~ the establishment, maintenance, or ~~[and]~~ operation of a residential subdivision, planned unit development, condominium or townhouse regime, or any similar planned development. The term includes:

(A) a declaration or similar instrument subjecting real property to:

(i) restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association;

(ii)~~[-to]~~ properly adopted rules and regulations of the property owners' association; or

(iii)~~[-or to]~~ all lawful amendments to the covenants, bylaws, instruments, rules, or regulations; and

(B) bylaws, rules, regulations, or guidelines adopted by a property owners' association under an instrument described by Paragraph (A).

SECTION 4. Section 202.004, Property Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) In evaluating an alleged or potential violation of a restrictive covenant, the property owners' association or other representative designated by an owner of real property may, notwithstanding any provision in a dedicatory instrument, grant a variance and in doing so not enforce the restrictive covenant if the property owners' association board, in the board's reasonable judgment, determines:

(1) the property owners' association's position is not sufficiently strong to justify taking any action or further action;

(2) the provision alleged to have been violated may be inconsistent with applicable law;

(3) the alleged violation is not of such a material or visible nature as to be objectionable to a reasonable person or to justify expending the property owners' association's resources;

(4) enforcement of the provision is not in the association's best interests, based on hardship, expense, or other reasonable criteria; or

(5) the facts of the particular circumstances, such as topography of the owner's land or unforeseen circumstances unique to the particular owner, justify the variance.

(e) A determination by the property owners' association board to grant a variance under Subsection (d) may not be considered a waiver of the association's ability to enforce any dedicatory instrument provision in the future.

SECTION 5. Section 202.006, Property Code, is amended to read as follows:

Sec. 202.006. PUBLIC RECORDS. (a) A property owners' association shall file all [the] dedicatory instruments [instrument] in the real property records of each county in which the property to which the dedicatory instruments relate [instrument relates] is located.

(b) A dedicatory instrument that is not filed in accordance with this section has no effect until filed.

SECTION 6. Chapter 202, Property Code, is amended by adding Sections 202.008, 202.010, 202.011, 202.012, 202.013, 202.014, and 202.015 to read as follows:

Sec. 202.008. ASSOCIATION'S RIGHT OF ENTRY. (a) Except as provided by this section, a provision in a dedicatory instrument that provides a property owners' association the right or authority to enter onto an owner's private property to enforce or abate an alleged violation of a restrictive covenant is void as against public policy except for entry:

(1) to cure a violation that involves an immediate threat to persons or property;

(2) after 10 days' written notice, to:

(A) perform a forced mow; or

(B) remove trash or debris; or

(3) in circumstances in which it is reasonably determined the property has been abandoned and not maintained for at least 30 days.

(b) This section does not prohibit a provision in a dedicatory instrument allowing a property owners' association a right of entry on the property of an owner that is limited to a dedicated access or other easement contained in a final plat or an easement filed of record.

(c) This section does not apply to:

(1) an association regulated under Title 7; or

(2) a property owners' association that funds through assessments:

(A) insurance on residences;

(B) one or more utility payments for residences; or

(C) exterior maintenance of residences.

Sec. 202.010. CERTAIN PARKING RESTRICTIONS PROHIBITED. (a) A provision in a dedicatory instrument that restricts or prohibits an owner from parking an operable, noncommercial, and personal automobile or truck on a public street is void as against public policy.

(b) A provision in a dedicatory instrument that restricts or prohibits an owner from parking the owner's operable, noncommercial, and personal automobile or truck in the owner's driveway is void as against public policy.

(c) For the purposes of this section, "noncommercial automobile" means a motor vehicle that may be legally driven on public roads under state law and that exhibits no commercial advertising other than standard dealer or manufacturer advertising.

(d) For the purposes of this section, a recreational vehicle, motor home, camper, all-terrain vehicle, trailer, or watercraft, a tow truck, cement mixer, or other similar commercial vehicle, or a vehicle that is more than 30 feet long is not considered to be a personal automobile or truck.

(e) This section does not apply to:

(1) an association regulated under Title 7; or

(2) a property owners' association that funds through assessments:

(A) insurance on residences;

(B) one or more utility payments for residences; or

(C) exterior maintenance of residences.

Sec. 202.011. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In this section, "development period" means a period stated in a declaration during which a declarant reserves:

(1) a right to facilitate the development, construction, and marketing of the subdivision; and

(2) a right to direct the size, shape, and composition of the subdivision.

(b) To the extent a restrictive covenant provides a right of first refusal for the sale or lease of a residential unit or residential lot in favor of the property owners' association or the association's members, the covenant is void.

(c) This section does not apply to a restrictive covenant that provides a right of first refusal in favor of a developer or builder during the development period.

Sec. 202.012. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section, "solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by this section, a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) This section does not prohibit the inclusion or enforcement of a provision in a dedicatory instrument that prohibits a solar energy device that:

(1) as adjudicated by a court:

(A) threatens the public health or safety; or

(B) violates a law;

(2) is located on property owned or maintained by the property owners' association;

(3) is located on property owned in common by the members of the property owners' association; or

(4) is located in an area on the property owner's property other than:

(A) on the roof of the home; or

(B) in a fenced yard or patio maintained by the property owner.

Sec. 202.013. RENTAL RESTRICTIONS. (a) Except as provided by Subsection (b), a property owners' association may not amend a dedicatory instrument to prohibit or restrict the rental of property subject to the dedicatory instrument without the consent of 51 percent of the total votes allocated to property owners subject to the dedicatory instrument.

(b) An amendment to a dedicatory instrument may require:

(1) an owner to:

(A) exercise due diligence in not leasing to an occupant who is a registered sex offender or who has a history of violent crime; or

(B) terminate the possessory right of any tenant or occupant who is a registered sex offender or who has a history of violent crime;

(2) all leases to be subject to the dedicatory instruments of the property owners' association; or

(3) a minimum lease term of not more than six months.

Sec. 202.014. RESTRICTIONS REQUIRING CAPITAL IMPROVEMENTS. (a) A dedicatory instrument may not be amended to retroactively require a person who owns property subject to the dedicatory instrument at the time the amendment is adopted to make a capital improvement to the owner's property that is not required before the amendment. A provision of a dedicatory instrument requiring an owner to make a capital improvement to the owner's property may only be adopted by a vote of 67 percent of the total votes allocated to property owners subject to the dedicatory instrument and may be applicable only to owners purchasing property subject to the dedicatory instrument after the provision is adopted.

(b) For the purposes of this section, "capital improvement" means items such as additional tree plantings, additional sodding, fence construction, hardscape installation, new construction, or any similar capital improvement. The term does not include repair or maintenance of existing improvements or the removal of conditions that are in violation of a dedicatory instrument.

Sec. 202.015. INJUNCTION; DAMAGES. (a) If a property owners' association or other representative designated by the property owners' association has violated, is violating, or is threatening to violate this chapter, a member of the property owners' association may bring a civil action against the property owners' association but may not bring an action against an association's officer or board member individually.

(b) A member of a property owners' association bringing an action under this section may seek:

(1) injunctive relief;

(2) damages in an amount equal to the greater of:

(A) actual damages arising from the violation; or

(B) \$1,500 for each violation; or

(3) both injunctive relief and damages as provided in this subsection.

(c) The court may increase an award under Subsection (b)(2) to an amount not to exceed three times the amount awarded under Subsection (b)(2) if the court finds that violations have occurred with a frequency that constitutes a pattern or practice.

(d) Each day a violation continues is not considered a separate violation for purposes of an assessment of damages.

(e) The court may award damages to a property owners' association for a suit brought by a member of the property owners' association that the court finds frivolous or groundless in an amount that is not more than the greater of:

(1) three times the association's actual damages; or

(2) \$4,500.

(f) On or before the 30th day before the date a person files a suit under this section, the person must provide notice to the other party of the person's intent to file suit under this section. The notice must be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service.

SECTION 7. Section 207.003(b), Property Code, is amended to read as follows:

(b) A resale certificate under Subsection (a) must contain:

(1) a statement of any right of first refusal, other than a right of first refusal that is prohibited by statute, and any [ø] other restraint contained in the restrictions or restrictive covenants that restricts the owner's right to transfer the owner's property;

(2) the frequency and amount of any regular assessments;

(3) the amount and purpose of any special assessment that is due after the date the resale certificate is prepared;

(4) the total of all amounts due and unpaid to the property owners' association that are attributable to the owner's property;

(5) capital expenditures, if any, approved by the property owners' association for the property owners' association's current fiscal year;

(6) the amount of reserves, if any, for capital expenditures;

(7) the property owners' association's current operating budget and balance sheet;

(8) the total of any unsatisfied judgments against the property owners' association;

(9) the style and cause number of any pending lawsuit in which the property owners' association is a party, other than a lawsuit relating to unpaid property taxes of an individual member of the association [defendant];

(10) a copy of a certificate of insurance showing the property owners' association's property and liability insurance relating to the common areas and common facilities;

(11) a description of any conditions on the owner's property that the property owners' association board has actual knowledge are in violation of the restrictions applying to the subdivision or the bylaws or rules of the property owners' association;

(12) a summary or copy of notices received by the property owners' association from any governmental authority regarding health or housing code violations existing on the preparation date of the certificate relating to the owner's property or any common areas or common facilities owned or leased by the property owners' association;

(13) the amount of any administrative transfer fee charged by the property owners' association for a change of ownership of property in the subdivision;

(14) the name, mailing address, and telephone number of the property owners' association's managing agent, if any; ~~and~~

(15) a statement indicating whether the restrictions allow foreclosure of a property owners' association's lien on the owner's property for failure to pay assessments; and

(16) a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee.

SECTION 8. Chapter 209, Property Code, is amended by adding Sections 209.0035 and 209.0041 to read as follows:

Sec. 209.0035. INJUNCTION; DAMAGES. (a) If a property owners' association or other representative designated by the property owners' association has violated, is violating, or is threatening to violate this chapter, a member of the property owners' association may bring a civil action against the property owners' association but may not bring an action against an association's officer or board member individually.

(b) A member of a property owners' association bringing an action under this section may seek:

(1) injunctive relief;

(2) damages in an amount equal to the greater of:

(A) actual damages arising from the violation; or

(B) \$1,500 for each violation; or

(3) both injunctive relief and damages as provided in this subsection.

(c) The court may increase an award under Subsection (b)(2) to an amount not to exceed three times the amount awarded under Subsection (b)(2) if the court finds that violations have occurred with a frequency that constitutes a pattern or practice.

(d) Each day a violation continues is not considered a separate violation for purposes of assessment of damages.

(e) The court may award damages to a property owners' association for a suit brought by a member of the property owners' association that the court finds frivolous or groundless in an amount that is not more than the greater of:

(1) three times the association's actual damages; or

(2) \$4,500.

(f) On or before the 30th day before the date a person files a suit under this section, the person must provide notice to the other party of the person's intent to file suit under this section. The notice must be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service.

Sec. 209.0041. AMENDMENT OF DEDICATORY INSTRUMENTS. (a) This section applies to a residential subdivision in which property owners are subject to mandatory membership in a property owners' association.

(b) This section applies to all dedicatory instruments regardless of the date on which the dedicatory instruments were created.

(c) This section does not apply to the amendment of a dedicatory instrument during a development period, as defined by Section 202.011.

(d) To the extent of any conflict with another provision of this title, this section prevails.

(e) Except as provided by Subsection (f), a dedicatory instrument may be amended only by a vote of 51 percent of the total votes allocated to property owners in the property owners' association, in addition to any governmental approval required by law.

(f) A rule or guideline that affects land owned, leased, maintained, or otherwise controlled by the property owners' association may be adopted or amended by majority vote of the association board. A rule or guideline that impacts the use and enjoyment of personal or real property owned exclusively by the owner or that may result in a fine or loss of privilege of a member of the association may be adopted or amended only by a vote of 51 percent of the total votes allocated to property owners who cast votes by any permissible method in an association-wide vote.

(g) A property owners' association board by majority vote may adopt ministerial, office-related procedural policies, such as payment plan guidelines under Section 209.0062, a collections policy, an enforcement policy, or other similar ministerial, office-related procedural policies. The policy may outline circumstances under which or the manner by which enforcement remedies may be carried out but may not otherwise impact the use and enjoyment of personal or real property owned exclusively by the owner. The policy may not:

(1) create a power to:

(A) levy a fine; or

(B) impose a loss of a privilege on a member of the association; or

(2) expand the association's powers beyond the powers granted by any other dedicatory instrument.

(h) All ballots cast in a vote that results in an amendment to a restrictive covenant, bylaw, or rule are records of the association subject to inspection under Section 209.005.

(i) This section supersedes any contrary requirement in a dedicatory instrument.

(j) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

SECTION 9. Section 209.005, Property Code, is amended to read as follows:

Sec. 209.005. ASSOCIATION RECORDS. (a) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036.

(b) Notwithstanding a provision in a dedicatory instrument, a [A] property owners' association shall make the books and records of the association, including financial records, open to and reasonably available for examination by

~~[to] an owner [in accordance with Section B, Article 2.23, Texas Non-Profit Corporation Act (Article 1396 2.23, Vernon's Texas Civil Statutes)]. An owner is entitled to obtain from the association copies of information contained in the books and records.~~

~~(c) [(a 1) A property owners' association described by Section 552.0036(2), Government Code, shall make the books and records of the association, including financial records, reasonably available to any person requesting access to the books or records in accordance with Chapter 552, Government Code. Subsection (a) does not apply to a property owners' association to which this subsection applies.~~

~~(b) An attorney's files and records relating to the association, excluding invoices requested by an owner under Section 209.008(d), are not:~~

- ~~(1) records of the association;~~
- ~~(2) subject to inspection by the owner; or~~
- ~~(3) subject to production in a legal proceeding.~~

~~(d) In addition to the requirements of Subsection (b), a property owners' association shall make the association's books and records, including financial records and invoices, available in a building:~~

- ~~(1) in which the books and records are appropriately stored; and~~
- ~~(2) that is:~~

~~(A) staffed during normal business hours;~~

~~(B) accessible to members of the association during normal business hours; and~~

~~(C) located on property commonly owned by the association within the boundaries of the subdivision governed by the association.~~

~~(e) If a building described by Subsection (d) does not exist on property described by Subsection (d), the property owners' association shall make the books and records available in accordance with Subsections (g) and (h).~~

~~(f) A party requesting association books or records shall submit the request in writing:~~

~~(1) in person by hand delivery to a current board member;~~

~~(2) to the mailing address of the association or authorized representative as provided on the most current management certificate filed under Section 209.004; or~~

~~(3) in person to a managing agent as reflected on the most current management certificate filed under Section 209.004.~~

~~(g) A property owners' association shall make books and records requested under Subsection (b) available to the requesting party within a reasonable time of the property owners' association's receipt of the request.~~

~~(h) A reasonable time for providing information requested under Subsection (b) is considered to be 10 business days after the date the property owners' association receives a request, except as otherwise provided by this section.~~

~~(i) If the property owners' association is unable to produce a requested book or record on or before the 10th business day after the date the request is received, the property owners' association must provide to the requestor written notice that:~~



(1) informs the requestor that the property owners' association is unable to produce the information on or before the 10th business day after the date of the receipt of the request; and

(2) states a date by which the information will be available for inspection that occurs not later than the 30th day after the date notice under this subsection is given.

(j) A property owners' association shall make books and records requested under this section available to the requestor in one or more of the following formats, as specified by the requestor:

(1) an electronic format:

(A) delivered to an electronic mail address provided by the requestor; or

(B) delivered in a disc or other standard electronic format:

(i) to the mailing address of the requestor; or

(ii) if the requesting party does not provide a mailing address, to the address of the requestor's property in the subdivision; or

(2) a hard-copy format:

(A) delivered to the mailing address of the requestor; or

(B) if the requesting party does not provide a mailing address:

(i) mailed to the address of the requestor's property in the subdivision; or

(ii) made available at a location not more than 25 miles from the boundary of the subdivision governed by the association.

(k) This section does not require a property owners' association to staff a building described by Subsection (d).

(l) A property owners' association may charge an owner for copies of the requested information in an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead.

(m) Any information maintained by the association that is released under this section may not identify an individual member of an association or an individual's personal financial information. Information may be released in an aggregate manner that would not identify an individual property owner.

(n) All ballots cast in an election that results in an amendment to a dedicatory instrument, as required by Section 209.0041, are records of the property owners' association subject to inspection under this section.

(o) All ballots cast in an election of property owners' association board members are considered records of the association but may not be made available for inspection under this section without a court order or subpoena. The association shall take reasonable measures to safeguard the security and privacy of those ballots.

(p) A property owners' association shall:

(1) keep all records as to changes to the dedicatory instruments in perpetuity;

(2) maintain and secure all ballots in association-wide elections for four years; and

(3) maintain records related to financial matters of the association, including assessments, fines, foreclosures, and enforcement actions for at least seven years.

(q) A member of a property owners' association who is denied access to or copies of association books or records to which the member is entitled under this section may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the association is located, requesting relief in accordance with this subsection. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:

(1) a judgment against the property owners' association for a penalty of not more than \$1,500;

(2) a judgment against the property owners' association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or

(3) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivisions (1) and (2) from any future regular or special assessments payable to the property owners' association.

(r) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

(s) On or before the 10th day before the date a person files a suit under this section, the person must provide notice to the other party of the person's intent to file suit under this section. The notice must be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service.

SECTION 10. Chapter 209, Property Code, is amended by adding Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059, 209.00591, 209.00592, and 209.00593 to read as follows:

Sec. 209.0051. OPEN BOARD MEETINGS. (a) This section does not apply to a property owners' association that is subject to Chapter 551, Government Code, by application of Section 551.0015.

(b) In this section, "board meeting" means a deliberation between a quorum of the voting board of the property owners' association, or between a quorum of the voting board and another person, during which property owners' association business or policy over which the board has responsibility is discussed or considered, or during which the board takes formal action. The term does not include the gathering of a quorum of the board at a social function unrelated to the business of the association, or the attendance by a quorum of the board at a regional, state, or national convention, workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of association business is incidental to the social function, convention, workshop, ceremonial event, or press conference.

(c) Except as provided by this section, a meeting of the property owners' association board or a committee or subcommittee of the board is open to members of the property owners' association and shall be held in a county in which all or part of the property governed by the association is located or a county adjacent to that county.

(d) The board shall keep a record of each regular, emergency, or special board meeting in the form of written minutes or an audio recording of the meeting. A record of a meeting must state the subject of each motion or inquiry, regardless of whether the board takes action on the motion or inquiry, and indicate each vote, order, decision, or other action taken by the board. The board shall make meeting records, including approved minutes, available to a member for inspection and copying on the member's written request to the board or the board's representative. The board shall approve the minutes of a board meeting not later than the next regular board meeting.

(e) The board shall give members notice of the date, hour, place, and subject of a regular or special board meeting, including a general description of any matters to be brought up for deliberation in executive session. The notice shall be mailed to each member or posted:

(1) at least 72 hours before the start of the meeting; and

(2) in a conspicuous manner reasonably designed to provide notice to association members:

(A) in a place located on:

(i) the association's common property; or

(ii) other conspicuously located property within the association, with the property owner's consent; and

(B) on any Internet website maintained by the association.

(f) If the board recesses a regular or special board meeting to continue the following regular business day, the board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this section. If a regular or special board meeting is continued to the following regular business day, and on that following day the board continues the meeting to another day, the board shall give notice as required by this section of the meeting continued to that other day.

(g) If at a regular, emergency, administrative, or special meeting, a member makes an inquiry regarding a subject for which notice has not been given as required by this section, the notice provisions of this section do not apply to:

(1) a statement by the board of specific factual information given in response to the inquiry; or

(2) a recitation of existing policy in response to the inquiry.

(h) Any deliberation of or decision relating to the subject of an inquiry made under Subsection (g) shall be limited to a proposal to place the subject on the agenda for a subsequent board meeting.

(i) In the event of a reasonably unforeseen emergency or urgent necessity that requires immediate board action, the board may meet in an emergency board meeting. Notice for an emergency board meeting may be given in at least one manner prescribed by Subsection (e)(2) at least two hours before the emergency

session is convened and must clearly identify the emergency or urgent necessity for which the notice is given. A board in an emergency meeting may not consider fines, foreclosures, enforcement actions, increases in assessments, or any other foreseeable business or policy over which the board has responsibility. Any action taken in an emergency board meeting must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes or tape recording of the next regular or special board meeting.

(j) A property owners' association board may hold an administrative session, and that session is not subject to the notice requirements of this section. In any administrative session, the board may not take action regarding issuance of fines, commencement of foreclosure proceedings, levying of a special assessment, increases in assessments, approval of items not previously approved in the association's budget, or approval of items not previously approved in a regular or special board meeting.

(k) Before the board calls an executive session, the board shall convene in a regular or special board meeting for which notice has been given as provided by this section. During that board meeting, the presiding board member may call an executive session by announcing that an executive session will be held to deliberate a matter described by Subsection (l) and identifying the specific subdivision of Subsection (l) under which the executive session will be held. A vote or other action item may not be taken in executive session.

(l) A board of a property owners' association may meet in executive session, to which the members do not have access, to deliberate:

(1) anticipated or pending litigation, settlement offers, or interpretations of the law with the association's legal counsel;

(2) complaints or charges against or issues regarding a board member, or agent, employee, contractor, or other representative of the property owners' association;

(3) a payment plan under Section 209.0062;

(4) a foreclosure of a lien;

(5) an enforcement action against a member of the association, including for nonpayment of amounts due;

(6) the purchase, exchange, lease, or value of real property, if the board determines in good faith that deliberation in an open board meeting may have a detrimental effect on the association;

(7) business and financial issues relating to the negotiation of a contract, if the board determines in good faith that deliberation in an open board meeting may have a detrimental effect on the position of the association; or

(8) matters involving the invasion of privacy of an individual owner.

Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE. (a) On or before the 30th day before the date an election or vote is held by a property owners' association, the association shall give each owner of property in the property owners' association written notice of the election or vote.

(b) This section supersedes any contrary requirement in a dedicatory instrument.

(c) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.0057. TABULATION OF VOTES. (a) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(b) On the written petition of owners having at least 10 percent of all voting interests in a property owners' association for a vote tabulation under this subsection, received by the association at least 15 days before the first date that votes may be cast, to tabulate the votes in any matter subject to a vote of the members of a mandatory property owners' association, the association shall enter into a contract for the services of a person who is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, and who is:

- (1) a county judge;
- (2) a county elections administrator;
- (3) a justice of the peace; or
- (4) a county voter registrar.

(c) The name of each person tabulating votes of the members of a property owners' association and the results of the tabulation must be reflected in the minutes of the association.

(d) Any owner may, not later than the fifth day after the date of the initial tabulation of votes, require a recount of the votes. A demand for a recount must be submitted in writing either:

- (1) in person to a property owners' association board member;
- (2) by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation service to the association's mailing address on the latest management certificate filed under Section 209.004; or
- (3) in person to the association's managing agent as reflected on the latest management certificate filed under Section 209.004.

(e) The property owners' association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount, the services of:

- (1) a county judge;
- (2) a county elections administrator;
- (3) a justice of the peace; or
- (4) a county voter registrar.

(f) Any recount under Subsection (d) must be performed on or before the 30th day after the date of receipt of a request for and payment for a recount in accordance with Subsections (d) and (e). If the recount changes the results of the election, the association shall reimburse the requesting owner for the cost of the recount. Any action taken by the board in the period between the initial election vote tally and the completion of the recount may not be affected by any recount.

Sec. 209.0058. BALLOTS. (a) Any vote cast in an election or vote by a member of a property owners' association must be in writing and signed by the member.

(b) Electronic votes cast under Section 209.00593 constitute written and signed ballots.

(c) In an association-wide election, written and signed ballots are not required for uncontested races.

Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a dedicatory instrument that would disqualify a property owner from voting in an association election of board members or on any matter concerning the rights or responsibilities of the owner is void.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.00591. PROXY VOTING. A provision in any dedicatory instrument that provides for a proxy vote in any matter subject to a vote of the members of the property owners' association is void.

Sec. 209.00592. BOARD MEMBERSHIP. (a) Except as provided by Subsection (b), a provision in a dedicatory instrument that restricts a property owner's right to run for a position on the board of the property owners' association is void.

(b) If a board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member has been convicted of a felony or crime involving moral turpitude, the board member is immediately ineligible to serve on the board of the property owners' association, automatically considered removed from the board, and prohibited from future service on the board.

Sec. 209.00593. VOTING; QUORUM. (a) The voting rights of an owner may be cast or given:

(1) in person at a meeting of the property owners' association;

(2) by absentee ballot in accordance with this section; or

(3) by electronic ballot in accordance with this section.

(b) An absentee or electronic ballot:

(1) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;

(2) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and

(3) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.

(c) A solicitation for votes by absentee ballot must include:

(1) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;

(2) instructions for delivery of the completed absentee ballot, including the delivery location; and

(3) the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

(d) For the purposes of this section, "electronic ballot" means a ballot:

(1) given by:

(A) electronic mail;

(B) facsimile; or

(C) posting on an Internet website;

(2) for which the identity of the property owner submitting the ballot can be confirmed; and

(3) for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.

(e) If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website.

(f) This section supersedes any contrary provision in a dedicatory instrument.

(g) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

SECTION 11. Section 209.006, Property Code, is amended by amending Subsection (b) and adding Subsections (c), (d), (e), and (f) to read as follows:

(b) The notice must:

(1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner; ~~and~~

(2) except as provided by Subsection (d), inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine ~~[or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months]~~; and

(B) may request a hearing under Section 209.007 on or before the 30th day after the date notice was delivered to the owner;

(3) specify the date by which the owner must cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety;

(4) specify the dollar amount of any fine the association seeks to levy;

(5) specify each provision of the dedicatory instrument the owner is alleged to have violated; and

(6) be sent by certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the owner at the owner's last known address as shown on the association's records [receives the notice].

(c) The date specified in the notice under Subsection (b)(3) must provide a reasonable period of at least 30 days for the owner to cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety.

(d) Subsections (a) and (b) do not apply to a violation for which the owner has been previously given notice under this section and the opportunity to exercise any rights available under this section in the preceding six months.

(e) If the property owner does not cure the violation in the time provided under Subsection (c) and does not request a hearing under Subsection (b)(2)(B), the property owners' association may assess the fine and shall provide notice of the assessment to the owner. If the property owner cures the violation before the expiration period for cure specified under Subsection (c), any fine assessed for the violation is void.

(f) For purposes of this section, a violation is considered a threat to public health or safety if the violation could materially affect the physical health or safety of an ordinary resident.

SECTION 12. Chapter 209, Property Code, is amended by adding Sections 209.0061, 209.0062, 209.0063, and 209.0064 to read as follows:

Sec. 209.0061. ASSESSMENT OF FINES. (a) A fine assessed by the property owners' association must be reasonable in the context of the nature and frequency of the violation and the effect of the violation on the subdivision as a whole. If the association allows fines for a continuing violation to accumulate against a lot or an owner, the association must establish a reasonable maximum fine amount for a continuing violation at which point the total fine amount is capped.

(b) If a lot occupant other than the owner violates a provision of the dedicatory instrument, the property owners' association, in addition to exercising any of the association's powers against the owner, may assess a fine directly against the nonowner occupant in the same manner as provided for an owner but may not require payment from both the owner and a nonowner occupant for the same violation.

(c) If the property owners' association assesses a fine against a nonowner occupant under this section, the notice provisions of Section 209.006 and the hearing provisions of Section 209.007 apply to the nonowner occupant in the same manner as those provisions apply to an owner.

Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN ASSESSMENTS. (a) A property owners' association shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without



accruing additional monetary penalties. For purposes of this section, monetary penalties do not include reasonable costs associated with administering the payment plan or interest.

(b) For any approved special assessment in an amount greater than the equivalent of the sum of all regular assessments payable in the year the special assessment is approved, a property owners' association shall allow partial payments of the special assessment for 12 months unless the property owner requests a shorter payment period in writing at the time the property owner requests an alternative payment plan. A property owners' association may offer a reasonable discount for an owner making a one-time lump sum payment of the special assessment.

(c) For any approved special assessment in an amount greater than the equivalent of one-half the sum of all regular assessments payable in the year the special assessment is approved, a property owners' association shall allow partial payments of the special assessment for six months unless the property owner requests a shorter payment period in writing at the time the property owner requests an alternative payment plan. A property owners' association may offer a reasonable discount to an owner making a one-time lump sum payment of the special assessment.

(d) A property owners' association is not required to allow a payment plan for any amount that extends more than 12 months from the date of the owner's request for a payment plan or to enter into a payment plan with an owner who failed to honor the terms of a previous payment plan during the five years following an owner's default under a previous payment plan.

(e) A property owners' association shall file the association's guidelines under this section in the real property records of each county in which the subdivision is located.

(f) A property owners' association's failure to file as required by this section the association's guidelines in the real property records of each county in which the subdivision is located does not prohibit a property owner from receiving an alternative payment schedule by which the owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties, as defined by Subsection (a).

Sec. 209.0063. PRIORITY OF PAYMENTS. Unless otherwise provided in writing by the property owner at the time payment is made, a payment received by a property owners' association from the owner shall be applied to the owner's debt in the following order of priority:

- (1) any delinquent assessment;
- (2) any current assessment;
- (3) any attorney's fees incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;
- (4) any fines assessed by the association;
- (5) any attorney's fees incurred by the association that are not subject to Subdivision (3); and
- (6) any other amount owed to the association.

Sec. 209.0064. COLLECTIONS. A property owners' association must bring suit or otherwise initiate against an owner a collection action authorized by the dedicatory instruments or other law on or before the 10th anniversary of the date on which the cause of action for collection of the debt accrues. Section 16.004, Civil Practice and Remedies Code, does not apply to the collection of a debt owed by an owner to a property owners' association.

SECTION 13. Section 209.007, Property Code, is amended by amending Subsection (a) and adding Subsections (f), (g), (h), (i), and (j) to read as follows:

(a) If the owner is entitled to an opportunity to cure the violation, the owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before a committee appointed by the board of the property owners' association or before the board if the board does not appoint a committee. The written request must contain a statement of the grounds on which the owner believes the owner is not in violation and citations of the dedicatory instrument for each violation alleged.

(f) If the parties fail to reach agreement in or after the hearing described by this section, the property owners' association must file suit to uphold and enforce any fine sought to be assessed. The suit must be filed in a justice court or small claims court not later than the 180th day after the date of the hearing described by this section or an appeal under Subsection (b), whichever is later. The complaint must list each violation and be accompanied by citation of the dedicatory instrument for each violation. If the property owners' association does not file suit within the time prescribed by this subsection, the association's right to collect the fine is considered waived.

(g) Not later than the 30th day after the date a suit is filed under Subsection (f), the court shall hold an evidentiary hearing on the matter. The parties are not entitled to any discovery.

(h) At the evidentiary hearing, the property owners' association has the burden of proving by a preponderance of the evidence that the property owner has violated a restrictive covenant.

(i) The court shall determine whether a violation has occurred and, if so, whether the fine for the violation is reasonable considering the type, duration, and severity of the violation.

(j) If the court finds that the position taken by either party is groundless or is taken in bad faith, the court may award the prevailing party's attorney's fees.

SECTION 14. Chapter 209, Property Code, is amended by adding Section 209.0091 to read as follows:

Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except as provided by Subsection (c), a property owners' association may not foreclose a property owners' association assessment lien unless the association first obtains a court order in an application for expedited foreclosure under the rules adopted by the supreme court under Subsection (b). A property owners' association may use the procedure described by this subsection to foreclose any lien described by the association's dedicatory instruments.

(b) The supreme court, as an exercise of the court's authority under Section 74.024, Government Code, shall adopt rules establishing expedited foreclosure proceedings for use by a property owners' association in foreclosing an assessment lien of the association. The rules adopted under this subsection must be substantially similar to the rules adopted by the supreme court under Section 50(r), Article XVI, Texas Constitution.

(c) Expedited foreclosure is not required under this section if the owner of the property that is subject to foreclosure agrees in writing at the time the foreclosure is sought to waive expedited foreclosure under this section. A waiver under this subsection may not be required as a condition of the transfer of title to real property.

(d) A provision granting a right to foreclose a lien on real property for unpaid amounts due to a property owners' association may be removed from a dedicatory instrument or adopted in a dedicatory instrument by a vote of 51 percent of the total votes allocated to property owners in the property owners' association. Owners holding at least 10 percent of all voting interests in the property owners' association may petition the association and require a special meeting to be called for the purposes of taking a vote for the purposes of this section.

SECTION 15. Section 209.010(a), Property Code, is amended to read as follows:

(a) A property owners' association that conducts a foreclosure sale of an owner's lot must send to the lot owner not later than the 30th day after the date of the foreclosure sale:

(1) a written notice stating the date and time the sale occurred and informing the lot owner of the owner's right to redeem the property under Section 209.011; and

(2) a copy of Section 209.011.

SECTION 16. Chapter 209, Property Code, is amended by adding Section 209.014 to read as follows:

Sec. 209.014. RESTRICTIONS ON OWNERSHIP VOID. A property owners' association may not prohibit an owner from owning multiple properties governed by the property owners' association if the cumulative voting rights of all of that owner's properties are 25 percent or less of all voting interests in the property owners' association. This section does not apply during a development period as defined by Section 202.011.

SECTION 17. Section 211.002(a), Property Code, is amended to read as follows:

(a) This chapter applies only to a residential real estate subdivision or any unit or parcel of a subdivision to which another chapter in this title that provides a procedure under which a subdivision's restrictions may be amended does not apply ~~[located in whole or in part within an unincorporated area of a county if the county has a population of less than 65,000].~~

SECTION 18. Section 202.004(c), Property Code, is repealed.

SECTION 19. (a) Section 5.006(a), Property Code, as amended by this Act, and the repeal by this Act of Section 202.004(c), Property Code, apply only to an action filed on or after the effective date of this Act. An action filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 5.012, Property Code, as amended by this Act, applies only to a sale of property that occurs on or after the effective date of this Act. For the purposes of this section, a sale of property occurs before the effective date of this Act if the executory contract binding the purchaser to purchase the property is executed before that date. A sale of property that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(c) Sections 202.015 and 209.0035, Property Code, as added by this Act, apply only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(d) Section 202.006, Property Code, as amended by this Act, and Sections 202.008, 202.010, 202.011, 202.012, 202.014, 209.0059, 209.00591, 209.00592(a), and 209.014, Property Code, as added by this Act, apply to a provision in a dedicatory instrument or a restrictive covenant enacted before, on, or after the effective date of this Act, except that any action taken before the effective date of this Act based on an unfiled dedicatory instrument is not invalidated by Section 202.006, Property Code, as amended by this Act.

(e) Section 209.005, Property Code, as amended by this Act, applies only to a request for information received by a property owners' association on or after the effective date of this Act. A request for information received by a property owners' association before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(f) Sections 209.0061, 209.0062, and 209.0064, Property Code, as added by this Act, apply only to an assessment or other debt that becomes due on or after the effective date of this Act. An assessment or other debt that becomes due before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(g) Section 209.0063, Property Code, as added by this Act, applies only to a payment received by a property owners' association on or after the effective date of this Act. A payment received by a property owners' association before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(h) Section 209.0091, Property Code, as added by this Act, applies only to a foreclosure sale that occurs after January 1, 2010. A foreclosure sale that occurs on or before January 1, 2010, 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.

(i) Section 209.010(a), Property Code, as amended by this Act, applies only to a foreclosure sale conducted on or after the effective date of this Act. A foreclosure sale conducted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 20. Not later than January 1, 2010, each property owners' association shall present for recording with the county clerk as prescribed by Section 202.006, Property Code, as amended by this Act, each dedicatory instrument governing the association that has not been previously recorded in the real property records of the county.

SECTION 21. Not later than January 1, 2010, the Supreme Court of Texas shall adopt rules of civil procedure under Section 209.0091, Property Code, as added by this Act.

SECTION 22. This Act takes effect January 1, 2010.

Amendment No. 1 was adopted. (The vote was reconsidered later today, and Amendment No. 1, as amended, was adopted.)

#### **Amendment No. 1 - Vote Reconsidered**

Representative Solomons moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

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

Representative Solomons offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by Solomons for **CSHB 1976** as follows:

- (1) On page 8, line 4, after "percent" and before "of" insert "or more";
- (2) On page 8, line 24, after "percent" and before "of" insert "or more";
- (3) On page 13, line 13, after "percent" and before "of" insert "or more";
- (4) On page 13, line 24, after "percent" and before "of" insert "or more";
- (5) On page 18, line 5, before "without" insert "except for the purposes of a recount under Section 209.0057(e) or";
- (6) On page 22, line 8, between "assessments," and "approval" insert "or";
- (7) On page 22, line 9, after "budget" strike "~~or approval of items not previously approved in a regular or special board meeting~~";
- (8) On page 24, line 6, between "is" and ":" insert: "a current or former"; and
- (9) On page 24, line 28, between "of" and ":" insert: "a person who is not a members of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code and who is a current or former";
- (10) On page 34, line 15, after "percent" and before "of" insert "or more".

Amendment No. 2 was adopted.

**Amendment No. 3**

Representative Solomons offered the following amendment to Amendment No. 1:

Amend **CSHB 1976** as follows:

(1) On page 18, line 5, before "without" insert "except for the purposes of a recount under Section 209.0057(e) or";

(2) On page 22, line 8, between "assessments," and "approval" insert "or";

(3) On page 22, line 9, after "budget" strike ", or approval of items not previously approved in a regular or special board meeting";

(4) On page 24, line 6, between "is" and ":" insert: "a current or former"; and

(5) On page 24, line 28, between "of" and ":" insert: "a person who is not a members of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code and who is a current or former"

Amendment No. 3 was withdrawn.

**Amendment No. 4**

Representative Vo offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Solomons to **CSHB 1976** as follows:

(1) On page 1, line 4, strike "Section 5.006(a), Property Code, is amended" and substitute "Section 5.006, Property Code, is amended by amending Subsection (a) and adding Subsection (a-1)".

(2) On page 1, between lines 11 and 12, insert the following:

(a-1) In an action based on a breach of the dedicatory instruments pertaining to an election of a property owners' association board or a meeting of a property owners' association board, the court may allow the prevailing party reasonable attorney's fees in addition to the party's costs and claim.

(Speaker in the chair)

Amendment No. 4 was adopted.

**Amendment No. 5**

Representative Harper-Brown offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by Solomons to **CSHB 1976** (house committee printing) as follows:

(1) On page 3, line 3 strike "require" and replace it with "process".

(2) On page 20, line 20, strike "posted".

(3) On page 20, line 21, between "(1)" and "at" insert "posted".

(4) On page 20, line 23, between "(2)" and "in" insert "posted".

(5) On page 20, line 28, strike "and" and substitute "or".

(6) On page 20, line 30 strike "." and substitute "; and".

(7) On page 20, between lines 30 and 31, after subsection (e)(2)(B), insert a new subsection (e)(3) to read as follows:

"(3) sent via email to each owner who has registered an email address with the property owners association. It is an owner's duty to keep any email address registered with the property owners association updated."

Amendment No. 5 was withdrawn.

### **Amendment No. 6**

Representative Elkins offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Solomons to **CSHB 1976** as follows:

(1) On page 29, line 18, strike "and 209.0064" and substitute "209.0064, and 209.0065".

(2) On page 32, between lines 12 and 13, insert the following:

Sec. 209.0065. REGULATION OF CERTAIN ROOFING MATERIALS. A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner who is otherwise authorized to install shingles on the roof of the owner's property from installing shingles primarily designed to be wind and hail resistant and provide heating and cooling efficiencies greater than customary composite shingles if the installed shingles:

(1) resemble the shingles used or otherwise authorized for use on property in the subdivision;

(2) are more durable and of equal or superior quality to the shingles described by Subdivision (1); and

(3) match the aesthetics of the property surrounding the owner's property.

(3) On page 36, line 10, between "209.0592(a)," and "209.014,", insert "209.0065".

Amendment No. 6 was adopted.

### **Amendment No. 7**

Representative Eiland offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Solomons to **CSHB 1976** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 82.102, Property Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) Unless otherwise provided by the declaration, the association, acting through its board, may:

(1) adopt and amend bylaws;

(2) adopt and amend budgets for revenues, expenditures, and reserves, and collect assessments for common expenses from unit owners;

(3) hire and terminate managing agents and other employees, agents, and independent contractors;

(4) institute, defend, intervene in, settle, or compromise litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;

(5) make contracts and incur liabilities relating to the operation of the condominium;

(6) regulate the use, maintenance, repair, replacement, modification, and appearance of the condominium;

(7) adopt and amend rules regulating the use, occupancy, leasing or sale, maintenance, repair, modification, and appearance of units and common elements, to the extent the regulated actions affect common elements or other units;

(8) cause additional improvements to be made as a part of the common elements;

(9) acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, except common elements of the condominium;

(10) grant easements, leases, licenses, and concessions through or over the common elements;

(11) impose and receive payments, fees, or charges for the use, rental, or operation of the common elements and for services provided to unit owners;

(12) impose interest and late charges for late payments of assessments, returned check charges, and, if notice and an opportunity to be heard are given in accordance with Subsection (d), reasonable fines for violations of the declaration, bylaws, and rules of the association;

(13) adopt and amend rules regulating the collection of delinquent assessments and the application of payments;

(14) adopt and amend rules regulating the termination of utility service to a unit, the owner of which is delinquent in the payment of an assessment that is used, in whole or in part, to pay the cost of that utility;

(15) impose reasonable charges for preparing, recording, or copying declaration amendments, resale certificates, or statements of unpaid assessments;

(16) enter a unit for bona fide emergency purposes when conditions present an imminent risk of harm or damage to the common elements, another unit, or the occupants;

(17) ~~assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration so provides;~~

~~(18)~~ suspend the voting privileges of or the use of certain general common elements by an owner delinquent for more than 30 days in the payment of assessments;

(18) ~~(19)~~ purchase insurance and fidelity bonds it considers appropriate or necessary;

(19) ~~(20)~~ exercise any other powers conferred by the declaration or bylaws;

(20) ~~(21)~~ exercise any other powers that may be exercised in this state by a corporation of the same type as the association; and



(21) [~~(22)~~] exercise any other powers necessary and proper for the government and operation of the association.

(f) The association by resolution of the board of directors may borrow money unless prohibited by the declaration, articles of incorporation, bylaws, rules, or other restrictions. If the board of directors issues a resolution under this subsection, the association may assign the association's right to future income, including the right to receive common expense assessments and assign the association's lien rights, as collateral for the loan authorized by the resolution. The association shall comply with any member approval requirement in the association's declaration, articles of incorporation, bylaws, rules, or other restrictions for borrowing money, except that not more than 67 percent of all outstanding votes are required to approve an authorization to borrow money.

SECTION \_\_\_\_\_. Sections 82.111(c) and (i), Property Code, are amended to read as follows:

(c) If the insurance described by Subsections (a) and (b) is not reasonably available, the association shall cause notice of that fact to be delivered or mailed to all unit owners and lienholders. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance the board considers appropriate to protect the condominium, the association, or the unit owners. Insurance policies carried under Subsection (a) may provide for commercially reasonable deductibles as the board considers appropriate or necessary. This section does not affect the right of a holder of a mortgage on a unit to require a unit owner to acquire insurance in addition to that provided by the association.

(i) Any portion of the condominium for which insurance is required that is damaged or destroyed shall be promptly repaired or replaced by the association unless the condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance, or at least 80 percent of the unit owners, including each owner of a unit or assigned limited common element that will not be rebuilt or repaired, vote to not rebuild. A vote to not rebuild does not increase an insurer's liability to loss payment obligation under a policy, and the vote does not cause a presumption of total loss. The cost of repair or replacement in excess of the insurance proceeds and reserves is a common expense. Costs of repair or replacement incurred before any insurance proceeds are available, or that are within the association's deductible, shall be paid as determined by resolution of the board of directors of the association, or, if the board does not approve a resolution, the costs are a common expense. A resolution regarding payment of costs under this subsection is considered a dedicatory instrument and must be recorded in each location in which the declaration is recorded. If the entire condominium is not repaired or replaced, any insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, the insurance proceeds attributable to units and limited common elements that are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were assigned, or to their mortgagees, as their interests may appear, and the remainder of the

proceeds shall be distributed to all the unit owners as their interests may appear. If the unit owners vote to not rebuild any unit, that unit's allocated interests shall be automatically reallocated on the vote as if the unit had been condemned, and the association shall prepare, execute, and record an amendment to the declaration reflecting the reallocation. Section 82.068 governs the distribution of insurance proceeds if the condominium is terminated.

SECTION \_\_\_\_\_. Section 82.113(g), Property Code, is amended to read as follows:

(g) The owner of a unit ~~[used for residential purposes and]~~ purchased ~~[by an association]~~ at a foreclosure sale of the association's lien for assessments may redeem the unit not later than the 90th day after the date of the foreclosure sale. If the association is the purchaser [To redeem the unit], the owner must pay to the association to redeem the unit all amounts due the association at the time of the foreclosure sale, interest from the date of foreclosure sale to the date of redemption at the rate provided by the declaration for delinquent assessments, reasonable attorney's fees and costs incurred by the association in foreclosing the lien, any assessment levied against the unit by the association after the foreclosure sale, and any reasonable cost incurred by the association as owner of the unit, including costs of maintenance and leasing. If a party other than the association is the purchaser, the redeeming owner must pay to the purchaser of the unit at the foreclosure sale an amount equal to the amount bid at the sale, interest on the bid amount computed from the date of the foreclosure sale to the date of redemption at the rate of six percent, any assessment paid by the purchaser after the date of foreclosure, and any reasonable costs incurred by the purchaser as the owner of the unit, including costs of maintenance and leasing. The redeeming owner must also pay to the association all assessments that are due as of the date of the redemption and reasonable attorney's fees and costs incurred by the association in foreclosing the lien. On redemption, the purchaser of the unit at the foreclosure sale [association] shall execute a deed with no warranty to the redeeming unit owner. The exercise of the right of redemption is not effective against a subsequent purchaser or lender for value without notice of the redemption after the redemption period expires unless the redeeming unit owner records the deed from the purchaser of the unit at the foreclosure sale [association] or an affidavit stating that the owner has exercised the right of redemption. A unit that has been redeemed remains subject to all liens and encumbrances on the unit before foreclosure. All rents and other income collected from the unit by the purchaser of the unit at the foreclosure sale [association] from the date of foreclosure sale to the date of redemption belong to the purchaser of the unit at the foreclosure sale [association], but the rents and income shall be credited against the redemption amount. The purchaser of [An association purchasing] a unit at a sale foreclosing an association's assessment [its] lien may not transfer ownership of the unit during the redemption period to a person other than a redeeming owner.

SECTION \_\_\_\_\_. (a) Section 82.111(i), Property Code, as amended by this Act, applies only to payment of costs incurred on or after the effective date of this Act. Payment of costs incurred before the effective date of this Act are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 82.113(g), Property Code, as amended by this Act, applies only to a condominium unit sold at a foreclosure sale on or after the effective date of this Act. A unit sold at a foreclosure sale before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 7 was adopted.

### **Amendment No. 8**

Representative Coleman offered the following amendment to Amendment No. 1:

Amend the Solomons Amendment No. 1 to **CSHB 1976** by adding an appropriately numbered SECTION to the article to read as follows and by renumbering existing SECTIONS of the article accordingly:

SECTION \_\_\_\_\_. Chapter 202, Property Code, is amended by adding Section 202.018 to read as follows:

Sec. 202.018. REGULATION OF DISPLAY OF CERTAIN RELIGIOUS ITEMS. (a) Except as otherwise provided by this section, a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property owner or resident from displaying or affixing on the entry to the owner's or resident's dwelling one or more religious items that reflect a tenet of the owner's or resident's religion.

(b) This section does not prohibit the enforcement or adoption of a covenant that, to the extent allowed by the constitution of this state and the United States, prohibits the display or affixing of a religious item on the entry to the owner's dwelling that:

- (1) threatens the public health or safety;
- (2) violates a law;
- (3) contains language, graphics, or any display that would be offensive to the ordinary person;
- (4) is in a location other than the entry door or doorframe or extends past the outer edge of the doorframe of the owner's or resident's dwelling; or
- (5) individually or in combination with each other religious item displayed or affixed on the entry door or doorframe has a total size of greater than 25 square inches.

(c) Except as otherwise provided by this section, this section does not authorize an owner or resident to use a material or color for an entry door or doorframe of the owner's or resident's dwelling or make an alteration to the entry door or doorframe that is not authorized by the restrictive covenants governing the dwelling.

(d) A property owners' association may remove an item displayed in violation of a restrictive covenant permitted by this section.

Amendment No. 8 was adopted.

**Amendment No. 9**

Representative Harper-Brown offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Solomons to **CSHB 1976** (house committee printing) as follows: by adding the following appropriately numbered sections and renumbering existing sections accordingly:

Add SECTION \_\_\_\_\_. The changes in law provided for in this act do not apply to mixed use master associations founded before January 1, 1974, and that do not have governing documents that allow for the imposition of fines.

Amendment No. 9 was adopted.

**Amendment No. 10**

Representative Truitt offered the following amendment to Amendment No. 1:

Amend **CSHB 1976** by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Section 171.1011, Tax Code, is amended by adding Subsection (g-7) to read as follows:

(g-7) A taxable entity that is a property owners' association shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), assessments received by the association and used for the benefit of the residential subdivision. In this subsection, "assessment," "property owners' association," and "residential subdivision" have the meanings assigned by Section 209.002, Property Code.

(b) This section applies only to a report originally due on or after the effective date of this section.

(c) This section takes effect January 1, 2010.

Amendment No. 10 was adopted.

**Amendment No. 11**

Representative Parker offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by Solomons to **CSHB 1976** as follows:

(1) On page 5, line 12, strike "or".

(2) On page 5, line 15, between "30 days" and the period, insert the following:

; or

(4) during a development period, as defined by Section 202.011, to remove a sign that is prohibited by a dedicatory instrument

(3) On page 8, between lines 16 and 17, insert the following:

(c) This section does not apply to a dedicatory instrument or to the amendment of a dedicatory instrument during a development period, as defined by Section 202.011.

(4) On page 9, between lines 2 and 3, insert the following:

(c) This section does not apply to a dedicatory instrument or to the amendment of a dedicatory instrument pertaining to a capital improvement on a vacant lot owned by a developer or home builder during a development period, as defined by Section 202.011.

(5) On page 26, between lines 7 and 8, insert the following:

(c) This section does not apply during a period stated in a declaration during which a declarant reserves a right to appoint and remove officers and directors of the property owners' association.

Amendment No. 11 was adopted.

### **Amendment No. 12**

Representative Eiland offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Solomons to **CSHB 1976** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 82.102, Property Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) Unless otherwise provided by the declaration, the association, acting through its board, may:

- (1) adopt and amend bylaws;
- (2) adopt and amend budgets for revenues, expenditures, and reserves, and collect assessments for common expenses from unit owners;
- (3) hire and terminate managing agents and other employees, agents, and independent contractors;
- (4) institute, defend, intervene in, settle, or compromise litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;
- (5) make contracts and incur liabilities relating to the operation of the condominium;
- (6) regulate the use, maintenance, repair, replacement, modification, and appearance of the condominium;
- (7) adopt and amend rules regulating the use, occupancy, leasing or sale, maintenance, repair, modification, and appearance of units and common elements, to the extent the regulated actions affect common elements or other units;
- (8) cause additional improvements to be made as a part of the common elements;
- (9) acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, except common elements of the condominium;

(10) grant easements, leases, licenses, and concessions through or over the common elements;

(11) impose and receive payments, fees, or charges for the use, rental, or operation of the common elements and for services provided to unit owners;

(12) impose interest and late charges for late payments of assessments, returned check charges, and, if notice and an opportunity to be heard are given in accordance with Subsection (d), reasonable fines for violations of the declaration, bylaws, and rules of the association;

(13) adopt and amend rules regulating the collection of delinquent assessments and the application of payments;

(14) adopt and amend rules regulating the termination of utility service to a unit, the owner of which is delinquent in the payment of an assessment that is used, in whole or in part, to pay the cost of that utility;

(15) impose reasonable charges for preparing, recording, or copying declaration amendments, resale certificates, or statements of unpaid assessments;

(16) enter a unit for bona fide emergency purposes when conditions present an imminent risk of harm or damage to the common elements, another unit, or the occupants;

(17) ~~assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration so provides;~~

~~(18)~~ suspend the voting privileges of or the use of certain general common elements by an owner delinquent for more than 30 days in the payment of assessments;

~~(18)~~ ~~(19)~~ purchase insurance and fidelity bonds it considers appropriate or necessary;

~~(19)~~ ~~(20)~~ exercise any other powers conferred by the declaration or bylaws;

~~(20)~~ ~~(21)~~ exercise any other powers that may be exercised in this state by a corporation of the same type as the association; and

~~(21)~~ ~~(22)~~ exercise any other powers necessary and proper for the government and operation of the association.

(f) The association by resolution of the board of directors may borrow money unless prohibited by the declaration, articles of incorporation, bylaws, rules, or other restrictions. If the board of directors issues a resolution under this subsection, the association may assign the association's right to future income, including the right to receive common expense assessments and assign the association's lien rights, as collateral for the loan authorized by the resolution. The association shall comply with any member approval requirement in the association's declaration, articles of incorporation, bylaws, rules, or other restrictions for borrowing money, except that not more than 67 percent of all outstanding votes are required to approve an authorization to borrow money.

SECTION \_\_\_\_\_. Sections 82.111(c) and (i), Property Code, are amended to read as follows:

(c) If the insurance described by Subsections (a) and (b) is not reasonably available, the association shall cause notice of that fact to be delivered or mailed to all unit owners and lienholders. The declaration may require the association to

carry any other insurance, and the association in any event may carry any other insurance the board considers appropriate to protect the condominium, the association, or the unit owners. Insurance policies carried under Subsection (a) may provide for commercially reasonable deductibles as the board considers appropriate or necessary. This section does not affect the right of a holder of a mortgage on a unit to require a unit owner to acquire insurance in addition to that provided by the association.

(i) Any portion of the condominium for which insurance is required that is damaged or destroyed shall be promptly repaired or replaced by the association unless the condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance, or at least 80 percent of the unit owners, including each owner of a unit or assigned limited common element that will not be rebuilt or repaired, vote to not rebuild. A vote to not rebuild does not increase an insurer's liability to loss payment obligation under a policy, and the vote does not cause a presumption of total loss. The cost of repair or replacement in excess of the insurance proceeds and reserves is a common expense. Costs of repair or replacement incurred before any insurance proceeds are available, or that are within the association's deductible, shall be paid as determined by resolution of the board of directors of the association, or, if the board does not approve a resolution, the costs are a common expense. A resolution regarding payment of costs under this subsection is considered a dedicatory instrument and must be recorded in each location in which the declaration is recorded. If the entire condominium is not repaired or replaced, any insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, the insurance proceeds attributable to units and limited common elements that are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were assigned, or to their mortgagees, as their interests may appear, and the remainder of the proceeds shall be distributed to all the unit owners as their interests may appear. If the unit owners vote to not rebuild any unit, that unit's allocated interests shall be automatically reallocated on the vote as if the unit had been condemned, and the association shall prepare, execute, and record an amendment to the declaration reflecting the reallocation. Section 82.068 governs the distribution of insurance proceeds if the condominium is terminated.

SECTION \_\_\_\_\_. Section 82.113(g), Property Code, is amended to read as follows:

(g) The owner of a unit ~~[used for residential purposes and]~~ purchased ~~[by an association]~~ at a foreclosure sale of the association's lien for assessments may redeem the unit not later than the 90th day after the date of the foreclosure sale. If the association is the purchaser [To redeem the unit], the owner must pay to the association to redeem the unit all amounts due the association at the time of the foreclosure sale, interest from the date of foreclosure sale to the date of redemption at the rate provided by the declaration for delinquent assessments, reasonable attorney's fees and costs incurred by the association in foreclosing the lien, any assessment levied against the unit by the association after the

foreclosure sale, and any reasonable cost incurred by the association as owner of the unit, including costs of maintenance and leasing. If a party other than the association is the purchaser, the redeeming owner must pay to the purchaser of the unit at the foreclosure sale an amount equal to the amount bid at the sale, interest on the bid amount computed from the date of the foreclosure sale to the date of redemption at the rate of six percent, any assessment paid by the purchaser after the date of foreclosure, and any reasonable costs incurred by the purchaser as the owner of the unit, including costs of maintenance and leasing. The redeeming owner must also pay to the association all assessments that are due as of the date of the redemption and reasonable attorney's fees and costs incurred by the association in foreclosing the lien. On redemption, the purchaser of the unit at the foreclosure sale [association] shall execute a deed with no warranty to the redeeming unit owner. The exercise of the right of redemption is not effective against a subsequent purchaser or lender for value without notice of the redemption after the redemption period expires unless the redeeming unit owner records the deed from the purchaser of the unit at the foreclosure sale [association] or an affidavit stating that the owner has exercised the right of redemption. A unit that has been redeemed remains subject to all liens and encumbrances on the unit before foreclosure. All rents and other income collected from the unit by the purchaser of the unit at the foreclosure sale [association] from the date of foreclosure sale to the date of redemption belong to the purchaser of the unit at the foreclosure sale [association], but the rents and income shall be credited against the redemption amount. The purchaser of [An association purchasing] a unit at a sale foreclosing an association's assessment [its] lien may not transfer ownership of the unit during the redemption period to a person other than a redeeming owner.

SECTION \_\_\_\_\_. (a) Section 82.111(i), Property Code, as amended by this Act, applies only to payment of costs incurred on or after the effective date of this Act. Payment of costs incurred before the effective date of this Act are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 82.113(g), Property Code, as amended by this Act, applies only to a condominium unit sold at a foreclosure sale on or after the effective date of this Act. A unit sold at a foreclosure sale before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 12 was withdrawn.

Amendment No. 1, as amended, was adopted.

**CSHB 1976**, as amended, was passed to engrossment. (Button, Christian, Flynn, Hochberg, Hunter, D. Miller, Parker, Phillips, Riddle, and Sheffield recorded voting no.)



**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Hunter requested permission for the Committee on Judiciary and Civil Jurisprudence to meet while the house is in session, at 8 p.m. today, in 3W.9, for a formal meeting, to consider pending business.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Judiciary and Civil Jurisprudence, 8 p.m. today, 3W.9, for a formal meeting, to consider pending business.

**HB 1988 ON SECOND READING  
(by McReynolds and Christian)**

**HB 1988**, A bill to be entitled An Act relating to the duties of a peace officer in connection with the suspension of a driver's license for a failure to pass a blood or breath test for intoxication or the presence of alcohol.

**HB 1988** was passed to engrossment.

**POSTPONED BUSINESS**

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

**CSHB 562 ON SECOND READING  
(by Madden)**

**CSHB 562**, A bill to be entitled An Act relating to employment qualifications and compensation of certain county employees.

**CSHB 562** was read second time earlier today, amendments were offered and disposed of, and **CSHB 562** was postponed until this time.

Representative Madden moved to postpone consideration of **CSHB 562** until 10 a.m. Friday, December 25.

The motion prevailed.

**GENERAL STATE CALENDAR  
(consideration continued)****HB 1937 ON SECOND READING  
(by Villarreal, et al.)**

**HB 1937**, A bill to be entitled An Act relating to the voluntary assessment of property owners by a municipality to finance certain energy conservation improvements.

**Amendment No. 1**

Representative Villarreal offered the following amendment to **HB 1937**:

Amend **HB 1937** as follows:

- (1) On page 3, line 9, strike "briefly" and substitute "thoroughly".
- (2) On page 4, line 16, strike "and".
- (3) On page 4, line 19, add the following after the semicolon:

and

(E) a method for ensuring that property owners requesting financing demonstrate the financial ability to fulfill financial obligations under the contractual assessments;

(Bonnen in the chair)

Amendment No. 1 was adopted.

**HB 1937**, as amended, was passed to engrossment. (Anderson, Bohac, Button, C. Howard, Hunter, D. Miller, Parker, Phillips, and Riddle recorded voting no.)

### **POSTPONED BUSINESS**

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

#### **CSHB 2669 ON SECOND READING (by Crossover, et al.)**

**CSHB 2669**, A bill to be entitled An Act relating to the implementation of projects involving the capture, injection, sequestration, or geologic storage of carbon dioxide.

**CSHB 2669** was read second time on May 12, postponed until May 13, postponed until 6 a.m. today, and was again postponed until this time.

Representative Crossover moved to postpone consideration of **CSHB 2669** until 8:30 p.m. today.

The motion prevailed.

#### **GENERAL STATE CALENDAR (consideration continued)**

#### **SB 495 ON SECOND READING (Herrero, Ortiz, Hunter, Gonzalez Toureilles, and Anchia - House Sponsors)**

**SB 495**, A bill to be entitled An Act relating to creating a recognition day in honor of Dr. Hector P. Garcia.

**SB 495** was considered in lieu of **HB 661**.

**SB 495** was passed to third reading.

#### **HB 661 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Herrero moved to lay **HB 661** on the table subject to call.

The motion prevailed.

#### **CSHB 708 ON SECOND READING (by Rose)**

**CSHB 708**, A bill to be entitled An Act relating to coordination of postsecondary curricula and to the publication of transfer guidelines for academic planning to support academic progress by students enrolled at public institutions of higher education.

**Amendment No. 1**

Representative Callegari offered the following amendment to **CSHB 708**:

Amend **CSHB 708** (House Committee Report) by adding the following SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Chapter 111, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. UNIVERSITY OF HOUSTON HURRICANE CENTER FOR INNOVATIVE TECHNOLOGY

Sec. 111.121. DEFINITIONS. In this subchapter:

(1) "Board" means the board of regents of the University of Houston System.

(2) "Center" means the University of Houston Hurricane Center for Innovative Technology (UHC-IT) established under this subchapter.

Sec. 111.122. ESTABLISHMENT. (a) The University of Houston Hurricane Center for Innovative Technology is established at the University of Houston.

(b) The organization, control, and management of the center are vested in the board.

(c) The center shall be hosted by the university's College of Engineering. Participation in the center's activities shall be open to any faculty member of the university who is an active researcher in the field of materials, nanotechnology, structural engineering, designing of structures, or sensor technology, or in another relevant field as determined by the university.

Sec. 111.123. PURPOSE. The center is created to:

(1) promote interdisciplinary research, education, and training for the development of state-of-the-art products, materials, systems, and technologies designed to mitigate the wind, and asserted structural damages in the built environment and offshore structures caused by hurricanes in the Gulf Coast region; and

(2) develop protocols for the fast and efficient recovery of the public and private sectors, including utilities, hospitals, petrochemical industries, offshore platforms, and municipalities and other local communities following a hurricane.

Sec. 111.124. POWERS AND DUTIES. The center shall:

(1) collaborate with appropriate federal, state, and local agencies and private business or nonprofit entities as necessary to coordinate efforts after a hurricane in the Gulf Coast region;

(2) develop smart materials and devices for use in hurricane protection and mitigation systems for structural monitoring;

(3) develop anchor systems for window and door screens, dwellings and other buildings, pipelines, and other onshore and offshore structures to withstand hurricane wind damage;

(4) develop test facilities for evaluating the performance of new products, materials, or techniques designed to protect against hurricane wind damage;

(5) develop specifications and standards for products used for protecting against hurricane wind damage;

(6) design buildings, houses, and other structures to withstand hurricane wind damage; and

(9) provide hurricane-related educational programs, seminars, conferences, and workshops to the community designed to ensure safety, minimize loss of life, and mitigate the destruction of property associated with hurricane wind damage.

Sec. 111.125. COLLABORATION WITH OTHER ENTITIES. The University of Houston shall encourage public and private entities to participate in or support the operation of the center and may enter into an agreement with any public or private entity for that purpose. An agreement may allow the center to provide information, services, or other assistance to an entity in exchange for the entity's participation or support.

Sec. 111.126. GIFTS AND GRANTS. The board may solicit, accept, and administer gifts and grants from any public or private source for the purposes of the center.

Sec. 111.127. PERSONNEL. The board may employ personnel for the center as necessary.

Amendment No. 1 was adopted.

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

Representative Alonzo offered the following amendment to **CSHB 708**:

Amend **CSHB 708** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 51.907(a) and (b), Education Code, are amended to read as follows:

(a) In this section, "governing board," ~~and~~ "institution of higher education," and "public junior college" have the meanings assigned by Section 61.003.

(b) This section applies only to an undergraduate student who drops a course at an institution of higher education other than a public junior college and only if:

(1) the student was able to drop the course without receiving a grade or incurring an academic penalty;

(2) the student's transcript indicates or will indicate that the student was enrolled in the course; and

(3) the student is not dropping the course in order to withdraw from the institution.

Amendment No. 2 was adopted.

**CSHB 708**, as amended, was passed to engrossment.

#### **POSTPONED BUSINESS**

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

**CSHB 498 ON SECOND READING****(by McClendon, Thompson, Gallego, Hodge, Pierson, et al.)**

**CSHB 498**, A bill to be entitled An Act relating to the creation of a commission to investigate and prevent wrongful convictions.

**CSHB 498** was read second time earlier today and was postponed until this time.

**CSHB 498 - POINT OF ORDER**

Representative Driver raised a point of order against further consideration of **CSHB 498** under Rule 4, Section 18; Rule 4, Section 32; and Rule 4, Section 48 of the House Rules on the grounds that the committee minutes are incomplete, the bill analysis is incorrect, and the substitute was offered prior to testimony being taken.

The speaker overruled the point of order and submitted the following statement:

Mr. Driver raises a point of order under this rule and argues that the minutes of March 9 and/or April 8, 2009, do not constitute "complete minutes of the proceeding in committee," because the minutes do not reflect **HB 498** being recalled from subcommittee.

House Rules give the chair of a committee substantial discretion and latitude in appointing and scheduling the work of a subcommittee. (See Rule 4, Section (6)(2) and Rule 4, Sections 43, 44, 48, and 50). There is no requirement in the House Rules that action be taken by the full committee in order for the chair to perform its administrative functions nor is there a requirement that these functions be referenced in the minutes or the committee action report.

The chair of the committee may recall a bill from subcommittee and lay out a bill before the full committee at any time. These are long-standing practices of the house and are consistent with the rules. The chair can find no precedent that would limit a committee chair's powers to perform these functions.

Mr. Driver raises a point of order under this rule and argues that the bill analysis fails to include an accurate summary of the committee hearing on the bill because they do not reflect the bill as being recalled from the subcommittee and that the bill analysis is materially false and misleading.

As stated above, the chair of the committee may recall a bill from subcommittee and lay out a bill before the full committee at any time. There is no requirement that these functions be referenced in the minutes or the committee action report.

Furthermore, the chair finds that the bill analysis, which is a summary analysis, accurately reflects the substance of the bill in compliance with the House Rules, and therefore, is not materially or substantially misleading.

Mr. Driver raises a point of order under this rule and argues that the rule was violated because the subcommittee offered a complete substitute prior to testimony being taken.

In reading the rule in context, it is clear that the rule is meant only to ensure that the subcommittee starts with the original bill as filed without action or modification from the standing committee. Furthermore, the chair finds that the subcommittee properly considered the introduced version of **HB 498** and then laid out a substitute for consideration which is in compliance with the rules.

The point of order is respectfully overruled.

**Amendment No. 1**

Representative Phillips offered the following amendment to **CSHB 498**:

Amend **CSHB 498** (House Committee Report) as follows:

In SECTION 1 of the bill, on page 3, strike lines 12-17.

Amendment No. 1 was adopted.

**CSHB 498**, as amended, was passed to engrossment. (Anderson, Berman, Button, Hunter, Laubenberg, D. Miller, and Riddle recorded voting no.)

**GENERAL STATE CALENDAR**  
**(consideration continued)**

**CSHB 662 ON SECOND READING**  
**(by Ortiz, Chavez, Coleman, Cook, Lucio, et al.)**

**CSHB 662**, A bill to be entitled An Act relating to the operation of a motor vehicle by a person under 18 years of age while using a wireless communications device.

**Amendment No. 1**

Representative Ortiz offered the following amendment to **CSHB 662**:

Amend **CSHB 662** (house committee printing) as follows:

(1) On page 2, strike lines 10-12 and substitute:

unless the wireless communication device is used in case of an emergency.

(2) On page 2, strike lines 19-23 and substitute:

(f) In this section, "wireless communication device" means a hand-held or hands-free device that uses commercial mobile service, as defined by 47 U.S.C. Section 332.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Menendez offered the following amendment to **CSHB 662**:

Amend **CSHB 662** on page 2, line 21, between the "device" and the period by inserting "while operating a device of the type that the person is licensed to operate".

Amendment No. 2 was adopted.

**CSHB 662**, as amended, was passed to engrossment. (Anderson, Button, Christian, Flynn, C. Howard, D. Miller, and Peña recorded voting no.)

**SB 595 ON SECOND READING**  
**(Gallego - House Sponsor)**

**SB 595**, A bill to be entitled An Act relating to the sealing of and discovery procedures relating to evidence that constitutes child pornography in a criminal hearing or proceeding.

**SB 595** was considered in lieu of **HB 2067**.

**SB 595** was passed to third reading.

**HB 2067 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Gallego moved to lay **HB 2067** on the table subject to call.

The motion prevailed.

**HB 2087 ON SECOND READING**  
**(by Homer)**

**HB 2087**, A bill to be entitled An Act relating to the state's statutory and contractual liens to secure the payment of unpaid royalty and other amounts due under oil and gas leases of state land.

Representative Homer moved to postpone consideration of **HB 2087** until 10 a.m. Friday, August 28.

The motion prevailed.

**CSHB 2038 ON SECOND READING**  
**(by Isett)**

**CSHB 2038**, A bill to be entitled An Act relating to the regulation of structural pest control.

**CSHB 2038** was passed to engrossment.

**HB 2012 ON SECOND READING**  
**(by Vaught, Kent, S. King, and Gattis)**

**HB 2012**, A bill to be entitled An Act relating to the criminal consequences of operating without a valid driver's license a motor vehicle for which financial responsibility is not established.

**Amendment No. 1**

Representative S. Turner offered the following amendment to **HB 2012**:

Amend **HB 2012** by adding an appropriately numbered SECTION to the article to read as follows and by renumbering existing SECTIONS of the article accordingly:

SECTION \_\_\_\_\_. (a) The Legislative Budget Board shall prepare an annual criminal justice policy impact statement for this Act.

(b) The impact statement must include information concerning:

(1) the number of arrests and resulting criminal dispositions under this Act;

(2) the fiscal impact of arrest, trials, convictions, and imprisoning or imposing other sanctions on persons in accordance with this Act;

(3) the race and ethnicity of persons arrested, prosecuted, convicted, and incarcerated under this Act;

(4) the impact of this Act on existing correctional facilities, as defined by Section 1.07, Penal Code;

(5) the likelihood that this Act may create a need for additional prison capacity;

(6) civil action damages assessed and collected, and assets seized and forfeited under this Act; and

(7) any other matter the Legislative Budget Board determines relevant.

(c) The Legislative Budget Board shall complete the impact statement not later than December 1 each year, beginning December 1, 2010, and make it available to the public on its website.

Amendment No. 1 was adopted.

### **HB 2012 - POINT OF ORDER**

Representative Dutton raised a point of order against further consideration of **HB 2012** under Rule 4, Section 32 of the House Rules on the grounds that the bill analysis is incorrect.

The point of order was withdrawn.

Representative Vaught moved to postpone consideration of **HB 2012** until 9 p.m. today.

The motion prevailed.

### **HB 2411 ON SECOND READING**

**(by Fletcher and S. Miller)**

**HB 2411**, A bill to be entitled An Act relating to the criminal penalty for unlawfully obtaining, lending, possessing, or using a driver's license or personal identification certificate.

Representative Fletcher moved to postpone consideration of **HB 2411** until 8:30 p.m. today.

The motion prevailed.

### **POSTPONED BUSINESS**

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

### **CSHB 2279 ON SECOND READING**

**(by Thompson, et al.)**

**CSHB 2279**, A bill to be entitled An Act relating to the provision of and billing for certain diagnostic imaging services.

**CSHB 2279** was read second time earlier today and was postponed until this time.

Representative Thompson moved to postpone consideration of **CSHB 2279** until 9:30 p.m. today.

The motion prevailed.



**CSHB 280 ON SECOND READING**  
**(by Anchia, Farrar, Burnam, Kent, et al.)**

**CSHB 280**, A bill to be entitled An Act relating to energy efficiency goals and programs and demand reduction targets; creating an office of energy efficiency deployment in the state energy conservation office.

**CSHB 280** was read second time on May 13, postponed until 9 a.m. today, and was again postponed until this time.

Representative Anchia moved to postpone consideration of **CSHB 280** until 8:45 p.m. today.

The motion prevailed.

**GENERAL STATE CALENDAR**  
**(consideration continued)**

**HB 2128 ON SECOND READING**  
**(by Giddings)**

**HB 2128**, A bill to be entitled An Act relating to the enforcement of regulations regarding the sale of plastic bulk merchandise containers.

**HB 2128** was passed to engrossment. (Flynn and Hunter recorded voting no.)

**CSHB 2245 ON SECOND READING**  
**(by S. Turner)**

**CSHB 2245**, A bill to be entitled An Act relating to the sealing of and restricted access to juvenile records of adjudications of delinquent conduct or conduct indicating a need for supervision.

**CSHB 2245** was passed to engrossment. (Anderson, Button, Christian, Flynn, C. Howard, Hunter, and D. Miller recorded voting no.)

**HB 2267 ON SECOND READING**  
**(by Hodge and Dutton)**

**HB 2267**, A bill to be entitled An Act relating to the joint or separate prosecution of a capital felony charged against two or more defendants and the extent of a defendant's criminal responsibility for the conduct of a conspirator in capital felony cases.

**HB 2267** was passed to engrossment. (Anderson, Bohac, Branch, Button, Flynn, C. Howard, Hunter, D. Miller, Phillips, Riddle, and Vaught recorded voting no.)

**HB 2224 ON SECOND READING**  
**(by Parker and Button)**

**HB 2224**, A bill to be entitled An Act relating to the minimum standards for licensed child-care facilities and registered family homes.

**Amendment No. 1**

Representative Parker offered the following amendment to **HB 2224**:

Amend **HB 2224** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. This Act shall be known as Paisley's Law.

Amendment No. 1 was withdrawn.

**Amendment No. 2**

Representative Gutierrez offered the following amendment to **HB 2224**:

Amend **HB 2224** (house committee printing) as follows:

(1) On page 1, strike lines 5 and 6, and substitute the following:

SECTION 1. Section 42.042, Human Resources Code, is amended by amending Subsection (e) and adding Subsection (e-2) to read as follows:

(2) On page 1, line 24, strike "and".

(3) On page 2, line 4, between "child" and the period insert the following:

; and

(9) ensure that food served in a day-care center, a group day-care home, or a family home meets the federal nutritional guidelines of the child and adult care food program under 42 U.S.C. Section 1766

(4) On page 2, between lines 4 and 5, insert the following:

(e-2) The department shall collaborate with the Department of Agriculture in developing minimum standards under Subsection (e)(9) relating to healthy food service.

(5) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Section 42.0421, Human Resources Code, is amended by adding Subsection (e) to read as follows:

(e) The department shall develop and implement minimum training standards for day-care centers, group day-care homes, or family homes that address the role that those child-care providers have in preventing obesity and overweight conditions among preschool-age children, including the promotion of proper nutrition and appropriate physical activity.

**Amendment No. 3**

Representative Madden offered the following amendment to Amendment No. 2:

Amend **HB 2224** (house committee printing) as follows:

(1) On page 1, strike lines 5 and 6, and substitute the following:

SECTION 1. Section 42.042, Human Resources Code, is amended by amending Subsection (e) and adding Subsection (e-2) to read as follows:

(2) On page 1, line 24, strike "and".

(3) On page 2, line 4, between "child" and the period insert the following:

; and

(9) ensure that food served in a day-care center or a group day-care home meets the federal nutritional guidelines of the child and adult care food program under 42 U.S.C. Section 1766

(4) On page 2, between lines 4 and 5, insert the following:

(e-2) The department shall collaborate with the Department of Agriculture in developing minimum standards under Subsection (e)(9) relating to healthy food service.

(5) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Section 42.0421, Human Resources Code, is amended by adding Subsection (e) to read as follows:

(e) The department shall develop and implement minimum training standards for day-care centers or group day-care homes that address the role that those child-care providers have in preventing obesity and overweight conditions among preschool-age children, including the promotion of proper nutrition and appropriate physical activity.

Amendment No. 3 was adopted.

Amendment No. 2, as amended, failed of adoption.

(Hartnett, Peña, and Taylor now present)

#### **Amendment No. 4**

Representative Menendez offered the following amendment to **HB 2224**:

**HB 2224** is amended by adding the following:

SECTION \_\_\_\_\_. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.064 to read as follows:

Sec. 42.064. RETALIATION AGAINST EMPLOYEES PROHIBITED. (a) In this section, "employee" means a person who is an employee of a child-care facility or any other person who provides services for a child-care facility for compensation.

(b) An employee has a cause of action against a child-care facility, or the owner or another employee of a child-care facility, that suspends or terminates the employment of the person or otherwise disciplines, discriminates against, or retaliates against the employee for:

(1) reporting to the employee's supervisor, an administrator of the child-care facility, a state regulatory agency, or a law enforcement agency a violation of law, including a violation of this chapter or a rule adopted under this chapter; or

(2) initiating or cooperating in any investigation or proceeding of a governmental entity relating to care, services, or conditions at the child-care facility.

(c) The petitioner may recover:

(1) the greater of \$1,000 or actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown, and damages for lost wages if the petitioner's employment was suspended or terminated;

- (2) exemplary damages;
- (3) court costs; and
- (4) reasonable attorney's fees.

(d) In addition to the amounts that may be recovered under Subsection (c), a person whose employment is suspended or terminated is entitled to appropriate injunctive relief, including, if applicable:

- (1) reinstatement in the person's former position; and
- (2) reinstatement of lost fringe benefits or seniority rights.

(e) Not later than the second anniversary of the date the person's employment is suspended or terminated, or the person is otherwise subjected to discipline, discrimination, or retaliation, the petitioner must bring suit or notify the Texas Workforce Commission of the petitioner's intent to sue under this section. A petitioner who notifies the commission under this subsection must bring suit not later than the 90th day after the date the notice is delivered to the commission. On receipt of the notice, the commission shall notify the child-care facility of the petitioner's intent to bring suit under this section.

(f) The petitioner has the burden of proof in a suit brought under this section, except that there is a rebuttable presumption that the person's employment was suspended or terminated or the person was otherwise subjected to discipline, discrimination, or retaliation for reporting abuse or neglect if the adverse action was taken on or before the 60th day after the date the person reported in good faith.

(g) A suit under this section may be brought in the district court of the county in which:

- (1) the petitioner resides;
- (2) the petitioner was employed by the defendant; or
- (3) the defendant conducts business.

(h) Each child-care facility shall require each employee of the child-care facility, as a condition of employment with the child-care facility, to sign a statement that the employee understands the employee's rights under this section.

SECTION \_\_\_\_\_. Section 42.064, Human Resources Code, as added by this Act, applies only to an employee who is suspended, terminated, or otherwise subjected to discipline, discrimination, or retaliation on or after the effective date of this Act.

SECTION \_\_\_\_\_. This Act takes effect on September 1, 2009.

Amendment No. 4 was adopted.

#### **Amendment No. 5**

Representative Parker offered the following amendment to **HB 2224**:

Amend **HB 2224** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. This Act shall be known as Paisley's Law.

Amendment No. 5 was adopted.

**HB 2224**, as amended, was passed to engrossment. (Phillips and Riddle recorded voting no.)

(Hilderbran, C. Howard, and P. King now present)

**HB 2224 ON THIRD READING**  
**(by Parker and Button)**  
**CONSTITUTIONAL RULE SUSPENDED**

Representatives Craddick and McCall moved to suspend the constitutional rule requiring bills to be read on three several days and to place **HB 2224** on its third reading and final passage.

The motion prevailed by (Record 865): 141 Yeas, 0 Nays, 3 Present, not voting.

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

Present, not voting — Mr. Speaker; Chisum; Hartnett.

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Oliveira; Pitts; Villarreal.

Absent — Phillips; Riddle.

The chair laid **HB 2224** before the house on its third reading and final passage.

**HB 2224** was read third time and was passed by (Record 866): 141 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Aycock; Berman; Bohac; Bolton; Bonnen(C); Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England;

Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Hartnett; Phillips.

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Oliveira; Pitts; Villarreal.

Absent — King, S.; Riddle.

### PARLIAMENTARY INQUIRY

REPRESENTATIVE WEBER: In the interest of time, we often raise a point of order, then we withdraw that point of order and postpone the bill. The bill comes back up and we never hear what was the outcome of the point of order, because it was withdrawn. My question is, in order to receive a formal ruling on the point of order, and have that ruling put into the journal, do we need to re-raise that point of order once we're back on that postponed bill?

CHAIR: Mr. Weber, if there is no point of order, nothing will be put in the journal, but many times people do ask for there to be a record put in the journal and then, in turn, we do that.

WEBER: But my question—there was a point of order on a bill, that was brought down front, the bill was postponed, and then the bill comes back up and we never get to hear the ruling on what the ruling was on the point of order.

CHAIR: Are you speaking to a specific point of order, Mr. Weber?

WEBER: Correct.

CHAIR: What point of order would that be, Mr. Weber?

WEBER: Well, on any given bill—it can be germaneness, it can be a HRO report was—any given point of order.

CHAIR: Mr. Weber, I want to be very clear: those points of order are withdrawn; they have to be recalled.

WEBER: Alright, then they have to be re-raised? Okay, do we have to, at that point in time, make a formal request from the back mic to get the point of order—if there's going to be a point of order either ruled—or overruled, I should say—do we have to always come to the back mic to make a request to have that put in writing?

CHAIR: Mr. Weber, being at that time there is no point of order—there is no ruling. When the point of order is re-raised, there is then a ruling, and it will be placed—and it has, and will be placed—in the journal.

WEBER: But do we need to come to the back mic to make that request? Can we do it from the front?

CHAIR: No, you do not need to always have to come to the back mic to make that request, Mr. Weber.

WEBER: Okay, earlier today—let me ask you about a specific bill, **HB 498**—Mr. Driver raised several points of order that were postponed, and I believe they were overruled. Is that correct?

CHAIR: You are exactly correct.

WEBER: Would the chair recognize me to make a motion to put that overruling in the journal?

CHAIR: There's no need to, because Mr. Driver has already worked with the chair and that is already occurring, Mr. Weber.

WEBER: It's already going to be in the journal?

CHAIR: That is correct.

WEBER: Thank you.

CHAIR: It's not in the journal yet, Mr. Weber, but it will be.

### **REMARKS ORDERED PRINTED**

Representative Driver moved to print remarks between Representative Weber and the chair.

The motion prevailed.

### **POSTPONED BUSINESS**

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

#### **SB 1387 ON SECOND READING (Crownover - House Sponsor)**

**SB 1387**, A bill to be entitled An Act relating to the implementation of projects involving the capture, injection, sequestration, or geologic storage of carbon dioxide.

**SB 1387** was considered in lieu of **CSHB 2669**.

**SB 1387** was read second time.

**SB 1387 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE STRAMA: Are you aware that EPA has proposed a rule that would require production of naturally occurring CO2 for use in enhanced oil recovery operations to be reported as CO2 emissions?

REPRESENTATIVE CROWNOVER: Yes.

STRAMA: Are you also aware that enhanced oil recovery using naturally occurring CO2 is responsible for about 20 percent of oil production in the State of Texas?

CROWNOVER: Yes.

STRAMA: Is it your understanding that, generally speaking, CO2 injected for enhanced oil recovery remains underground and is not emitted into the atmosphere?

CROWNOVER: Yes.

STRAMA: Do you agree that it is bad policy for EPA to require natural CO2 sources who supply CO2 for enhanced oil recovery to report the total volume of their production as CO2 emissions without taking into account the fact that the CO2 generally remains underground and is not released to the atmosphere?

CROWNOVER: Yes.

STRAMA: If the EPA does adopt such regulations, would it be your intent to have naturally occurring CO2 treated in the same manner as anthropogenic CO2 with regard to available federal benefits?

CROWNOVER: Yes.

STRAMA: Could these benefits include emissions reductions or equivalents or other recognition of underground capture of CO2 during the EOR process?

CROWNOVER: Yes.

STRAMA: Would it also be your intent that the Railroad Commission has enough jurisdiction under this bill to implement such treatment for naturally occurring CO2 under any such potential EPA rule?

CROWNOVER: Yes.

**REMARKS ORDERED PRINTED**

Representative Strama moved to print remarks between Representative Crownover and Representative Strama.

The motion prevailed.

**SB 1387** was passed to third reading.

**CSHB 2669 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Crownover moved to lay **CSHB 2669** on the table subject to call.

The motion prevailed.



**GENERAL STATE CALENDAR  
(consideration continued)**

**HB 2142 ON SECOND READING  
(by McClendon)**

**HB 2142**, A bill to be entitled An Act relating to the promotion of toll projects by the Texas Department of Transportation.

**HB 2142** was passed to engrossment.

**CSHB 836 ON SECOND READING  
(by S. Miller, Christian, and Guillen)**

**CSHB 836**, A bill to be entitled An Act relating to hunting of feral hogs by helicopter.

**Amendment No. 1**

Representative S. Miller offered the following amendment to **CSHB 836**:

Amend **CSHB 836** by striking SECTION 1 of the bill (lines 4 through 13) and substituting the following:

SECTION 1. Section 43.109, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

(c) A proclamation or regulation of the commission adopted under this subchapter may not prohibit a person or the person's agent or lessee who holds a landowner's authorization and a permit under this subchapter from using a helicopter to take depredated feral hogs.

**CSHB 836 - POINT OF ORDER**

Representative Thibaut raised a point of order against further consideration of **CSHB 836**.

The point of order was withdrawn.

Representative S. Miller moved to postpone consideration of **CSHB 836** until 9:30 p.m. today.

The motion prevailed.

**CSHB 831 ON SECOND READING  
(by Taylor, Peña, Fletcher, Oliveira, Sheffield, et al.)**

**CSHB 831**, A bill to be entitled An Act relating to exempting from ad valorem taxation property used by certain nonprofit community business organizations to provide services to aid in the economic development of local communities.

**Amendment No. 1**

Representative Gallego offered the following amendment to **CSHB 831**:

Amend **CSHB 831** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 11.18(d), Tax Code, as amended by Chapters 1034 (**HB 1742**) and 1341 (**SB 1908**), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more of the following charitable functions:

(1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits in accordance with Section 11.1801;

(2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3) providing support without regard to the beneficiaries' ability to pay to:

(A) elderly persons, including the provision of:

(i) recreational or social activities; and

(ii) facilities designed to address the special needs of elderly

persons; ~~];~~ or

(B) ~~to~~ the handicapped, including training and employment under 41 U.S.C. Sections 46-48c:

(i) in the production of commodities; or

(ii) in the provision of services ~~[without regard to the beneficiaries' ability to pay];~~

(4) preserving a historical landmark or site;

(5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6) promoting or providing humane treatment of animals;

(7) acquiring, storing, transporting, selling, or distributing water for public use;

(8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9) promoting the athletic development of boys or girls under the age of 18 years;

(10) preserving or conserving wildlife;

(11) promoting educational development through loans or scholarships to students;

(12) providing halfway house services pursuant to a certification as a halfway house by the parole ~~[pardons and paroles]~~ division of the Texas Department of Criminal Justice;

(13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;

(17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended;

(18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);

(19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:

(A) without regard to the residents' ability to pay; or

(B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents;

(20) providing housing on a cooperative basis to students of an institution of higher education if:

(A) the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C) the organization is governed by its members; and

(D) the members of the organization share the responsibility for managing the housing;

(21) acquiring, holding, and transferring unimproved real property under an urban land bank demonstration program established under Chapter 379C, Local Government Code, as or on behalf of a land bank; or

(22) acquiring, holding, and transferring unimproved real property under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land bank.

SECTION \_\_\_\_\_. To the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Hughes offered the following amendment to **CSHB 831**:

Amend **CSHB 831** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 11.184, Tax Code, is amended by amending Subsection (c) and adding Subsections (l), (m), and (n) to read as follows:

(c) A ~~[If approved under Subsection (b), a]~~ qualified charitable organization is entitled to an exemption from taxation of:

(1) the buildings and other real property and the tangible personal property that:

(A) are owned by the organization; and

(B) except as permitted by Subsection (d), are used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

(2) the real property owned by the organization consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18.

(l) Notwithstanding the other provisions of this section, a corporation that is not a qualified charitable organization is entitled to an exemption from taxation of property under this section if:

(1) the corporation is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(2) of that code;

(2) the corporation holds title to the property for, collects income from the property for, and turns over the entire amount of that income, less expenses, to a qualified charitable organization; and

(3) the qualified charitable organization would qualify for an exemption from taxation of the property under this section if the qualified charitable organization owned the property.

(m) Before a corporation described by Subsection (l) may submit an application for an exemption under this section, the qualified charitable organization for which the corporation holds title to the property must apply to the comptroller for the determination described by Subsection (e) with regard to the qualified charitable organization. The application for the determination must also include an application to the comptroller for a determination of whether the corporation meets the requirements of Subsections (1)(1) and (2). The corporation shall submit with the application for an exemption under this section a copy of

the determination letter issued by the comptroller. The chief appraiser shall accept the copy of the letter as conclusive evidence of the matters described by Subsection (h) as well as of whether the corporation meets the requirements of Subsections (l)(1) and (2).

(n) Notwithstanding Subsection (k), in order for a corporation to continue to receive an exemption under Subsection (l) after the fifth tax year after the year in which the exemption is granted, the qualified charitable organization for which the corporation holds title to property must obtain a new determination letter and the corporation must reapply for the exemption.

SECTION \_\_\_\_\_. Section 11.184(b), Tax Code, is repealed.

Amendment No. 2 was adopted.

**CSHB 831**, as amended, was passed to engrossment.

### **POSTPONED BUSINESS**

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

#### **CSSB 546 ON SECOND READING**

**(Anchia - House Sponsor)**

**CSSB 546**, A bill to be entitled An Act relating to energy efficiency goals and programs and demand reduction targets; creating an office of energy efficiency deployment in the state energy conservation office.

**CSSB 546** was considered in lieu of **CSHB 280**.

#### **Amendment No. 1**

Representative Swinford offered the following amendment to **CSSB 546**:

Amend **CSSB 546** (house committee report) in SECTION 1 of the bill, in amended Section 39.905(a)(3), Utilities Code (page 2, lines 2-5), by striking "programs or limited, targeted, market-transformation programs, incentives sufficient for retail electric providers and competitive energy service providers" and substituting the following:

programs, ~~[or]~~ limited, targeted, market-transformation programs, or other programs or incentives sufficient for retail electric providers and competitive energy service providers to address major barriers and

Amendment No. 1 was adopted.

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

Representatives Hartnett, P. King, and S. Turner offered the following amendment to **CSSB 546**:

Amend **CSSB 546** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 39.9044, Utilities Code, is repealed.

### Amendment No. 2 - Point of Order

Representative Hardcastle raised a point of order against further consideration of Amendment No. 2 under Rule 8, Section 3 of the House Rules on the grounds that the amendment violates the one subject rule.

The chair overruled the point of order.

Amendment No. 2 was adopted.

### Amendment No. 3

Representative Ortiz offered the following amendment to **CSSB 546**:

Amend **CSSB 546** by inserting the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3334 to read as follows:

Sec. 151.3334. RENEWABLE ENERGY DEVICES. (a) In this section:

(1) "Renewable energy" means an energy source that is naturally regenerated over a short time scale and derived directly or indirectly from the sun or from other natural movements and mechanisms of the environment. The term:

(A) includes energy derived directly from:

(i) the sun, wind, water, waves, or tides;

(ii) geothermal forces; or

(iii) biomass and biomass-derived waste products, including

landfill gas; and

(B) does not include energy derived from:

(i) fossil fuels and waste products from fossil fuels; or

(ii) waste products from inorganic sources.

(2) "Renewable energy device" means that portion of a system or series of mechanisms that is designed primarily to provide heating or cooling, to provide liquid or gaseous fuels, or to produce electrical or mechanical power by means of collecting, transferring, or converting renewable energy. The term includes a mechanical or chemical device that has the capacity for storing renewable energy for use in heating or cooling, in the production of power, or as liquid or gaseous fuels. The term does not include air-source heat pump systems.

(3) "Retail customer" has the meaning assigned by Section 31.002, Utilities Code.

(b) The sale, use, or installation of a renewable energy device that is installed on a retail customer's side of the meter is exempted from the taxes imposed by this chapter.

(c) This section expires September 2, 2017.

(b) The change in law made by this section does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this section had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

Amendment No. 3 was adopted. (The vote was reconsidered later today, and Amendment No. 3 was withdrawn.)

#### **CSSB 546 - POINT OF ORDER**

Representative Chisum raised a point of order against further consideration of **CSSB 546** under Rule 8, Section 3 of the House Rules on the grounds that the bill contains more than one subject.

The point of order was withdrawn.

#### **Amendment No. 3 - Vote Reconsidered**

Representative Ortiz moved to reconsider the vote by which Amendment No. 3 was adopted.

The motion to reconsider prevailed.

Amendment No. 3 was withdrawn.

**CSSB 546**, as amended, was passed to third reading. (Anderson, Berman, Christian, C. Howard, Phillips, and Riddle recorded voting no.)

#### **CSHB 280 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Anchia moved to lay **CSHB 280** on the table subject to call.

The motion prevailed.

#### **FIVE-DAY POSTING RULE SUSPENDED**

Representative Keffer moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Energy Resources to consider **SB 545** and **SB 1862**.

The motion prevailed.

#### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Energy Resources, 9 a.m. tomorrow, E2.016, for a public hearing, to consider **SB 545**, **SB 1862**, and pending business.

#### **HB 2411 ON SECOND READING**

**(by Fletcher and S. Miller)**

**HB 2411**, A bill to be entitled An Act relating to the criminal penalty for unlawfully obtaining, lending, possessing, or using a driver's license or personal identification certificate.

**HB 2411** was read second time earlier today and was postponed until this time.

#### **HB 2411 - POINT OF ORDER**

Representative Rodriguez raised a point of order against further consideration of **HB 2411**.

The chair overruled the point of order.

**Amendment No. 1**

Representative Fletcher offered the following amendment to **HB 2411**:

Amend **HB 2411** (house committee printing) by striking SECTION 1 of the bill (page 1, lines 6 through 24) and substituting the following:

SECTION 1. Section 521.451(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Section 521.452, a person may not:

(1) display, cause or permit to be displayed, or have in the person's possession a driver's license or certificate that the person knows is fictitious or has been altered;

(2) lend the person's driver's license or certificate to another person or knowingly permit another person to use the person's driver's license or certificate;

(3) display or represent as the person's own a driver's license or certificate not issued to the person; or

(4) possess more than one currently valid driver's license or more than one currently valid certificate [~~or~~

~~(5) in an application for an original, renewal, or duplicate driver's license or certificate:~~

~~[(A) provide a false name, false address, or a counterfeit document;~~

~~or~~

~~[(B) knowingly make a false statement, conceal a material fact, or otherwise commit fraud].~~

Amendment No. 1 was adopted.

**HB 2411**, as amended, failed to pass to engrossment by (Record 867): 39 Yeas, 90 Nays, 2 Present, not voting.

Yeas — Anderson; Berman; Bohac; Brown, B.; Brown, F.; Callegari; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Fletcher; Frost; Gallego; Hartnett; Hilderbran; Howard, C.; Hughes; Jackson; King, P.; Kleinschmidt; Laubenberg; Legler; Madden; Miklos; Miller, D.; Miller, S.; Morrison; Parker; Paxton; Riddle; Shelton; Smithee; Swinford; Truitt; Weber; Woolley; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Aycock; Bolton; Branch; Burnam; Button; Castro; Chavez; Chisum; Christian; Cohen; Coleman; Cook; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Flynn; Gattis; Geren; Giddings; Gonzales; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Isett; Jones; Kent; King, T.; Kolkhorst; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Naishtat; Olivo; Orr; Ortiz; Otto; Patrick; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solomons; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Vaught; Veasey; Vo; Walle.

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



Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Oliveira; Pitts; Villarreal.

Absent — Davis, Y.; Dutton; Farrar; Flores; Gonzalez Toureilles; Guillen; Harper-Brown; Hunter; Keffer; King, S.; Lewis; Moody; Phillips; Sheffield; Taylor.

### STATEMENTS OF VOTE

I was shown voting yes on Record No. 867. I intended to vote no.

Gallego

I was shown voting no on Record No. 867. I intended to vote yes.

Kent

I was shown voting yes on Record No. 867. I intended to vote no.

Laubenberg

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

Taylor

### HB 2411 - DOUBLE MOTION TO RECONSIDER AND TABLE

Representative Leibowitz moved to reconsider the vote by which **HB 2411** failed to pass to engrossment and to table the motion to reconsider.

The motion to table prevailed by (Record 868): 98 Yeas, 31 Nays, 2 Present, not voting.

Yeas — Allen; Anchia; Anderson; Aycock; Bolton; Branch; Brown, B.; Brown, F.; Burnam; Button; Castro; Chavez; Chisum; Cohen; Coleman; Cook; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Geren; Giddings; Gonzales; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hunter; Jackson; Jones; Keffer; Kent; King, S.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Naishtat; Olivo; Orr; Ortiz; Otto; Patrick; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Vaught; Veasey; Vo; Walle; Woolley.

Nays — Bohac; Callegari; Christian; Corte; Craddick; Fletcher; Flynn; Frost; Gallego; Harper-Brown; Hartnett; Hilderbran; Hughes; Isett; King, P.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Madden; Miklos; Miller, D.; Miller, S.; Morrison; Parker; Paxton; Peña; Phillips; Riddle; Weber; Zerwas.

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

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Oliveira; Pitts; Villarreal.

Absent — Alonzo; Alvarado; Berman; Crabb; Crownover; Edwards; Flores; Gattis; Gonzalez Toureilles; Hamilton; Lewis; Moody; Sheffield; Taylor; Turner, S.

### STATEMENT OF VOTE

When Record No. 868 was taken, I was in the house but away from my desk. I would have voted no.

Taylor

### HB 2012 ON SECOND READING (by Vaught, Kent, S. King, and Gattis)

**HB 2012**, A bill to be entitled An Act relating to the criminal consequences of operating without a valid driver's license a motor vehicle for which financial responsibility is not established.

**HB 2012** was read second time earlier today, an amendment was offered and disposed of, and **HB 2012** was postponed until this time.

### HB 2012 - POINT OF ORDER

Representative Dutton raised a point of order against further consideration of **HB 2012** under Rule 4, Section 32 of the House Rules on the grounds that the bill analysis is incorrect.

The chair overruled the point of order.

**HB 2012**, as amended, was passed to engrossment.

### CSHB 836 ON SECOND READING (by S. Miller, Christian, and Guillen)

**CSHB 836**, A bill to be entitled An Act relating to hunting of feral hogs by helicopter.

**CSHB 836** was read second time earlier today, an amendment was offered, and **CSHB 836** was postponed until this time.

### CSHB 836 - POINT OF ORDER

Representative Thibaut raised a point of order against further consideration of **CSHB 836**.

The chair overruled the point of order.

(Pitts and Villarreal now present)

Amendment No. 1 was adopted.

(Speaker in the chair)

### Amendment No. 2

Representative Thibaut offered the following amendment to **CSHB 836**:

Amend **CSHB 836** (house committee printing), on page 1, line 11, between "helicopter" and the underscored period, by inserting "in a county with a population of less than 30,000".

Amendment No. 2 was withdrawn.

### **Amendment No. 3**

Representative Lucio offered the following amendment to **CSHB 836**:

Amend **CSHB 836** (house committee printing) on page 1, line 13, by inserting the following at the end of that line:

The rules adopted under this subsection must include rules that prohibit a landowner from charging a person a fee to hunt from a helicopter in an amount that is greater than that person's pro rata share of the cost of the use of the helicopter.

Representative S. Miller moved to table Amendment No. 3.

The motion to table prevailed by (Record 869): 97 Yeas, 32 Nays, 1 Present, not voting.

Yeas — Alonzo; Aycock; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Corte; Crabb; Craddick; Crownover; Darby; Deshotel; Driver; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Fletcher; Flynn; Frost; Gallego; Gattis; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hilderbran; Hodge; Homer; Hopson; Howard, C.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Laubenberg; Legler; Lewis; Madden; McCall; McClendon; Menendez; Merritt; Miller, D.; Miller, S.; Moody; Morrison; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Turner, C.; Vaught; Weber; Woolley; Zerwas.

Nays — Allen; Alvarado; Anchia; Bolton; Burnam; Castro; Chavez; Cohen; Coleman; Dunnam; Farrar; Gonzales; Hartnett; Hernandez; Herrero; Hochberg; Howard, D.; Leibowitz; Lucio; Maldonado; Marquez; Martinez; Martinez Fischer; McReynolds; Naishtat; Olivo; Ortiz; Strama; Thibaut; Thompson; Turner, S.; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Oliveira.

Absent — Anderson; Creighton; Davis, J.; Davis, Y.; Dukes; Edwards; Flores; Geren; Giddings; Kent; Kolkhorst; Mallory Caraway; Miklos; Rios Ybarra; Smith, T.; Veasey; Villarreal; Vo.

### **STATEMENTS OF VOTE**

I was shown voting yes on Record No. 869. I intended to vote no.

Rodriguez

When Record No. 869 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

When Record No. 869 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

**CSHB 836**, as amended, was passed to engrossment. (Kent recorded voting no.)

**CSHB 2279 ON SECOND READING**  
**(by Thompson, et al.)**

**CSHB 2279**, A bill to be entitled An Act relating to the provision of and billing for certain diagnostic imaging services.

**CSHB 2279** was read second time earlier today and was postponed until this time.

Representative Thompson moved to postpone consideration of **CSHB 2279** until 11:30 p.m. today.

The motion prevailed.

**CSHB 2081 ON SECOND READING**  
**(by Isett)**

**CSHB 2081**, A bill to be entitled An Act relating to the continuation and functions of the Texas Racing Commission, the abolishment of the Equine Research Account Advisory Committee, and the authority of Texas AgriLife Research.

**CSHB 2081** was read second time on May 12, postponed until 10 a.m. today, and was again postponed until this time.

Representative Thompson moved to postpone consideration of **CSHB 2081** until 11:30 p.m. today.

The motion prevailed.

**SB 1878 ON SECOND READING**  
**(Chavez - House Sponsor)**

**SB 1878**, A bill to be entitled An Act relating to the creation and operation of a council to increase state efforts to offer service-enriched housing through increased coordination of housing and health services.

**SB 1878** was considered in lieu of **CSHB 3219**.

**SB 1878** was read second time.

**Amendment No. 1**

Representative Chavez offered the following amendment to **SB 1878**:

Amend **SB 1878** (Senate engrossed version) in SECTION 1 of the bill as follows:

(1) In added Section 2306.1092(b)(4)(A), Government Code (page 2, lines 12-14), strike "an advisory committee to the Department of Aging and Disability Services that promotes independence for older adults and persons with disabilities" and substitute "the Health and Human Services Commission Promoting Independence Advisory Committee".

(2) In added Section 2306.1092(b)(5)(D), Government Code (page 2, line 21), between "nonprofit organizations" and the underlined semicolon, insert "that advocate for affordable housing and consumer-directed long-term services and support".

(3) In added Section 2306.1092(c)(2), Government Code (page 3, line 5), strike "that integrate" and substitute "that coordinate integrated".

Amendment No. 1 was adopted.

**SB 1878**, as amended, was passed to third reading. (Anderson, Flynn, and Hunter recorded voting no.)

### **CSHB 3219 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Chavez moved to lay **CSHB 3219** on the table subject to call.

The motion prevailed.

### **GENERAL STATE CALENDAR (consideration continued)**

#### **HB 801 ON SECOND READING**

**(by Guillen, Anchia, Burnam, Parker, Edwards, et al.)**

**HB 801**, A bill to be entitled An Act relating to prohibiting the investment of the permanent university fund in certain business entities doing business in Sudan.

#### **Amendment No. 1**

Representative Dunnam offered the following amendment to **HB 801**:

Amend **HB 801** on page 3, between lines 17 and 18 by inserting the following:

(h) The limitations on investments under Chapter 806, Government Code, apply to any country harboring Somali pirates.

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

Representative Martinez Fischer offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Dunnam to **HB 801** on page 1, line 4, between "harboring" and "Somali" by inserting "Kenyan and".

Amendment No. 2 was adopted.

#### **Amendment No. 3**

Representative Gonzales offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Dunnam to **HB 801**, on page 1, line 4, after the period, by inserting the following:

This subsection does not apply to Captain Rene O. "One-eye" Oliveira.

Amendment No. 3 was adopted.

Amendment No. 1, as amended, was withdrawn.

#### **Amendment No. 4**

Representative Menendez offered the following amendment to **HB 801**:

Amend **HB 801** on page 3, between lines 17 and 18 by inserting the following:

(h) The limitations on investments under Chapter 806, Government Code, apply to any country in which female children are prohibited by law from receiving the same, or a substantially similar, formal education as male children in the country.

#### **Amendment No. 4 - Point of Order**

Representative Guillen raised a point of order against further consideration of Amendment No. 4.

The point of order was withdrawn.

Amendment No. 4 was withdrawn.

#### **Amendment No. 5**

Representative Bonnen offered the following amendment to **HB 801**:

Amend **HB 801** on page 3, between lines 17 and 18 by inserting the following:

(h) The limitations on investments under Chapter 806, Government Code, apply to Brazil until that country complies with the Hague Convention on the Civil Aspects of Child Abduction.

Amendment No. 5 was withdrawn.

**HB 801** was passed to engrossment.

#### **CSHB 732 ON SECOND READING (by Hartnett)**

**CSHB 732**, A bill to be entitled An Act relating to the removal of certain information from a physician's medical board profile.

**CSHB 732** was passed to engrossment.

#### **CSHB 970 ON SECOND READING (by Lucio, Rodriguez, Anchia, Ortiz, et al.)**

**CSHB 970**, A bill to be entitled An Act relating to considering ownership interests of disabled persons in determining whether a business is a historically underutilized business for purposes of state contracting.

Representative Lucio moved to postpone consideration of **CSHB 970** until 10 a.m. Tuesday, June 2.

The motion prevailed.

**HB 1055 ON SECOND READING**  
**(by Parker)**

**HB 1055**, A bill to be entitled An Act relating to the procedure for submitting certain plans and specifications of buildings or facilities for the purpose of eliminating architectural barriers encountered by persons with disabilities.

**HB 1055** was passed to engrossment.

**CSHB 2163 ON SECOND READING**  
**(by S. Turner, Allen, Crabb, and Marquez)**

**CSHB 2163**, A bill to be entitled An Act relating to a study regarding the provision of certain medications through the Medicaid vendor drug program to children younger than 16 years of age.

**Amendment No. 1**

Representative S. Turner offered the following amendment to **CSHB 2163**:

Amend **CSHB 2163** as follows:

1. On page 1, line 22 by inserting after the semi-colon the following:

(4) access to quality medical care for a child receiving benefits under the program;

(5) the standard of care in the medical profession regarding the provision of such medications to a child;

2. On page 1, line 23 strike "(4)" and insert "(6)"

Amendment No. 1 was adopted.

**CSHB 2163**, as amended, was passed to engrossment.

**SB 1717 ON SECOND READING**  
**(Y. Davis - House Sponsor)**

**SB 1717**, A bill to be entitled An Act relating to prohibition of certain practices by owners of developments supported with low income housing tax credit allocations.

**SB 1717** was considered in lieu of **HB 3165**.

**Amendment No. 1**

Representative Bohac offered the following amendment to **SB 1717**:

Amend **SB 1717** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter L, Chapter 2306, Government Code, is amended by adding Section 2306.2631 to read as follows:

Sec. 2306.2631. REPORTS BY SPONSORS OF CERTAIN MULTIFAMILY HOUSING DEVELOPMENTS. (a) This section applies only to a housing sponsor of a multifamily housing development that:

- (1) receives financial assistance from the state;
- (2) receives financial assistance from the federal government, including an allocation of low income housing tax credits; or
- (3) is subject to a land use restriction agreement.

(b) The department by rule shall require the housing sponsor of a multifamily housing development to submit a quarterly report to the department. The report must include information that identifies:

- (1) the number of vacant units in the development at the time of the report; and
- (2) the number of days that each unit has been vacant.

(c) The department shall provide to each member of the legislature, on request of that member, a report that disaggregates the information collected under Subsection (b) by zip code in the member's district.

Amendment No. 1 was adopted.

**SB 1717**, as amended, was passed to third reading. (Button and Hunter recorded voting no.)

#### **HB 3165 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Y. Davis moved to lay **HB 3165** on the table subject to call.

The motion prevailed.

#### **CSHB 148 ON SECOND READING**

**(by T. Smith)**

**CSHB 148**, A bill to be entitled An Act relating to the prosecution of the offense of barratry and solicitation of professional employment.

#### **Amendment No. 1**

Representatives Menendez, Frost, and Hughes offered the following amendment to **CSHB 148**:

Amend **CSHB 148** (house committee printing) by inserting the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 42, Civil Practice and Remedies Code, is amended by adding Section 42.0031 to read as follows:

Sec. 42.0031. ENFORCEABILITY OF CERTAIN SETTLEMENT AGREEMENTS. (a) Notwithstanding Section 42.002(c), this section applies to any agreement to settle a claim that arises from bodily injury or death.

(b) A settlement agreement described by Subsection (a) may be voided by the injured party until the expiration of the seventh day after the date the agreement is entered into unless the claimant is represented by counsel at the time the claimant enters into the agreement. An injured party who is not represented by counsel must be informed of the party's option to void the agreement at the time of settlement.



**Amendment No. 1 - Point of Order**

Representative Chisum raised a point of order against further consideration of Amendment No. 1 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The point of order was withdrawn.

Amendment No. 1 was withdrawn.

**Amendment No. 2**

Representatives Menendez, Frost, and Leibowitz offered the following amendment to **CSHB 148**:

Amend **CSHB 148** (house committee printing) as follows:

(1) On page 1, line 9, strike "or any" and substitute ", ~~or~~ any".

(2) On page 1, line 11, between "this state" and the semicolon, insert ", or any agent for or representative of an insurance company authorized to engage in the business of automobile or other property and casualty insurance in this state who discusses the settlement or evaluation of a casualty claim or the casualty portion of a claim".

Representative T. Smith moved to table Amendment No. 2.

The motion to table prevailed.

**CSHB 148** was passed to engrossment.

**POSTPONED BUSINESS**

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

**CSHB 2081 ON SECOND READING  
(by Isett)**

**CSHB 2081**, A bill to be entitled An Act relating to the continuation and functions of the Texas Racing Commission, the abolishment of the Equine Research Account Advisory Committee, and the authority of Texas AgriLife Research.

**CSHB 2081** was read second time on May 12, postponed until 10 a.m. today, and was again postponed until this time.

Representative Isett moved to postpone consideration of **CSHB 2081** until 11:26 a.m. Wednesday, June 3.

The motion prevailed.

(Branch in the chair)

**GENERAL STATE CALENDAR  
(consideration continued)****SB 37 ON SECOND READING  
(Naishtat and Herrero - House Sponsors)**

**SB 37**, A bill to be entitled An Act relating to providing home-based and community-based support services under the Medicaid program to persons who are deaf-blind with multiple disabilities.

**SB 37** was considered in lieu of **HB 166**.

**SB 37** was passed to third reading.

**HB 166 - LAID ON THE TABLE SUBJECT TO CALL**

Representative Naishtat moved to lay **HB 166** on the table subject to call.  
The motion prevailed.

**CSHB 1196 ON SECOND READING**  
(by Hochberg)

**CSHB 1196**, A bill to be entitled An Act relating to the payment of wages by an employer through an electronic transfer of funds to a payroll card account.

**CSHB 1196** was passed to engrossment.  
(Speaker in the chair)

**HB 1209 ON SECOND READING**  
(by McClendon and Gattis)

**HB 1209**, A bill to be entitled An Act relating to beneficiaries of construction payment trust funds.

**Amendment No. 1**

Representative Darby offered the following amendment to **HB 1209**:

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

(1) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 53.054, Property Code, is amended by amending Subsection (a) and adding Subsections (d), (e), and (f) to read as follows:

(a) The affidavit must be signed by the person claiming the lien or by another person on the claimant's behalf and must contain substantially:

- (1) a sworn statement of the amount of the claim;
- (2) the name and last known address of the owner or reputed owner;
- (3) a ~~[general]~~ statement of the ~~[kind of]~~ work done and materials furnished by the claimant and, for a claimant other than an original contractor, a statement of each month in which the work was done and materials furnished for which payment is requested;
- (4) the name and last known address of the person by whom the claimant was employed or to whom the claimant furnished the materials or labor;
- (5) the name and last known address of the original contractor;
- (6) a description, legally sufficient for identification, of the property sought to be charged with the lien;
- (7) the claimant's name, mailing address, and, if different, physical address; and
- (8) for a claimant other than an original contractor, a statement identifying the date each notice of the claim was sent to the owner and the method by which the notice was sent.

(d) The affidavit must distinguish between materials provided and work done and state the category or types of materials provided in a manner that distinguishes between permanent fixtures and removable items.

(e) For the purposes of Subsection (d), the categories and types of materials that are considered not removable include:

- (1) paint;
- (2) lumber for the framing of the structure;
- (3) concrete used for foundations, parking, and driveways;
- (4) in-ground swimming pools;

- (5) tile floors;
- (6) wiring; and
- (7) rough-in plumbing.

(f) For the purposes of Subsection (d), the categories and types of materials that are considered removable include;

- (1) decking materials;
- (2) counters;
- (3) countertops;
- (4) built-in appliances, including dishwashers, ovens, and ranges;
- (5) carpet and pad;
- (6) windows;
- (7) doors;
- (8) shower doors;
- (9) sinks, toilets, fixtures; and
- (10) draperies.

SECTION \_\_\_\_\_. Section 53.054, Property Code, as amended by this Act, applies only to an affidavit filed under Section 53.052, Property Code, on or after the effective date of this Act. An affidavit filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(2) On page 2, line 6, between "made by this Act" and "applies", insert "to Chapter 162, Property Code,".

Amendment No. 1 was adopted.

**HB 1209**, as amended, was passed to engrossment.

### **CSHB 1243 ON SECOND READING**

**(by Gallego, Farabee, Solomons, Swinford, Coleman, et al.)**

**CSHB 1243**, A bill to be entitled An Act relating to net metering for retail electric service customers and compensation for excess electricity generated by a retail electric customer's on-site generator.

#### **Amendment No. 1**

Representative Gallego offered the following amendment to **CSHB 1243**:

Amend **CSHB 1243** (House committee printing) as follows:

(1) On page 3, strike lines 13 and 14 and substitute:  
adding Subsections (d-1), (k), (l), (m), (n), (o), (p), (q), and (r) to read as follows:

(2) On page 4, line 3, strike "renewable resources" and substitute "distributed renewable generation".

(3) On page 7, strike lines 16 through 18 and substitute:  
generated by distributed renewable generation that provides a monthly or longer periodic proxy for the market clearing price. The methodology must not allow the aggregate fair market value of surplus electricity in any billing period to be less than zero. The commission shall review the methodology periodically.

(4) On page 8, strike lines 3-19 and substitute:

(m) A distributed renewable generation owner is qualified to be paid for surplus electricity under Subsection (h), (j), (k), or (l) only if:

(1) the owner's distributed renewable generation is installed on the customer's side of the meter for a residential retail electric customer or a retail electric customer who is a public school or a church; and

(2) the generating capacity of the distributed renewable generation does not exceed:

(A) 10 kilowatts for a residential retail electric customer;

(B) 150 kilowatts for a church retail electric customer; or

(C) 250 kilowatts for a public school retail electric customer.

(n) A distributed renewable generation owner who does not meet the qualifications prescribed by Subsection (m) will be paid for the owner's surplus electricity or will have the owner's surplus electricity exchanged for a credit to the owner's electric service account at a value to which the owner and the provider that serves the owner's load agree.

(5) On page 8, line 20, strike "(m)" and substitute "(o)".

(6) On page 8, line 27, strike "(n)" and substitute "(p)".

(7) On page 9, line 3, strike "bill of" and substitute "bill or separate statement to".

(8) On page 9, line 7, between "credited to" and "the owner", insert "or the payment made to".

(9) On page 9, line 11, strike "(o)" and substitute "(q)".

(10) On page 9, line 15, strike "(p)" and substitute "(r)".

(11) On page 12, at the end of line 4, add "residential".

(12) On page 12, line 11, between "marketers to" and "distributed", insert "residential".

(13) On page 12, line 18, between "produced by" and "distributed", insert "residential".

(14) On page 12, between "SECTION 7." and "This Act" insert:

Not later than January 1, 2010, the Public Utility Commission of Texas shall provide the methodology for determining a fair market value price for surplus electricity generated by distributed renewable generation, as required by Section 39.916(k), Utilities Code, as added by this Act.

SECTION 8. (a) Section 36.916, Utilities Code, as amended by this Act, expires September 2, 2011.

(b) The Public Utility Commission of Texas shall conduct a study to determine the effect of the pricing methodology the commission provides under Section 39.916(k), Utilities Code, as added by this Act. The commission shall report the findings of the study to the 82nd Legislature not later than January 15, 2011.

SECTION 9.

Amendment No. 1 was adopted.

**CSHB 1243**, as amended, was passed to engrossment. (Anderson, C. Howard, and Hunter recorded voting no.)

**HB 1299 ON SECOND READING**  
**(by C. Turner, Ortiz, Lucio, et al.)**

**HB 1299**, A bill to be entitled An Act relating to the fund for veterans' assistance and the creation of a lottery game to benefit the fund.

**Amendment No. 1**

Representative C. Turner offered the following amendment to **HB 1299**:

Amend **HB 1299** (house committee printing) as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 466.408(b), Government Code, is amended to read as follows:

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be used in the following order of priority:

(1) subject to legislative appropriation, not more than \$20 million in prize money each year may be deposited to or appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund;

(2) not more than \$5 million in prize money each year may be appropriated to the Health and Human Services Commission and shall be used to support the provision of inpatient hospital services in hospitals located in the 15 counties that comprise the Texas-Mexico border area, with payment for those services to be not less than the amount established under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) cost reimbursement methodology for the hospital providing the services; ~~and~~

(3) the remaining amount, not to exceed \$5 million in prize money in each state fiscal year less any amount deposited in the fund in that year attributable to the lottery game operated under Section 466.027, shall be deposited to the fund for veterans' assistance; and

(4) all prize money subject to this section and not appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, ~~or~~ not appropriated to the Health and Human Services Commission for the purpose specified in Subdivision (2), and not deposited under Subdivision (3), shall be deposited in the general revenue fund and may be appropriated for any purpose as determined by the legislature, including the provision of indigent health care services as specified in Chapter 61, Health and Safety Code.

(2) On page 5, line 9, between "466.027" and the period, insert "or transferred to the fund under Section 466.408(b)".

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative C. Turner offered the following amendment to **HB 1299**:

Amend **HB 1299** on page 2, line 7 by inserting the following after subsection (d):

(e) "No organization that would otherwise be eligible to receive funds from the State Lottery Account attributable to any lottery game authorized by this section may receive any such funds if it conducts illegal gambling or the illegal operation of gambling devices as defined by Chapter 47 of the Penal Code or allows illegal gambling or the illegal operation of gambling devices to be conducted on its property or in its facilities."

Amendment No. 2 was adopted.

**HB 1299**, as amended, was passed to engrossment by (Record 870): 122 Yeas, 11 Nays, 2 Present, not voting.

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

Nays — Anderson; Brown, B.; Callegari; Fletcher; Flynn; Hartnett; Howard, C.; Hughes; Legler; Riddle; Woolley.

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

Absent, Excused — Kuempel.

Absent, Excused, Committee Meeting — Oliveira.

Absent — Branch; Chisum; Christian; Flores; Gattis; Hamilton; Harless; Harper-Brown; Jackson; Patrick; Phillips; Sheffield; Shelton.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 870. I intended to vote no.

Paxton

### HB 1396 ON SECOND READING (by Farrar, Vaught, et al.)

**HB 1396**, A bill to be entitled An Act relating to the punishment prescribed for burglary of a vehicle and to grants of community supervision to persons who commit that offense.

**HB 1396** was passed to engrossment. (Flynn, Hunter, Parker, and Peña recorded voting no.)

**FIVE-DAY POSTING RULE SUSPENDED**

Representative Kolkhorst moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Public Health to consider pending business.

The motion prevailed.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Public Health, 9 a.m. today, Friday, May 15, E2.036, for a public hearing, to consider pending business.

**RECESS**

Representative Callegari moved that the house recess until 10 a.m. today, May 15.

The motion prevailed.

The house accordingly, at 12:05 a.m. May 15, recessed until 10 a.m. today.

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**ADDENDUM**

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**SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 30**

**HB 608, HB 651, HB 762, HB 1067, HB 1081, HB 1465, HB 1671, HB 2527, HB 4004**

**Senate List No. 30**

**SB 473, SB 481, SB 526, SB 547, SB 820, SB 858, SB 917, SB 918, SB 935, SB 1047, SB 1103, SB 1105, SB 1121, SB 1163, SB 1224, SB 1274, SB 1295, SB 1360, SB 1638, SB 1832, SB 1919, SB 2052, SB 2134**

**MESSAGES FROM THE SENATE**

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

**Message No. 1**

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 14, 2009

The Honorable Speaker of the House  
House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:  
LOCAL AND UNCONTESTED CALENDAR

**HB 271** Ortiz, Jr. SPONSOR: Van de Putte  
Relating to the designation of enterprise projects during a biennium.  
(Committee Substitute)

**HB 360** Kuempel SPONSOR: Williams  
Relating to the crediting and charging of investment gains and losses on the assets held in trust by the Texas Municipal Retirement System and providing a guaranteed minimum credit to employee accounts.

**HB 448** Hopson SPONSOR: Carona  
Relating to requiring the Department of State Health Services to implement a provider choice system for certain vaccines.  
(Committee Substitute)

**HB 523** Giddings SPONSOR: Fraser  
Relating to the contents of a receipt issued for payment of a good or service; providing a civil penalty.

**HB 536** Anchia SPONSOR: Van de Putte  
Relating to the voter registration of a person who submits a federal postcard application to vote in an election.

**HB 582** Dukes SPONSOR: Van de Putte  
Relating to informing the parents and guardians of certain children about the availability of the child health plan and medical assistance programs.

**HB 590** Crownover SPONSOR: Zaffirini  
Relating to the name of the Crime Stoppers Advisory Council.

**HB 867** Aycock SPONSOR: Fraser  
Relating to the transfer of certain state property from the Texas Department of Criminal Justice to the City of Burnet.

**HB 1240** Villarreal SPONSOR: Uresti  
Relating to information required to be provided to parents of an infant.

**HB 1300** Turner, Chris SPONSOR: Davis, Wendy  
Relating to the creation of the Kennedale TownCenter Development District; providing authority to impose a tax and issue bonds.

**HB 1363** Gutierrez SPONSOR: Van de Putte  
Relating to the diabetes mellitus registry pilot program.  
(Committee Substitute)

**HB 1411** Jones SPONSOR: Carona  
Relating to records of certain frivolous complaints maintained by the Texas Board of Professional Land Surveying.



**HB 1492** Driver SPONSOR: Hegar  
Relating to achievement awards presented by the Commission on Law Enforcement Officer Standards and Education.

**HB 1505** Ortiz, Jr. SPONSOR: Hinojosa  
Relating to the promotion or advertising of alcoholic beverages in relation to certain facilities owned by a municipality or county.

**HB 1574** Thompson SPONSOR: Gallegos  
Relating to services for persons with autism and other pervasive developmental disorders and their families.

**HB 1629** Naishtat SPONSOR: Uresti  
Relating to the care and protection of foster children committed to or released under supervision by the Texas Youth Commission.

**HB 1758** Thompson SPONSOR: Carona  
Relating to the requirements for a plumber's apprentice to obtain a plumber's license.

**HB 1804** Hughes SPONSOR: Watson  
Relating to service of process for delinquent taxes on a nonresident.

**HB 2062** Gallego SPONSOR: Hinojosa  
Relating to the distribution of proceeds from the sale of forfeited property in a criminal case.

**HB 2249** Hunter SPONSOR: Williams  
Relating to the regulation of staff leasing services.

**HB 2386** Castro SPONSOR: Uresti  
Relating to the sealing of juvenile records.

**HB 3061** Bohac SPONSOR: Huffman  
Relating to the use of state voter registration funds to employ temporary staff in a voter registrar's office.

**HB 3062** Bohac SPONSOR: Huffman  
Relating to the notice of an election provided to a voter registrar.

**HB 3519** Branch SPONSOR: Hinojosa  
Relating to the coordination and administration of the Texas Career Opportunity Grant Program.

**SB 1744** Whitmire  
Relating to conditions of employment for law enforcement officers and corrections officers employed by certain counties.

**SB 1782** Hinojosa  
Relating to the deferral by a licensed distributor or importer of payment of gasoline and diesel fuel taxes and credits authorized for certain of those deferrals.

**SB 2136** Eltife  
Relating to provision of surplus lines insurance.

**SB 2253** Zaffirini  
Relating to the authority of certain municipalities and counties to regulate platting requirements near an international border.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Thursday, May 14, 2009 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 392** Bohac SPONSOR: Deuell  
Relating to the availability and use of automated external defibrillators in nursing homes and related institutions.  
(Committee Substitute/Amended)

**HB 406** Rodriguez SPONSOR: Carona  
Relating to the disposition of excess proceeds of a tax sale of real property or foreclosure of a tax lien on real property.

**HB 492** Zerwas SPONSOR: Deuell  
Relating to the expansion of faith- and community-based health and human services and social services initiatives.  
(Amended)

**HB 1342** Menendez SPONSOR: Harris  
Relating to adoption of certain information technology.  
(Committee Substitute/Amended)

**HB 1364** Eissler SPONSOR: Averitt  
Relating to coverage of preexisting conditions by certain group health benefit coverage programs for active school employees.

**HB 1468** Chisum SPONSOR: Deuell  
Relating to the regulation of funeral homes, cemeteries, and crematories; providing penalties.  
(Committee Substitute/Amended)

**HB 1918** Darby SPONSOR: Estes  
Relating to changing the name of the Office of Rural Community Affairs to the Texas Department of Rural Affairs.

**HB 1998** McCall SPONSOR: Gallegos  
Relating to temporary housing and emergency shelters provided by a political subdivision for disaster victims.

(Committee Substitute)

**HB 2055** Guillen SPONSOR: Zaffirini  
Relating to the Chronic Kidney Disease Task Force.

**HB 2219** Phillips SPONSOR: Williams  
Relating to the public transportation advisory committee.

**HB 2314** Gattis SPONSOR: Ogden  
Relating to the designation of the Texas Department of Transportation as the contracting agent for certain airports.

**HB 2440** McCall SPONSOR: Williams  
Relating to scholarships for fifth-year accounting students.

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

**SB 2126** (30 Yeas, 1 Nay)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**SB 58**  
Senate Conferees: Zaffirini - Chair/Carona/Hinojosa/Watson/Wentworth

**SB 562**  
Senate Conferees: Jackson, Mike - Chair/Deuell/Duncan/Fraser/Lucio

**SB 2306**  
Senate Conferees: Williams - Chair/Averitt/Davis, Wendy/Eltife/Hinojosa

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Thursday, May 14, 2009 - 3

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**SB 1028** Watson  
Relating to the offense of operating or riding in a passenger vehicle while not secured by a safety belt.

**SB 1210** Fraser

Relating to a water rights permit issued to the Upper Guadalupe River Authority.

**SB 1720** Uresti

Relating to newborn screening and the creation of the Newborn Screening Advisory Committee.

**SB 1886** Ellis

Relating to diagnostic testing of pregnant women and certain newborns.

**SB 2406** Zaffirini

Relating to additional compensation for certain state employees.

**SB 2550** Hinojosa

Relating to the creation of the Padre Island Gateway Municipal Management District; providing authority to impose a tax and issue bonds.

**SB 2552** Patrick, Dan

Relating to the powers and duties of Harris County Improvement District No. 1; providing authority to impose a tax and issue bonds.

**SB 2580** Lucio

Relating to actions under the Beer Industry Fair Dealing Law.

Respectfully,

Patsy Spaw

Secretary of the Senate

**Message No. 4**

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 14, 2009 - 4

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**SB 1193** Wentworth

Relating to the maintenance and service of certain medical devices in health care facilities; providing a criminal penalty.

**SB 1824** Lucio

Relating to the Interagency Task Force for Children with Special Needs.

**SB 2573** Ogden

Relating to annual reports by certain agencies conducting, funding, or supporting biomedical research.

Respectfully,

Patsy Spaw

Secretary of the Senate

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**APPENDIX**

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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

**May 13**

Agriculture and Livestock - **SB 1016**

Business and Industry - **SB 394, SB 1589**

Corrections - **SB 2304**

County Affairs - **SB 1009**

Criminal Jurisprudence - **SB 1710**

Culture, Recreation, and Tourism - **SB 500, SB 1246, SB 1583, SB 2307, SB 2379**

Defense and Veterans' Affairs - **SB 1240, SB 1940**

Environmental Regulation - **SB 1203**

Higher Education - **SB 201, SB 256, SB 504, SB 596, SB 1796, SB 1952**

Human Services - **SB 37, SB 1230, SB 1766, SB 2273**

Judiciary and Civil Jurisprudence - **SB 519**

Natural Resources - **SB 748, SB 749, SB 994, SB 1204, SB 1337, SB 1483, SB 1544, SB 2311, SB 2312, SB 2315, SB 2319, SB 2462, SB 2478, SB 2483, SB 2503, SB 2504, SB 2506, SB 2513, SB 2514, SB 2519, SB 2520, SB 2529**

Pensions, Investments, and Financial Services - **SB 1647**

Public Education - **SB 1255**

Public Health - **SB 1415**

Transportation - **SB 2110**

Ways and Means - **HB 2878, HB 4076, HJR 91**

**ENGROSSED**

**May 13 - HB 103, HB 121, HB 176, HB 184, HB 229, HB 240, HB 269, HB 397, HB 1146, HB 1229, HB 1277, HB 1319, HB 1470, HB 1654, HB 1801, HB 1928, HB 1943, HB 2002, HB 2003, HB 2014, HB 2118, HB 2154, HB 2346, HB 2425, HB 2609, HB 2705, HB 2767, HB 2846, HB 2986, HB 3085, HB 3180, HB 3215, HB 3220, HB 3389, HB 3452, HB 3485, HB 3551, HB 3623, HB 3646, HB 3666, HB 3680, HB 3846, HB 3859, HB 3896, HB 4061, HB 4106, HB 4433, HB 4795, HB 4825**

**ENROLLED**

**May 13 - HB 875, HB 1282, HB 1454, HB 1813, HB 1963, HCR 88,  
HCR 214**

**SENT TO THE GOVERNOR**

**May 13 - HB 875, HB 1282, HB 1454, HB 1813, HB 1963, HCR 88,  
HCR 214**

**SIGNED BY THE GOVERNOR**

**May 13 - HB 401, HB 609, HB 670, HB 806, HB 1974, HB 2058,  
HB 2433, HCR 117, HCR 122, HCR 134, HCR 153**