

HOUSE JOURNAL

EIGHTY-FIRST LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-THIRD DAY — MONDAY, MAY 18, 2009

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

The roll of the house was called and a quorum was announced present (Record 924).

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; 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; 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 — Frost; Kuempel.

The invocation was offered by Father Jimmie Drennan, St. Joseph Catholic Church—Honey Creek, Spring Branch, as follows:

Faithful God and creator of all, we gather today in the great State of Texas to make choices that will better individuals, families, communities, and our entire state. As we gather, we must pause to consider who we are and where we have come from, for if we fail to do so, we will become victims of our own ignorance.

We, who gather this day, represent every person who lives in, travels through, or visits our state. We have been shaped by the events and the people who preceded us, and therefore always remember these forces that have helped create the shared vision of our land. Our parents and grandparents, our educators

and ministers, our friends and neighbors, have placed within our being a lasting impression. We must remember where we have come from in order to faithfully serve those of this generation and the generations that follow.

God of all people, inspire our legislators to understand the complex diversity of our state. Bring to their hearts and minds the realization that our unity has in the past, currently rests, and will always remain in our diversity. We pray that each member of this house considers and faithfully makes choices that ensure the rights and liberties of every person in our state.

We are black and white, Hispanic, Asian, and Native American; our state's faith is Jewish and Christian, Muslim and Hindu. We are young and old, single and married, native-born and immigrant, disabled and abled; so many of us are poor and many are rich. We are struggling to keep our home and many of our people are homeless. Many of our people are mentally ill and every person is in need of good healthcare and education. Make choices this day and everyday to meet the needs of all our people. Leave no person, however seemingly insignificant we may seem, out of your decisions.

We as a nation stand on the threshold of great change. We are proud of much of our past and even more proud of changing and reshaping the shameful moments, experiences, and episodes of our history. May this spirit of hope, change, and certainty that has reshaped the highest levels of our national government rest upon those who lead our state.

Lord and God, renew in all of us a commitment to care for our world and all its resources. May all who hold the authority to bring an end to war, violence, and terrorism make choices that restore peace to every corner of our world. May this peace allow all men and women who have been called to battle a return to their homeland and a reunion with their loved ones. This we ask in your name, you who live and reign forever and ever.

The chair recognized Representative Martinez Fischer who led the house in the pledges of allegiance to the United States and Texas flags.

CAPITOL PHYSICIAN

The speaker pro tempore recognized Representative Thompson who presented Dr. John Redman of Humble as the "Doctor for the Day."

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

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today and the remainder of the week because of illness:

Kuempel on motion of Geren.

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

Frost on motion of Farabee.

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. 32).

LEAVE OF ABSENCE GRANTED

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

Vaught on motion of Leibowitz.

**HR 2147 - ADOPTED
(by Hernandez)**

Representative Hernandez moved to suspend all necessary rules to take up and consider at this time **HR 2147**.

The motion prevailed.

The following resolution was laid before the house:

HR 2147, In memory of Captain James Arthur Harlow, Sr., of the Houston Fire Department.

HR 2147 was read and was unanimously adopted by a rising vote.

On motion of Representative Alvarado, the names of all the members of the house were added to **HR 2147** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Hernandez who introduced family members of Captain James Arthur Harlow, Sr.

**HR 2055 - ADOPTED
(by Bonnen, et al.)**

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HR 2055**.

The motion prevailed.

The following resolution was laid before the house:

HR 2055, In memory of Houston firefighter and Alvin native Damion Jon Hobbs.

HR 2055 was read and was unanimously adopted by a rising vote.

On motion of Representative Weber, the names of all the members of the house were added to **HR 2055** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Bonnen who introduced family members of Damion Jon Hobbs.

HR 2167 - ADOPTED
(by Marquez)

Representative Marquez moved to suspend all necessary rules to take up and consider at this time **HR 2167**.

The motion prevailed.

The following resolution was laid before the house:

HR 2167, Commending Maria Ruiz for her dedication to assisting children in Juarez.

HR 2167 was adopted.

On motion of Representatives Quintanilla and Moody, the names of all the members of the house were added to **HR 2167** as signers thereof.

COMMITTEE GRANTED PERMISSION TO MEET

Representative McClendon requested permission for the Committee on Rules and Resolutions to meet while the house is in session, at 10:55 a.m. today, in 3W.9, for a formal meeting, to consider the calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Rules and Resolutions, 10:55 a.m. today, 3W.9, for a formal meeting, to consider the calendar.

HR 1759 - ADOPTED
(by Button, Vo, McCall, Hochberg, and C. Howard)

Representative Button moved to suspend all necessary rules to take up and consider at this time **HR 1759**.

The motion prevailed.

The following resolution was laid before the house:

HR 1759, Recognizing May 2009 as Asian/Pacific American Heritage Month.

HR 1759 was adopted.

On motion of Representatives D. Miller and Isett, the names of all the members of the house were added to **HR 1759** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Button who introduced a delegation celebrating Asian/Pacific American Heritage Month.

HR 2157 - ADOPTED
(by Jackson)

Representative Jackson moved to suspend all necessary rules to take up and consider at this time **HR 2157**.

The motion prevailed.

The following resolution was laid before the house:

HR 2157, Recognizing Jimmy Niemann for his service on the Addison City Council.

HR 2157 was adopted.

HCR 226 - ADOPTED
(by Truitt)

Representative Truitt moved to suspend all necessary rules to take up and consider at this time **HCR 226**.

The motion prevailed.

The following resolution was laid before the house:

HCR 226, Commemorating the 125th anniversary of the Lucchese Boot Company.

HCR 226 was adopted.

On motion of Representative Hopson, the names of all the members of the house were added to **HCR 226** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Truitt who introduced representatives of the Lucchese Boot Company.

HB 3 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED

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

HB 3, A bill to be entitled An Act relating to public school accountability, curriculum, and promotion requirements.

Representative Eissler 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 3**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3**: Eissler, chair; Hochberg, Keffer, Villarreal, and Dutton.

**HB 2064 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2064, A bill to be entitled An Act relating to premium discounts for certain participants in the Texas Health Insurance Risk Pool and to related tax credits for health benefit plan issuers.

Representative Smithee moved to concur in the senate amendments to **HB 2064**.

The motion to concur in the senate amendments to **HB 2064** prevailed by (Record 925): 141 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; Chisum; Christian; Cohen; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland(C); Eissler; Elkins; England; Farabee; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Frost; Kuempel; Vaught.

Absent — Chavez; Edwards; Farias; Miklos; Walle.

STATEMENT OF VOTE

When Record No. 925 was taken, I was temporarily out of the house chamber. I would have voted yes.

Miklos

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

Amend **HB 2064** (Senate committee report) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 843.342, Insurance Code, is amended by adding Subsections (m) and (n) to read as follows:

(m) Notwithstanding any other provision of this section, this subsection governs the payment of a penalty under this section. For a penalty under this section relating to a clean claim submitted by a physician or provider other than an institutional provider, the health maintenance organization shall pay the entire penalty to the physician or provider, except for any interest computed under Subsection (c), which shall be paid to the Texas Health Insurance Risk Pool. For a penalty under this section relating to a clean claim submitted by an institutional provider, the health maintenance organization shall pay 50 percent of the total penalty amount computed under this section, including interest, to the institutional provider and the remaining 50 percent of that amount to the Texas Health Insurance Risk Pool.

(n) In this section, "institutional provider" means a hospital or other medical or health-related service facility that provides care for the sick or injured or other care that may be covered in an evidence of coverage.

SECTION _____. Section 1301.137, Insurance Code, is amended by adding Subsection (l) to read as follows:

(l) Notwithstanding any other provision of this section, this subsection governs the payment of a penalty under this section. For a penalty under this section relating to a clean claim submitted by a preferred provider other than an institutional provider, the insurer shall pay the entire penalty to the preferred provider, except for any interest computed under Subsection (c), which shall be paid to the Texas Health Insurance Risk Pool. For a penalty under this section relating to a clean claim submitted by an institutional provider, the insurer shall pay 50 percent of the penalty amount computed under this section, including interest, to the institutional provider and the remaining 50 percent of that amount to the Texas Health Insurance Risk Pool.

(2) In the recital to SECTION 1 of the bill (page 1, line 13), strike "adding Subsections (e-1) and (e-2)" and substitute "adding Subsection (e-1)".

(3) In SECTION 1 of the bill, in amended Section 1506.105(e-1), Insurance Code (page 1, line 23), strike "Subsection (e-2)" and substitute "the availability of funds under Section 1506.260".

(4) In SECTION 1 of the bill (page 1, lines 38-44), strike added Section 1506.105(e-2), Insurance Code.

(5) In SECTION 2 of the bill (page 1, line 47, through page 2, line 3), strike added Section 1506.260, Insurance Code, and substitute the following new Section 1506.260, Insurance Code:

Sec. 1506.260. FUNDING FOR PREMIUM DISCOUNTS. The board shall collect penalty payments and interest paid by health maintenance organizations as provided by Section 843.342 and insurers as provided by Section 1301.137. The board may use funds collected under this section only to finance premium discounts under Section 1506.105(e-1). The board may require a health maintenance organization or an insurer to make payments under this section and make reports concerning those payments in a manner determined by the board.

(6) In SECTION 3 of the bill (page 2, line 4), insert the following between "3." and "(a)":

(a) Sections 843.342 and 1301.137, Insurance Code, as amended by this Act, apply only to a penalty or interest on a penalty owed with respect to a clean claim paid on or after the effective date of this Act. A penalty or interest on a penalty owed with respect to a clean claim paid 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.

(7) In SECTION 3(a) of the bill (page 2, lines 7 and 8), strike "2010" each place it appears and substitute "2011".

(8) In SECTION 3 of the bill, strike existing Subsection (b) (page 2, lines 11-14).

(9) In SECTION 3 of the bill, reletter subsections appropriately.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **HB 2064** (senate committee report) as follows:

(1) In SECTION 4 of the bill (page 2, line 15) strike "September 1, 2009" and substitute "January 1, 2010".

HB 392 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 392, A bill to be entitled An Act relating to the availability and use of automated external defibrillators in nursing homes and related institutions.

Representative Bohac moved to concur in the senate amendments to **HB 392**.

The motion to concur in the senate amendments to **HB 392** prevailed by (Record 926): 141 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; 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; Gallego; Gattis; Geren; 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; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Frost; Kuempel; Vaught.

Absent — Cohen; Giddings; Laubenberg; McCall.

Senate Committee Substitute

CSHB 392, A bill to be entitled An Act relating to the availability and use of automated external defibrillators in nursing homes and related institutions.

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

SECTION 1. Subchapter F, Chapter 242, Health and Safety Code, is amended by adding Section 242.159 to read as follows:

Sec. 242.159. AUTOMATED EXTERNAL DEFIBRILLATORS. (a) An institution shall have available for use at the institution an automated external defibrillator, as defined by Section 779.001, and shall comply with the training, use, and notification requirements of Chapter 779.

(b) An institution that does not have funds available for purposes of Subsection (a) may solicit gifts, grants, or donations to purchase or maintain an automated external defibrillator for use at the institution.

(c) An institution may not use an automated external defibrillator to treat a resident of the institution who has issued or executed an out-of-hospital do-not-resuscitate order under Subchapter C, Chapter 166.

(d) Notwithstanding Section 74.151(b), Civil Practice and Remedies Code, Section 74.151(a), Civil Practice and Remedies Code, applies to administration of emergency care using an automated external defibrillator by an employee or volunteer at an institution.

(e) An institution shall employ at least one person who is trained in the proper use of an automated external defibrillator.

(e-1) An institution is not required to comply with Subsections (a) and (e) until September 1, 2012. This subsection expires January 1, 2013.

SECTION 2. This Act takes effect September 1, 2009.

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

Amend **CSHB 392** (senate committee printing) in SECTION 1 of the bill, by striking Section 242.159(c), Health and Safety Code (page 1, lines 24 through 27), and substituting the following:

(c) The use of an automated external defibrillator must be consistent with a resident's advance directive executed or issued under Subchapter C, Chapter 166.

HB 271 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 271, A bill to be entitled An Act relating to the designation of enterprise projects during a biennium.

Representative Ortiz moved to concur in the senate amendments to **HB 271**.

The motion to concur in the senate amendments to **HB 271** prevailed by (Record 927): 139 Yeas, 1 Nays, 2 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; Coleman; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; 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; 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.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Crabb.

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

Absent, Excused — Frost; Kuempel; Vaught.

Absent — Callegari; Cohen; Deshotel; Laubenberg; Miller, S.

Senate Committee Substitute

CSHB 271, A bill to be entitled An Act relating to the designation of enterprise projects during a biennium.

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

SECTION 1. Section 2303.406(d), Government Code, is amended to read as follows:

(d) The maximum number of enterprise projects that the bank may designate for each nominating body during any biennium is:

(1) six, if the nominating body is the governing body of ~~[four, plus two additional bonus projects the bank may award in]~~ a municipality or county with a population of less than 250,000; or

(2) nine ~~[six]~~, if the nominating body is the governing body of a municipality or county with a population of 250,000 or more.

SECTION 2. Section 2303.406(e), Government Code, is amended as follows:

(e) The office may, during any biennium, designate multiple concurrent enterprise projects to a qualified business located at a qualified business site ~~[in an enterprise zone]~~.

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

LEAVE OF ABSENCE GRANTED

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

Cohen on motion of Allen.

**HB 448 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 448, A bill to be entitled An Act relating to requiring the Department of State Health Services to implement a provider choice system.

Representative Hopson moved to concur in the senate amendments to **HB 448**.

The motion to concur in the senate amendments to **HB 448** prevailed by (Record 928): 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; 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; 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; 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.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Laubenberg.

Senate Committee Substitute

CSHB 448, A bill to be entitled An Act relating to requiring the Department of State Health Services to implement a provider choice system for certain vaccines.

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

SECTION 1. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.01035 to read as follows:

Sec. 161.01035. PROVIDER CHOICE SYSTEM. (a) The department shall implement a provider choice system for the vaccines for children program operated by the department under authority of 42 U.S.C. Section 1396s and the adult safety net vaccination program.

(b) The department shall ensure that eligible health care providers participating in the vaccines for children program or the adult safety net vaccination program may select any licensed vaccine, including combination vaccines and any dosage forms that:

(1) are recommended by the federal Advisory Committee on Immunization Practices;

(2) are made available to the department by the Centers for Disease Control and Prevention of the United States Public Health Service; and

(3) for adult vaccines, are on the department-approved list of vaccines offered by the adult safety net vaccination program.

(c) For the purposes of this section, "equivalent vaccines" means two or more vaccines, excluding the influenza vaccine, that meet all of the following:

(1) protect a recipient of a vaccine against the same infection or infections;

(2) require the same number of doses;

(3) have similar safety and efficacy profiles; and

(4) are recommended for comparable populations by the Centers for Disease Control and Prevention of the United States Public Health Service.

(d) The department shall provide a vaccine selected by a health care provider under Subsection (b) only if the cost to the department of providing the vaccine is not more than 115 percent of the lowest-priced equivalent vaccine.

(e) This section does not apply in the event of a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(f) The department shall convene the immunization work group established under Section 161.0095 and solicit its recommendations regarding development of a plan for the implementation of the provider choice system under this section. The plan shall include the education of participating health care providers about:

(1) procedures and distribution systems of the Centers for Disease Control and Prevention of the United States Public Health Service; and

(2) vaccine options, the enrollment process, ordering, accountability, and reporting procedures.

SECTION 2. Effective September 1, 2010, Section 161.0103, Health and Safety Code, is repealed.

SECTION 3. The Department of State Health Services shall implement all or part of the provider choice system under Section 161.01035, Health and Safety Code, as added by this Act, as soon as it is determined to be feasible, provided, however, that the department shall complete implementation of the system not later than August 31, 2010.

SECTION 4. Except as provided by this Act, this Act takes effect September 1, 2009.

**HB 1363 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1363, A bill to be entitled An Act relating to the diabetes mellitus registry pilot program.

Representative Gutierrez moved to concur in the senate amendments to **HB 1363**.

The motion to concur in the senate amendments to **HB 1363** prevailed by (Record 929): 128 Yeas, 14 Nays, 2 Present, not voting.

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

Nays — Anderson; Aycock; Christian; Crabb; Flynn; Gattis; Hancock; Harper-Brown; Howard, C.; Madden; Phillips; Sheffield; Truitt; Weber.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Edwards; Laubenberg.

Senate Committee Substitute

CSHB 1363, A bill to be entitled An Act relating to the diabetes mellitus registry pilot programs.

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

SECTION 1. Section 1, Chapter 706 (**HB 2132**), Acts of the 80th Legislature, Regular Session, 2007, is amended by amending Subsections (c), (d), and (e) and adding Subsections (d-1) and (g) to read as follows:

(c) The department shall select to participate in the pilot program a public health district that serves a county with a population of less than two million and contains a municipality with a population of over one million. The department and the public health district shall create an electronic registry to track the

glycosylated hemoglobin level and the diagnosis codes of each person who has a laboratory test to determine that level performed at a clinical laboratory in the district.

(d) Except as provided by Subsection (d-1), a physician practicing in the participating public health district who, on or after November 1, 2009, orders a glycosylated hemoglobin test for a patient shall submit to the clinical laboratory the diagnosis codes of a patient along with the patient's sample. A clinical laboratory located in the participating public health district shall submit to the district and the department for a patient whose diagnosis codes were submitted with the patient's sample the results of the patient's ~~each~~ glycosylated hemoglobin test along with the diagnosis codes provided by the physician for that patient ~~[that the laboratory performs].~~

(d-1) A physician who orders a glycosylated hemoglobin test for a patient must provide the patient with a form developed by the department that allows the patient to opt out of having the patient's information included in the registry. If the patient opts out by signing the form, the physician:

(1) shall keep the form in the patient's medical records; and

(2) may not submit to the clinical laboratory the patient's diagnosis codes along with the patient's sample.

(e) The department and the participating public health district shall:

(1) compile results submitted under Subsection (d) of this section in order to track:

(A) the prevalence of diabetes mellitus among people tested in the district;

(B) the level of diabetic control for the patients with diabetes mellitus in each demographic group ~~[exert over the diabetes mellitus];~~

(C) the trends of new diagnoses of diabetes mellitus in the district;

and

(D) the health care costs associated with diabetes mellitus and glycosylated hemoglobin testing; and

(2) promote discussion and public information programs regarding diabetes mellitus.

(g) Not later than October 1, 2009, the department shall develop and make available on its Internet website the form required under Subsection (d-1).

SECTION 2. Section 2, Chapter 706 (**HB 2132**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 2. RULES. The executive commissioner of the Health and Human Services Commission shall adopt rules to implement Section 1 of this Act, including rules to govern the format and method of collecting glycosylated hemoglobin data and patient diagnosis codes.

SECTION 3. Section 4, Chapter 706 (**HB 2132**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 4. REPORT. Not later than December 1, 2010 [~~2009~~], the Department of State Health Services shall submit a report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature regarding the diabetes mellitus registry pilot program that includes:

- (1) an evaluation of the effectiveness of the pilot program; and
- (2) a recommendation to continue, expand, or eliminate the pilot program.

SECTION 4. Section 5, Chapter 706 (**HB 2132**), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 5. EXPIRATION. This Act expires September 1, 2011 [~~2010~~].

SECTION 5. This Act takes effect September 1, 2009.

HB 1342 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1342, A bill to be entitled An Act relating to adoption of certain information technology.

Representative Menendez moved to concur in the senate amendments to **HB 1342**.

The motion to concur in the senate amendments to **HB 1342** prevailed by (Record 930): 139 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; Christian; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Chisum; Davis, Y.; Edwards; Laubenberg; McCall.

Senate Committee Substitute

CSHB 1342, A bill to be entitled An Act relating to adoption of certain information technology.

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

SECTION 1. Subtitle J, Title 8, Insurance Code, is amended by adding Chapter 1661 to read as follows:

CHAPTER 1661. INFORMATION TECHNOLOGY

Sec. 1661.001. DEFINITIONS. In this chapter:

(1) "Health benefit plan" means a plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage that is offered by:

(A) an insurance company;

(B) a group hospital service corporation operating under Chapter 842;

(C) a fraternal benefit society operating under Chapter 885;

(D) a stipulated premium company operating under Chapter 884;

(E) a Lloyd's plan operating under Chapter 941;

(F) an exchange operating under Chapter 942;

(G) a health maintenance organization operating under Chapter 843;

(H) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846;

(I) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844; or

(J) an entity not authorized under this code or another insurance law of this state that contracts directly for health care services on a risk-sharing basis, including a capitation basis.

(2) "Health benefit plan issuer" means an entity authorized to issue a health benefit plan in this state.

(3) "Health care provider" means:

(A) an individual who is licensed, certified, or otherwise authorized to provide health care services; or

(B) a hospital, emergency clinic, outpatient clinic, or other facility providing health care services.

(4) "Participating provider" means a health care provider who has contracted with a health benefit plan issuer to provide services to enrollees.

Sec. 1661.002. USE OF CERTAIN INFORMATION TECHNOLOGY REQUIRED. (a) A health benefit plan issuer shall use information technology that provides a participating provider with real-time information at the point of care concerning:

(1) the enrollee's:

(A) copayment and coinsurance;

(B) applicable deductibles; and

(C) covered benefits and services; and

(2) the enrollee's estimated total financial responsibility for the care.

(b) A health benefit plan issuer shall use information technology that provides an enrollee with information concerning the enrollee's:

(1) copayment and coinsurance;

(2) applicable deductibles;

(3) covered benefits and services; and

(4) estimated financial responsibility for the health care provided to the enrollee.

(c) Nothing in this section may be interpreted as a guarantee of payment for health care services.

(d) A health benefit plan issuer's Internet website may be used to meet the information technology requirements of this chapter.

Sec. 1661.003. EXCEPTIONS. This chapter does not apply to:

(1) a health benefit plan that provides coverage only:
(A) for a specified disease or diseases or under a limited benefit policy;

(B) for accidental death or dismemberment;

(C) as a supplement to a liability insurance policy; or

(D) for dental or vision care;

(2) disability income insurance coverage;

(3) credit insurance coverage;

(4) a hospital confinement indemnity policy;

(5) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

(6) a workers' compensation insurance policy;

(7) medical payment insurance coverage provided under a motor vehicle insurance policy;

(8) a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefits so comprehensive that the policy is a health benefit plan and should not be subject to the exemption provided under this section;

(9) the child health plan program under Chapter 62, Health and Safety Code, or the health benefits plan for children under Chapter 63, Health and Safety Code; or

(10) a Medicaid managed care program operated under Chapter 533, Government Code, or a Medicaid program operated under Chapter 32, Human Resources Code.

Sec. 1661.004. REQUIRED USE OF TECHNOLOGY BY PROVIDERS. A physician, hospital, or other health care provider shall use information technology as required under this chapter beginning not later than September 1, 2013.

Sec. 1661.005. REFUND OF OVERPAYMENT. A physician, hospital, or other health care provider that receives an overpayment from an enrollee must refund the amount of the overpayment to the enrollee not later than the 30th day

after the date the physician, hospital, or health care provider determines that an overpayment has been made. This section does not apply to an overpayment subject to Section 843.350 or 1301.132.

Sec. 1661.006. HEALTH BENEFIT PLAN ISSUER CONDUCT. A contract between a health benefit plan issuer and a physician, hospital, or other health care provider may not prohibit the physician, hospital, or health care provider from collecting, at the time of care, the estimated amount for which the enrollee may be financially responsible.

Sec. 1661.007. CERTAIN FEES PROHIBITED. A health benefit plan issuer may not directly charge or collect from an enrollee or a physician, or other health care provider, a fee to cover the costs incurred by the health benefit plan issuer in complying with this chapter.

Sec. 1661.008. WAIVER. (a) A health benefit plan issuer may apply to the commissioner for a waiver of the requirement under this chapter to use information technology.

(b) The commissioner by rule shall identify circumstances that justify a waiver, including:

(1) undue hardship, including financial or operational hardship;

(2) the geographical area in which the health benefit plan issuer operates;

(3) the number of enrollees covered by a health benefit plan issuer; and

(4) other special circumstances.

(c) The commissioner shall approve or deny a waiver application under this section not later than the 60th day after the date of receipt of the application.

(d) This section expires January 1, 2012.

Sec. 1661.009. RULES. (a) The commissioner shall adopt rules as necessary to implement this chapter, including rules that ensure that the information technology used by a health benefit plan issuer does not have legal or technical restrictions for encoding, displaying, exchanging, reading, printing, transmitting, or storing information or data in electronic form.

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

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect January 1, 2010.

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

Amend **CSHB 1342** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Chapter 1661, Insurance Code (page 2, between lines 48 and 49), insert the following:

Sec. 1661.0055. USE OF TECHNOLOGY: WAIVER. (a) Notwithstanding Section 1661.004, physicians or health care providers with fewer than five full-time-equivalent employees are not required to use information technology as required under this chapter.

(b) A health benefit plan issuer may not require, through contract or otherwise, physicians or health care providers with fewer than five full-time-equivalent employees to use information technology as required under this chapter.

(c) A contract between the issuer of a health benefit plan and a physician or health care provider must provide for a waiver of any requirement for the use of information technology as established or required under this chapter.

(d) The commissioner shall establish the circumstances under which the requirements of this chapter do not apply to a physician or health care provider including:

- (1) undue hardship, including fiscal or operational hardship; or
- (2) any other special circumstance that would justify an exclusion.

(e) The commissioner shall establish circumstances under which a waiver under Subsection (c) is required, including:

- (1) undue hardship, including fiscal or operational hardship; or
- (2) any other special circumstance that would justify a waiver.

(f) Any physician or health care provider that is denied a waiver by a health benefit plan issuer may appeal the denial to the commissioner. The commissioner shall determine whether a waiver must be granted.

(g) A health benefit plan issuer may not refuse to contract or renew a contract with a physician or health care provider based in whole or in part on the physician or provider requesting or receiving a waiver or appealing a waiver determination. A health benefit plan issuer may not refuse to contract or renew a contract with a physician or health care provider based in whole or in part on the physician or provider meeting the exemptions contained in Subsections (a) and (b).

(h) A waiver approved under this section expires September 1, 2013.

(2) In SECTION 1 of the bill, in added Section 1661.008, Insurance Code (page 3, between lines 6 and 7), insert

"(e) A waiver approved under this section expires September 1, 2013."

HB 1998 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1998, A bill to be entitled An Act relating to temporary housing and emergency shelters provided by a political subdivision for disaster victims.

Representative McCall moved to concur in the senate amendments to **HB 1998**.

The motion to concur in the senate amendments to **HB 1998** prevailed by (Record 931): 140 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; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver;

Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; 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; 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.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Dukes; Laubenberg; Miller, S.; Rose.

Senate Committee Substitute

CSHB 1998, A bill to be entitled An Act relating to temporary housing and emergency shelters provided by a political subdivision for disaster victims.

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

SECTION 1. Section 418.004, Government Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Public facility" has the meaning assigned by Section 102, Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5122).

SECTION 2. Section 418.020, Government Code, is amended to read as follows:

Sec. 418.020. TEMPORARY HOUSING AND EMERGENCY SHELTER.

(a) The governor may enter into purchase, lease, or other arrangements with an agency of the United States for temporary housing units to be occupied by disaster victims and may make units available to any political subdivision.

(b) The governor may assist a political subdivision that is the locus of temporary housing or emergency shelters for disaster victims to acquire sites necessary for temporary housing or emergency shelters and to do all things required to prepare the sites to receive and use temporary housing units or emergency shelters by:

(1) advancing or lending funds available to the governor from any appropriation made by the legislature or from any other source;

(2) allocating funds made available by a public or private agency; or

(3) becoming a copartner with the political subdivision for the execution and performance of any temporary housing or emergency shelter project for disaster victims.

(c) Under regulations prescribed by the governor, the governor may temporarily suspend or modify for a period of not more than 60 days any public health, safety, zoning, intrastate transportation, or other law or regulation if by proclamation the governor considers the suspension or modification essential to provide temporary housing or emergency shelter for disaster victims.

(d) Any political subdivision may temporarily or permanently acquire by lease, purchase, or other means sites required for installation of temporary housing units or emergency shelters for disaster victims and may enter into arrangements necessary to prepare or equip the sites to use the housing units or shelters, including arrangements for the purchase of temporary housing units or shelters and the payment of transportation charges.

(e) A political subdivision that is the locus of temporary housing or emergency shelters for persons moved or evacuated by recommendation or order of the governor may be assisted by any resource available to the state, including the disaster contingency fund, to ensure the political subdivision receives an advance or reimbursement:

(1) of all expenses, including lost revenue, incurred by the political subdivision associated with the use of public facilities for temporary housing or emergency shelters; and

(2) of the amounts paid for salaries and benefits of permanently employed, straight-time and regular-time personnel of the political subdivision who perform duties associated with the movement or evacuation of persons into, out of, or through the political subdivision.

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

HB 1468 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1468, A bill to be entitled An Act relating to the regulation of funeral homes, cemeteries, and crematories; providing penalties.

Representative Chisum moved to concur in the senate amendments to **HB 1468**.

The motion to concur in the senate amendments to **HB 1468** prevailed by (Record 932): 142 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; 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; 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; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; 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.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Hilderbran; Laubenberg.

Senate Committee Substitute

CSHB 1468, A bill to be entitled An Act relating to the regulation of funeral homes, cemeteries, and crematories; providing penalties.

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

SECTION 1. Subchapter F, Chapter 154, Finance Code, is amended by adding Section 154.265 to read as follows:

Sec. 154.265. DEFAULT UNDER CERTAIN CONTRACTS.

(a) Notwithstanding any other law, the purchaser of a trust-funded prepaid funeral benefits contract may not be considered in default under the contract if:

(1) the purchaser has paid at least 85 percent of the contract price; and

(2) the purchaser was unable to pay due to extenuating financial circumstances.

(b) A funeral provider is not required to provide funeral merchandise or services under a trust-funded prepaid funeral benefits contract unless any remaining balance, including any applicable finance charge, owed under the contract is paid before the funeral service or the funeral provider agrees in writing to another payment arrangement.

(c) This section does not affect a purchaser's right to cancel a trust-funded prepaid funeral benefits contract.

SECTION 2. Section 711.008(b), Health and Safety Code, is amended to read as follows:

(b) Subsection (a) does not apply to:

(1) a cemetery heretofore established and operating;

(2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;

(3) the establishment and use of a columbarium:

(A) in a municipality with a population of at least 1.8 million; and

(B) by an organized religious society or sect, that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(i) is owned by the society or sect; and
(ii) is part of the campus on which an existing principal church building is located; ~~or~~

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus; or

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect.

SECTION 3. Section 711.012(b), Health and Safety Code, is amended to read as follows:

(b) The Texas Funeral Service Commission may adopt rules, establish procedures, and prescribe forms to enforce and administer Sections 711.003, 711.008, 711.010, 711.011, 711.021-711.035, 711.038, 711.0395, 711.041, 711.042, 711.052, 711.061, and 711.062 relating to cemeteries that are not perpetual care cemeteries.

SECTION 4. Section 711.038, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) A cemetery organization may not resell the exclusive right of sepulture in a plot unless the exclusive right of sepulture has been reacquired by the cemetery organization. A sanction or other penalty may not be imposed on a cemetery organization that violates this subsection unless:

(1) the state agency authorized to enforce this section provides the cemetery organization written notice of the violation; and

(2) the cemetery organization does not correct the violation before the 91st day after the date on which the cemetery organization received the notice.

SECTION 5. Subchapter C, Chapter 711, Health and Safety Code, is amended by adding Section 711.0395 to read as follows:

Sec. 711.0395. MULTIPLE INTERMENTS IN SAME PLOT. A cemetery organization may not make more than one interment in a plot unless each owner of the plot consents to the interment.

SECTION 6. Section 711.041, Health and Safety Code, is amended to read as follows:

Sec. 711.041. ACCESS TO CEMETERY. (a) Any person who wishes to visit a cemetery or private burial grounds for which no public ingress or egress is available shall have the right to reasonable ingress and egress for the purpose of visiting the cemetery or private burial grounds. This right of access extends only to visitation during the [reasonable] hours determined by the owner or owners of the lands under Subsection (b) or at a reasonable time as provided by Subsection (c) and only for purposes usually associated with cemetery visits.

(b) The owner or owners of the lands surrounding the cemetery or private burial grounds may designate the routes of reasonable ingress and egress and reasonable hours of availability.

(c) At a time other than the time provided by Subsection (b), the owner or owners of the lands surrounding a cemetery or private burial grounds must allow a person to enter and exit the owner's land for the purpose of visiting the cemetery or private burial grounds if:

(1) the person provides written notice to the owner or owners of the lands surrounding the cemetery or private burial grounds of the person's visit;

(2) the person provides the notice required by Subdivision (1) not later than the 14th day before the date the person wishes to visit the cemetery; and

(3) the time of the visit is reasonable.

SECTION 7. Subchapter D, Chapter 711, Health and Safety Code, is amended by adding Section 711.0515 to read as follows:

Sec. 711.0515. INJUNCTIVE RELIEF. In addition to bringing an action under Section 711.051, the attorney general at the request of the Texas Funeral Service Commission may bring an action for injunctive relief to enforce this chapter or a rule or order adopted by the commission under this chapter.

SECTION 8. Subchapter D, Chapter 711, Health and Safety Code, is amended by adding Section 711.0521 to read as follows:

Sec. 711.0521. ACCESS TO CEMETERIES; CRIMINAL PENALTIES. (a) A person who is an individual, firm, association, corporation, or municipality, or an officer, agent, or employee of an individual, firm, association, corporation, or municipality, commits an offense if the person interferes with a person's reasonable right to ingress and egress under Section 711.041.

(b) An offense under this section is a Class C misdemeanor.

SECTION 9. Subchapter A, Chapter 716, Health and Safety Code, is amended by adding Section 716.0035 to read as follows:

Sec. 716.0035. ACCEPTANCE OF REMAINS. A crematory establishment may accept deceased human remains for refrigeration before it receives authorization to cremate the remains under Subchapter B.

SECTION 10. Subchapter B, Chapter 716, Health and Safety Code, is amended by adding Section 716.054 to read as follows:

Sec. 716.054. EXCEPTION; WRITTEN DIRECTIONS. (a) This section applies and a cremation authorization form is not required under this chapter if:

(1) the deceased person has left written directions for the disposition by cremation of the deceased person's human remains as provided by Section 711.002(g); and

(2) the authorizing agent refuses for any reason to sign a cremation authorization form.

(b) The crematory establishment may cremate the deceased person's human remains without receipt of a cremation authorization form signed by the authorizing agent if:

(1) cremation costs are paid; and

(2) the authorizing agent provides positive written identification that the human remains to be cremated are the human remains of the deceased person.

SECTION 11. Section 716.103, Health and Safety Code, is amended to read as follows:

Sec. 716.103. IDENTIFICATION RESPONSIBILITY OF CREMATORY.

(a) A crematory establishment shall place on the exterior of a cremation container a label with the deceased person's name as provided by the authorizing agent unless the crematory establishment knows the name is incorrect.

(b) A crematory establishment shall place, with the cremated remains, in the temporary container, urn, or other permanent container, a permanent metal identification disc, bracelet, or other item that can be used to identify the deceased person.

SECTION 12. Section 716.104(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Section 716.054, a ~~A~~ funeral director or funeral establishment shall provide a signed written statement to a crematory establishment that the human remains delivered to the crematory establishment were positively identified as the deceased person listed on the cremation authorization form by the authorizing agent or a representative of the authorizing agent delegated as provided by Section 716.053.

SECTION 13. Section 716.152(d), Health and Safety Code, is amended to read as follows:

(d) To the extent practicable, the crematory establishment shall remove all recoverable cremation residue from the cremation chamber following cremation and pulverize any bone fragments to a particle size of one-eighth inch or less as necessary. The crematory establishment shall remove and dispose of any other material included with the residue.

SECTION 14. Section 716.156(a), Health and Safety Code, is amended to read as follows:

(a) A crematory establishment shall:

(1) release the cremated remains to a representative of the funeral establishment that delivered the deceased human remains to the crematory establishment;

(2) release the cremated remains to the person authorized to receive the remains on the cremation authorization form; ~~or~~

(3) ship the remains to the shipping address provided by the authorizing agent on the cremation authorization form not later than the 30th day following the date of cremation; or

(4) release the cremated remains according to written directions for the disposition by cremation of the deceased person's human remains as provided by Section 711.002(g).

SECTION 15. Subchapter E, Chapter 716, Health and Safety Code, is amended by adding Section 716.204 to read as follows:

Sec. 716.204. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY; WRITTEN DIRECTIONS. (a) In this section:

(1) "Cemetery organization" has the meaning assigned by Section 711.001.

(2) "Embalmer" has the meaning assigned by Section 651.001, Occupations Code.

(b) If Section 716.054(a) applies, a cemetery organization, a business operating a crematory or columbarium, a funeral director, an embalmer, or a funeral establishment is not criminally liable or liable in a civil action for:

(1) cremating the human remains of a deceased person; or

(2) carrying out the written directions of the deceased person.

SECTION 16. Section 716.304, Health and Safety Code, is amended to read as follows:

Sec. 716.304. SCATTERING REMAINS. A person may scatter cremated remains over uninhabited public land, over a public waterway or sea, or on the private property of a consenting owner~~[-, if the remains are reduced to a particle size of one eighth inch or less].~~ Unless the container is biodegradable, the cremated remains must be removed from the container before being scattered.

SECTION 17. Section 716.351(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person:

(1) cremates human remains without receipt of:

(A) a cremation authorization form signed by an authorizing agent;

or

(B) written directions for the disposition by cremation of the deceased person's human remains as provided in Section 711.002(g);

(2) signs a cremation authorization form with actual knowledge that the form contains false or incorrect information; or

(3) represents to the public that the person may cremate human remains without being licensed as provided by Subchapter N, Chapter 651, Occupations Code.

SECTION 18. Section 651.154(a), Occupations Code, is amended to read as follows:

(a) The commission shall set the following fees in amounts reasonable and necessary to administer this chapter:

(1) the funeral director's and embalmer's application fee, license fee, duplicate license fee, and reciprocal license fee; and

(2) the cemetery, crematory, or funeral establishment license fee, renewal fee, and late renewal penalty.

SECTION 19. Section 651.156, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) A subpoena or subpoena duces tecum issued under this section is not effective unless it is issued in compliance with:

(1) state and federal law; and

(2) commission rules adopted under Subsection (c).

SECTION 20. Section 651.165(d), Occupations Code, is amended to read as follows:

(d) A person whose license has been expired for one year or more may ~~not~~ renew the license by:

(1) retaking and passing the applicable examination;

(2) paying any applicable fees, including a renewal fee that is equal to two times the normally required renewal fee; and

(3) completing any continuing education required under Section 651.266. ~~[The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.]~~

SECTION 21. Subchapter D, Chapter 651, Occupations Code, is amended by adding Section 651.1655 to read as follows:

Sec. 651.1655. REINSTATEMENT OF SUSPENDED LICENSE. A person whose license has been suspended may renew the license by paying to the commission a renewal fee that is equal to two times the normally required renewal fee in addition to any penalty assessed by the commission.

SECTION 22. The heading to Section 651.267, Occupations Code, is amended to read as follows:

Sec. 651.267. REISSUANCE OF REVOKED LICENSE.

SECTION 23. Sections 651.267(a) and (d), Occupations Code, are amended to read as follows:

(a) On application, the commission may reissue a license issued under this subchapter to a person whose license has been ~~[suspended or]~~ revoked. An application to reissue a license may not be made before the third ~~[first]~~ anniversary of the date of the ~~[suspension or]~~ revocation.

(d) A license that has been revoked ~~[or suspended for a period of five years or more]~~ may be reinstated only after the applicant:

(1) retakes and passes the applicable examination;

(2) pays a fee that is equal to two times the normally required renewal fee; and

(3) satisfies any other commission requirements, including any continuing education requirements under Section 651.266.

SECTION 24. Section 651.304(e), Occupations Code, is amended to read as follows:

(e) The commission by rule shall prescribe reporting requirements for provisional license holders. The commission shall furnish report forms to be used by a provisional license holder.

SECTION 25. Section 651.351, Occupations Code, is amended by amending Subsections (d) and (f) and adding Subsection (i) to read as follows:

(d) A funeral establishment must:

(1) meet the building, fire safety, and health standards and health ordinances of this state and of the municipality in which the establishment is located;

(2) except as provided by Subsection (i), be located at a fixed place that is not tax-exempt property or a cemetery;

(3) include facilities in which funeral services may be conducted;

(4) have access to rolling stock consisting of at least one motor hearse;

(5) include a preparation room containing the facilities, equipment, and supplies required by commission rule to ensure the provision of adequate embalming services;

(6) include other facilities as necessary to comply with the sanitary codes of this state and of the municipality in which the room is located; and

(7) include a display containing sufficient merchandise to permit reasonable selection, including at least five adult caskets, two of which must be full-size and displayed in a casket showroom.

(f) The least expensive casket displayed under Subsection (d)(7) must be a full-size casket displayed in the same general manner as the other full-size caskets are displayed. The three adult caskets that are not required to be full-size under Subsection (d)(7) may be displayed:

(1) in a partial panel display; or

(2) by video or brochure, online, or in any other manner.

(i) Subsection (d)(2) does not apply to a funeral establishment that is:

(1) located on the real property of a public junior college; and

(2) operated in connection with an accredited educational program in funeral services offered by the public junior college.

SECTION 26. Section 651.353(d), Occupations Code, is amended to read as follows:

(d) This section does not apply to:

(1) a family, fraternal, or community cemetery that is not larger than 10 acres;

(2) an unincorporated association of plot owners not operated for profit;

(3) a church, a religious society or denomination, or an entity solely administering the temporalities of a church or religious society or denomination; ~~[or]~~

(4) a public cemetery owned by this state, a county, or a municipality;
or

(5) a perpetual care cemetery.

SECTION 27. Sections 651.354(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) The commission shall mail written notice to a cemetery or funeral establishment of the impending expiration of the establishment's license not later than the 30th day before the expiration date of the license. The ~~[Except as provided by Subsection (d), the]~~ notice must state that:

(1) to renew the license, the cemetery or funeral establishment must pay the renewal fee not later than the license expiration date ~~[September 30]~~; and

(2) the license is automatically renewed on receipt of the renewal fee.

(c) If the license is expired for longer than 30 days, the cemetery or funeral establishment ~~[may not renew the license and]~~ may not operate as a cemetery or funeral establishment until the renewal fee and the late payment penalty are paid ~~[establishment is issued a new license in the manner provided for issuing an original license].~~

(d) This section does not apply to ~~[To renew a license for]~~ a perpetual care cemetery ~~[, the cemetery must submit a renewal on a form prescribed by the commission. The license is renewed on receipt of the form by the commission].~~

SECTION 28. Subchapter H, Chapter 651, Occupations Code, is amended by adding Section 651.355 to read as follows:

Sec. 651.355. PERPETUAL CARE CEMETERY REGISTRATION.

(a) The Texas Department of Banking shall provide annually to the commission a list of perpetual care cemeteries, including the address and other contact information for each cemetery. The commission shall annually register each perpetual care cemetery on that list.

(b) A perpetual care cemetery is not required to pay a registration fee or renewal fee under this chapter.

SECTION 29. Subchapter J, Chapter 651, Occupations Code, is amended by adding Section 651.461 to read as follows:

Sec. 651.461. DEFENSE TO VIOLATION. A person licensed under this chapter does not violate this chapter by engaging in conduct regarding funeral arrangements under the direction of a person who:

(1) represents to the license holder that the person is authorized to make funeral arrangements for the deceased; and

(2) provides written directions to the license holder in the manner provided by Section 711.002, Health and Safety Code.

SECTION 30. Section 651.507(a), Occupations Code, is amended to read as follows:

(a) The commission or an administrative law judge employed by the State Office of Administrative Hearings shall review each disciplinary proceeding to determine whether the license holder has previously violated ~~[committed]~~ the same provision of this chapter or rule adopted under this chapter ~~[type of violation on one or more previous occasions]~~. If it is determined that the license holder has previously violated ~~[committed]~~ the same provision of this chapter or rule adopted under this chapter ~~[type of violation]~~, the commission or administrative law judge shall impose a disciplinary action that is more severe than that imposed on the previous occasion.

SECTION 31. Section 651.658(d), Occupations Code, is amended to read as follows:

(d) If the license is expired for longer than 30 days, the crematory establishment may not operate a crematory until the renewal fee and late payment penalty are paid ~~[A person may not renew a license that has been expired for more than 30 days. A person holding a license that has been expired for more than 30 days must apply for a new license as required by this subchapter to conduct a crematory business].~~

SECTION 32. The following are repealed:

(1) Section 716.004(b), Health and Safety Code; and

(2) Sections 651.304(b) and (c), 651.651(3), and 651.656(d), Occupations Code.

SECTION 33. Section 154.265, Finance Code, as added by this Act, applies only to a contract that is entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 34. The change in law made by Section 711.0521, Health and Safety Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 35. Sections 651.165(d), 651.354, and 651.658(d), Occupations Code, as amended by this Act, apply only to a license that expires on or after the effective date of this Act. A license that expired before the effective date of this Act is governed by the law in effect at the time the license expired, and the former law is continued in effect for that purpose.

SECTION 36. Section 651.1655, Occupations Code, as added by this Act, applies only to a license suspended on or after the effective date of this Act. A license suspended before the effective date of this Act is governed by the law in effect at the time the license was suspended, and the former law is continued in effect for that purpose.

SECTION 37. Section 651.267, Occupations Code, as amended by this Act, applies only to a license revoked on or after the effective date of this Act. A license revoked before the effective date of this Act is governed by the law in effect at the time the license was revoked, and the former law is continued in effect for that purpose.

SECTION 38. Not later than January 1, 2010, the Texas Department of Banking shall provide the initial list of perpetual care cemeteries to the Texas Funeral Service Commission as required by Section 651.355, Occupations Code, as added by this Act.

SECTION 39. This Act takes effect September 1, 2009.

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

Amend **CSHB 1468** (Senate committee printing) by adding the following appropriately numbered section and renumbering the sections of the bill accordingly:

SECTION _____. Subtitle B, Title 8, Health and Safety Code, is amended by adding Chapter 695 to read as follows:

CHAPTER 695. IN-CASKET IDENTIFICATION

Sec. 695.001. DEFINITIONS. In this chapter:

(1) "Casket" means a container used to hold the remains of a deceased person.

(2) "Commission" means the Texas Funeral Service Commission.

Sec. 695.002. IDENTIFICATION OF DECEASED PERSON. The commission shall ensure a casket contains identification of the deceased person, including the person's name, date of birth, and date of death.

Sec. 695.003. RULES. The commission may adopt rules to enforce this chapter.

**HB 1672 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1672, A bill to be entitled An Act relating to newborn screening.

Representative Crownover moved to concur in the senate amendments to **HB 1672**.

The motion to concur in the senate amendments to **HB 1672** prevailed by (Record 933): 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; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Leibowitz; 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.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Dukes.

Senate Committee Substitute

CSHB 1672, A bill to be entitled An Act relating to newborn screening.

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

SECTION 1. Subchapter A, Chapter 33, Health and Safety Code, is amended by adding Section 33.0021 to read as follows:

Sec. 33.0021. SICKLE-CELL TRAIT. Notwithstanding any provision of this chapter, the department shall include sickle-cell trait in the detection and treatment program established under this chapter, in the screening for heritable diseases conducted under Subchapter B, and in the newborn screening services provided under Subchapter C.

SECTION 2. Subchapter B, Chapter 33, Health and Safety Code, is amended by adding Sections 33.0111 and 33.0112 to read as follows:

Sec. 33.0111. DISCLOSURE. (a) The department shall develop a disclosure statement that clearly discloses to the parent, managing conservator, or guardian of a newborn child subjected to screening tests under Section 33.011:

(1) that the department or a laboratory established or approved by the department under Section 33.016 may retain for use by the department or laboratory genetic material used to conduct the newborn screening tests and discloses how the material is managed and used; and

(2) that the parent, managing conservator, or guardian may limit the use of the genetic material by providing to the department in accordance with Section 33.0112 a written statement prohibiting the department or laboratory from retaining the genetic material or using the genetic material for any purpose other than the conduct of newborn screening tests authorized under this chapter.

(b) The disclosure statement required by Subsection (a) must be included on the form developed by the department to inform parents about newborn screening. The disclosure statement must:

(1) be on a separate sheet of the form;

(2) be presented together with the written statement described by Subsection (a)(2) in a format that allows a parent, managing conservator, or guardian of a newborn child to either:

(A) sign, detach, and mail a portion of the form to the department to require the department or laboratory to destroy the genetic material on completion of the newborn screening tests; or

(B) check a box and sign next to the box on the form a statement indicating the parent, managing conservator, or guardian is requiring the department or laboratory to destroy the genetic material on completion of the newborn screening tests;

(3) include instructions on how to complete the portions of the form described by Subdivisions (2)(A) and (B);

(4) include the department's mailing address; and

(5) be made available to a parent, managing conservator, or guardian of a newborn child through alternative sources.

(c) At the time a newborn child is subjected to screening tests under Section 33.011, the physician attending a newborn child or the person attending the delivery of a newborn child that is not attended by a physician shall provide the parent, managing conservator, or guardian of a newborn child a copy of the written disclosure statement developed by the department under this section.

(d) The department shall establish procedures for a physician attending a newborn child or the person attending the delivery of a newborn child to provide verification to the department that the physician or person has provided the parent, managing conservator, or guardian of the newborn child the disclosure required under this section.

Sec. 33.0112. STATEMENT PROHIBITING RETENTION OF GENETIC MATERIAL. (a) A parent, managing conservator, or guardian of a newborn child may file with the department a signed written statement prohibiting the department or a laboratory established or approved by the department from retaining any genetic material related to the newborn screening tests conducted under this chapter or using the genetic material for any purpose other than the conduct of the newborn screening tests. A parent, managing conservator, or guardian may file the written statement on a form provided by the department.

(b) Not later than the 60th day after the department receives the written statement, the department or laboratory shall destroy the genetic material used in the screening tests.

(c) An adult individual may file with the department a written statement instructing the department or a laboratory established or approved by the department to destroy any genetic material of the individual that is retained and used under this chapter.

SECTION 3. Subchapter B, Chapter 33, Health and Safety Code, is amended by adding Section 33.017 to read as follows:

Sec. 33.017. CONFIDENTIALITY. (a) Reports, records, and information obtained or developed by the department under this chapter are confidential and are not subject to disclosure under Chapter 552, Government Code, are not subject to subpoena, and may not otherwise be released or made public except as provided by this section.

(b) Notwithstanding other law, reports, records, and information obtained or developed by the department under this chapter may be disclosed:

(1) for purposes of diagnosis or follow-up authorized under Section 33.014;

(2) with the consent of each identified individual or an individual authorized to consent on behalf of an identified child;

(3) as authorized by court order;

(4) to a medical examiner authorized to conduct an autopsy on a child or an inquest on the death of a child; or

(5) to public health programs of the department for public health research purposes provided that the disclosure is approved by an institutional review board or privacy board of the department as authorized by the federal privacy requirements adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

(c) Notwithstanding other law, reports, records, and information that do not identify a child or the family of a child may be released without consent if the disclosure is for:

(1) statistical purposes;

(2) purposes related to obtaining or maintaining certification, approval, or quality assurance for the department's laboratory or a public or private laboratory to perform newborn screening tests;

(3) purposes relating to review, quality assurance, or improvement of the department's newborn screening under this chapter or the department's newborn screening program services under Subchapter C;

(4) research purposes, provided that the disclosure is approved by an institutional review board or privacy board of the department; or

(5) quality assurance related to equipment and supplies, provided that:

(A) the assessment is performed by a person who is not a laboratory;

(B) only newborn screening specimens are disclosed; and

(C) the disclosure is approved by an institutional review board or privacy board of the department.

(d) A state officer or employee, a department contractor, or a department contractor's employee, officer, director, or subcontractor may not be examined in a civil, criminal, special, or other judicial or administrative proceeding as to the existence or contents of records, reports, or information made confidential by this section unless disclosure is authorized by this section.

SECTION 4. (a) The speaker of the house of representatives shall charge a committee of members selected by the speaker or a house standing committee to conduct an interim study on newborn screening in this state.

(b) The committee designated under Subsection (a) of this section shall:

(1) study the time frame and procedures for the disclosure required by Chapter 33, Health and Safety Code, to the parent, managing conservator, or guardian of a newborn child;

(2) analyze whether procedures should be developed by the Department of State Health Services to provide confirmation to a parent, managing conservator, or guardian of a newborn child that a stored specimen has been destroyed as required by a written statement submitted by the parent, managing conservator, or guardian; and

(3) study standardization of the disclosure process for health care facilities in this state.

(c) Not later than December 15, 2010, the committee designated under Subsection (a) of this section shall file a report on the results of the interim study conducted under this section with both houses of the legislature.

SECTION 5. As soon as practicable after the effective date of this Act, the Department of State Health Services shall implement Section 33.0021, Health and Safety Code, as added by this Act.

SECTION 6. As soon as practicable after the effective date of this Act, the Department of State Health Services shall develop the disclosure statement required by Section 33.0111, Health and Safety Code, as added by this Act. The department shall modify an existing form for use for purposes of that section.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

**HB 492 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 492, A bill to be entitled An Act relating to the expansion of faith- and community-based health and human services and social services initiatives.

Representative Zerwas moved to concur in the senate amendments to **HB 492**.

The motion to concur in the senate amendments to **HB 492** prevailed by (Record 934): 139 Yeas, 2 Nays, 2 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; 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; 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; 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; Taylor; Thibaut; Truitt; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Burnam; Thompson.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Coleman; Laubenberg; Swinford.

Senate Amendment No. 1 (Senate Floor Amendment No. 2)

Amend **HB 492** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, at the end of added Section 535.104(a)(6), Government Code (page 4, line 8), insert "and".

(2) In SECTION 1 of the bill, ~~strike~~ added Section 535.104(a)(8), Government Code (page 4, lines 16 through 26).

Senate Amendment No. 2 (Senate Floor Amendment No. 3)

Amend **HB 492** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

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).

**HB 2030 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2030, A bill to be entitled An Act relating to the Medicaid Drug Utilization Review Program and prescription drug use under the Medicaid program.

Representative Zerwas 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 2030**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2030**: Zerwas, chair; D. Howard, Hopson, J. Davis, and S. King.

**HB 2027 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2027, A bill to be entitled An Act relating to adoption of the Revised Uniform Anatomical Gift Act; providing criminal penalties.

Representative Zerwas moved to concur in the senate amendments to **HB 2027**.

The motion to concur in the senate amendments to **HB 2027** prevailed by (Record 935): 142 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; 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; 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; 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.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — King, S.; Laubenberg.

Senate Committee Substitute

CSHB 2027, A bill to be entitled An Act relating to adoption of the Revised Uniform Anatomical Gift Act; providing criminal penalties.

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

SECTION 1. Subtitle B, Title 8, Health and Safety Code, is amended by adding Chapter 692A to read as follows:

CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

Sec. 692A.001. SHORT TITLE. This chapter may be cited as the Revised Uniform Anatomical Gift Act.

Sec. 692A.002. DEFINITIONS. In this chapter:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Agent" means an individual:

(A) authorized to make health care decisions on the principal's behalf by a medical power of attorney; or

(B) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Commissioner" means the commissioner of state health services.

(5) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.

(6) "Department" means the Department of State Health Services.

(7) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under Section 692A.011.

(8) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(9) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(10) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(11) "Driver's license" means a license or permit issued by the Department of Public Safety to operate a vehicle, whether or not conditions are attached to the license or permit.

(12) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(13) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(14) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(15) "Identification card" means an identification card issued by the Department of Public Safety.

(16) "Imminent death" means a patient who requires mechanical ventilation, has a severe neurologic injury, and meets certain clinical criteria indicating that neurologic death is near or a patient for whom withdrawal of ventilatory support is being considered.

(17) "Know" means to have actual knowledge.

(18) "Minor" means an individual who is under 18 years of age.

(19) "Organ procurement organization" means a person designated by the secretary of the United States Department of Health and Human Services as an organ procurement organization.

(20) "Parent" means a parent whose parental rights have not been terminated.

(21) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(22) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(23) "Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

(24) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(25) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(26) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(27) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(28) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(29) "Refusal" means a record created under Section 692A.007 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(30) "Sign" means, with the present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(31) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(32) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(33) "Timely notification" means notification of an imminent death to the organ procurement organization within one hour of the patient's meeting the criteria for imminent death and before the withdrawal of any life sustaining therapies. With respect to cardiac death, timely notification means notification to the organ procurement organization within one hour of the cardiac death.

(34) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(35) "Tissue bank" means a person licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(36) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(37) "Visceral organ" means the heart, kidney, or liver or another organ or tissue that requires a patient support system to maintain the viability of the organ or tissue.

Sec. 692A.003. APPLICABILITY. This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Sec. 692A.004. PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH. Subject to Section 692A.008, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 692A.005 by:

(1) the donor, if the donor is an adult or if the donor is a minor and is:

(A) emancipated; or

(B) authorized under state law to apply for a driver's license

because the donor is at least 16 years of age and:

(i) circumstances allow the donation to be actualized prior to 18 years of age; and

(ii) an organ procurement organization obtains signed written consent from the minor's parent, guardian, or custodian as in Subdivision (3);

(2) an agent of the donor, unless the medical power of attorney or other record prohibits the agent from making an anatomical gift;

(3) a parent of the donor, if the donor is an unemancipated minor; or

(4) the donor's guardian.

Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (a) A donor may make an anatomical gift:

(1) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(2) in a will;

(3) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) as provided in Subsection (b).

(b) A donor or other person authorized to make an anatomical gift under Section 692A.004 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that the record has been signed and witnessed as provided in Subdivision (1).

(c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card on which an anatomical gift is indicated does not invalidate the gift.

(d) An anatomical gift made by will takes effect on the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (a) Subject to Section 692A.008, a donor or other person authorized to make an anatomical gift under Section 692A.004 may amend or revoke an anatomical gift by:

(1) a record signed by:

(A) the donor;

(B) the other person; or

(C) subject to Subsection (b), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(2) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) A record signed pursuant to Subsection (a)(1)(C) must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(2) state that the record has been signed and witnessed as provided in Subdivision (1).

(c) Subject to Section 692A.008, a donor or other person authorized to make an anatomical gift under Section 692A.004 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection (a).

Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF REFUSAL. (a) An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) a record signed by:

(A) the individual; or

(B) subject to Subsection (b), another individual acting at the direction of the individual if the individual is physically unable to sign;

(2) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(b) A record signed pursuant to Subsection (a)(1)(B) must:

(1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(2) state that the record has been signed and witnessed as provided in Subdivision (1).

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) in the manner provided in Subsection (a) for making a refusal;

(2) by subsequently making an anatomical gift pursuant to Section 692A.005 that is inconsistent with the refusal; or

(3) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as otherwise provided in Section 692A.008(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in Subsection (g) and subject to Subsection (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under Section 692A.005 or an amendment to an anatomical gift of the donor's body or part under Section 692A.006.

(b) A donor's revocation of an anatomical gift of the donor's body or part under Section 692A.006 is not a refusal and does not bar another person specified in Section 692A.004 or Section 692A.009 from making an anatomical gift of the donor's body or part under Section 692A.005 or Section 692A.010.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section 692A.005 or an amendment to an anatomical gift of the donor's body or part under Section 692A.006, another person may not make, amend, or revoke the gift of the donor's body or part under Section 692A.010.

(d) A revocation of an anatomical gift of a donor's body or part under Section 692A.006 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section 692A.005 or Section 692A.010.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 692A.004, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 692A.004, an anatomical gift of a part for one or more of the purposes set forth in Section 692A.004 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under Section 692A.005 or Section 692A.010.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) Subject to Subsections (b) and (c) and unless barred by Section 692A.007 or Section 692A.008, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) immediately before the decedent's death;

(2) the spouse of the decedent;

(3) adult children of the decedent;

(4) parents of the decedent;

(5) adult siblings of the decedent;

(6) adult grandchildren of the decedent;

(7) grandparents of the decedent;

(8) an adult who exhibited special care and concern for the decedent;

(9) the persons who were acting as the guardians of the person of the decedent at the time of death;

(10) the hospital administrator; and

(11) any other person having the authority to dispose of the decedent's body.

(b) If there is more than one member of a class listed in Subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 692A.011 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

Sec. 692A.010. MANNER OF MAKING, AMENDING, OR REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) A person authorized to make an anatomical gift under Section 692A.009 may make an anatomical gift by a document of gift signed by the person making the gift or by

that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to Subsection (c), an anatomical gift by a person authorized under Section 692A.009 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under Section 692A.009 may be:

(1) amended only if a majority of the reasonably available members agree to the amending of the gift; or

(2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under Subsection (b) is effective only if, before an incision has been made to remove a part from the donor's body or before the initiation of invasive procedures to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT; PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made to the following persons named in the document of gift:

(1) an organ procurement organization to be used for transplantation, therapy, research, or education;

(2) a hospital to be used for research;

(3) subject to Subsection (d), an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(4) an eye bank or tissue bank, except that use of a gift of a whole body must be coordinated through the Anatomical Board of the State of Texas;

(5) a forensic science program at:

(A) a general academic teaching institution as defined by Section 61.003, Education Code; or

(B) a private or independent institution of higher education as defined by Section 61.003, Education Code; or

(6) the Anatomical Board of the State of Texas.

(b) Except for donations described by Subsections (a)(1) through (5), the Anatomical Board of the State of Texas shall be the donee of gifts of bodies or parts of bodies made for the purpose of education or research that are subject to distribution by the board under Chapter 691.

(c) A forensic science program that receives a donation under Subsection (a)(5) must submit a report to the Anatomical Board of the State of Texas on a quarterly basis that lists:

(1) the number of bodies or parts of bodies that the program received;
and

(2) the method in which the program used the bodies or parts of bodies for education or research.

(d) If an anatomical gift to an individual under Subsection (a)(3) cannot be transplanted into the individual, the part passes in accordance with Subsection (i) in the absence of an express, contrary indication by the person making the anatomical gift.

(e) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in Subsection (a) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) if the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) if the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(3) if the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ; and

(4) if the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(f) For the purpose of Subsection (e), if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(g) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection (a) and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (i).

(h) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (i).

(i) For purposes of Subsections (d), (g), and (h), the following rules apply:

(1) if the part is an eye, the gift passes to the appropriate eye bank;

(2) if the part is tissue, the gift passes to the appropriate tissue bank;

and

(3) if the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(j) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under Subsection (a)(3), passes to the organ procurement organization as custodian of the organ.

(k) If an anatomical gift does not pass pursuant to Subsections (a) through (j) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(l) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section 692A.005 or Section 692A.010 or if the person knows that the decedent made a refusal under Section 692A.007 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(m) Except as otherwise provided in Subsection (a)(3), nothing in this chapter affects the allocation of organs for transplantation or therapy.

(n) A donee may accept or reject a gift.

Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of a person who is involved in an accident or other trauma shall accompany the person to the hospital or other health care facility. The driver's license or personal identification certificate indicating an affirmative statement of gift of a person who is involved in an accident or other trauma shall accompany the person to the hospital or health care facility if the person does not have a donor card.

Sec. 692A.013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT TO EXAMINE. (a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) On or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 692A.011.

Sec. 692A.014. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS. (a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under Section 692A.011 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this chapter, an examination under Subsection (c) or (d) may include an examination of all medical and dental records of the donor or prospective donor.

(f) On the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) On referral by a hospital under Subsection (a), a procurement organization shall make a reasonable search for any person listed in Section 692A.009 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to Sections 692A.011(k) and 693.002, the rights of the person to which a part passes under Section 692A.011 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift wholly or partly. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 692A.011, on the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) The physician who attends the decedent at death or the physician who determines the time of the decedent's death may not participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE; HOSPITAL PROCEDURES. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts. Each hospital must have a protocol that ensures its maintenance of an effective donation system in order to maximize organ, tissue, and eye donation. The protocol must:

(1) be available to the public during the hospital's normal business hours;

(2) establish a procedure for the timely notification to an organ procurement organization of individuals whose death is imminent or who have died in the hospital;

(3) establish procedures to ensure potential donors are declared dead by an appropriate practitioner in an acceptable time frame;

(4) establish procedures to ensure that hospital staff and organ procurement organization staff maintain appropriate medical treatment of potential donors while necessary testing and placement of potential donated organs, tissues, and eyes take place;

(5) ensure that all families are provided the opportunity to donate organs, tissues, and eyes, including vascular organs procured from asystolic donors;

(6) provide that the hospital use appropriately trained persons from an organ procurement organization, tissue bank, or eye bank to make inquiries relating to donations;

(7) provide for documentation of the inquiry and of its disposition in the decedent's medical records;

(8) require an organ procurement organization, tissue bank, or eye bank that makes inquiries relating to donations to develop a protocol for making those inquiries;

(9) encourage sensitivity to families' beliefs and circumstances in all discussions relating to the donations;

(10) provide that the organ procurement organization determines medical suitability for organ donation and, in the absence of alternative arrangements by the hospital, the organ procurement organization determines medical suitability for tissue and eye donation, using the definition of potential tissue and eye donor and the notification protocol developed in consultation with the tissue and eye banks identified by the hospital for this purpose;

(11) ensure that the hospital works cooperatively with the designated organ procurement organization, tissue bank, and eye bank in educating staff on donation issues;

(12) ensure that the hospital works with the designated organ procurement organization, tissue bank, and eye bank in reviewing death records;
and

(13) provide for monitoring of donation system effectiveness, including rates of donation, protocols, and policies, as part of the hospital's quality improvement program.

Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED. (a) Except as otherwise provided in Subsection (b), a person commits an offense if the person for valuable consideration knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death. An offense under this subsection is a Class A misdemeanor.

(b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

(c) If conduct that constitutes an offense under this section also constitutes an offense under other law, the actor may be prosecuted under this section, the other law, or both this section and the other law.

Sec. 692A.017. OTHER PROHIBITED ACTS. (a) A person commits an offense if the person, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal. An offense under this section is a Class A misdemeanor.

(b) If conduct that constitutes an offense under this section also constitutes an offense under other law, the actor may be prosecuted under this section, the other law, or both this section and the other law.

Sec. 692A.018. IMMUNITY. (a) A person who acts in good faith in accordance with this chapter is not liable for civil damages or subject to criminal prosecution for the person's action if the prerequisites for an anatomical gift are met under the laws applicable at the time and place the gift is made.

(b) A person that acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(c) A person who acts in good faith in accordance with this chapter is not liable as a result of the action except in the case of an act or omission of the person that is intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard. For purposes of this subsection, "good faith" in determining the appropriate person authorized to make a donation under Section 692A.009 means making a reasonable effort to locate and contact the member or members of the highest priority class who are reasonably available at or near the time of death.

(d) Neither a person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(e) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely on representations of an individual listed in Section 692A.009(a)(2), (3), (4), (5), (6), (7), or (8) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY.

(a) A document of gift is valid if executed in accordance with:

(1) this chapter;

(2) the laws of the state or country where it was executed; or

(3) the laws of the state or country where the person making the anatomical gift was domiciled, had a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Sec. 692A.020. GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY; EDUCATION PROGRAM. (a) In this section, "registry program" means the donor education, awareness, and registry program established under this section and known as the Glenda Dawson Donate Life-Texas Registry.

(b) Any program or component of a program that the department develops under this chapter shall be known as the Glenda Dawson Donate Life-Texas Registry.

(c) The department shall affiliate with an entity, such as a national or state association concerned with organ donation, to promote the registry program in accordance with this section.

(d) In consultation with the Department of Public Safety and organ procurement organizations, the department shall establish the Glenda Dawson Donate Life-Texas Registry.

(e) The department shall enter into an agreement with an organization selected by the commissioner under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors. Contingent on the continued availability of appropriations under Subsection (k), the term of the initial agreement is two years and may be renewed for two-year terms thereafter unless terminated in a written notice to the other party by the department or organization not later than the 180th day before the last day of a term.

(f) The Department of Public Safety at least monthly shall electronically transfer to the organization selected by the commissioner as provided by Subsection (e) the name, date of birth, driver's license number, most recent address, and any other relevant information in the possession of the Department of Public Safety for any person who indicates on the person's driver's license application under Section 521.401, Transportation Code, that the person would like to make an anatomical gift and consents in writing to the release of the information by the Department of Public Safety to the organization for inclusion in the Internet-based registry.

(g) The contract between the department and the organization selected by the commissioner as provided by Subsection (e) must require the organization to:

(1) make information obtained from the Department of Public Safety under Subsection (f) available to procurement organizations;

(2) allow potential donors to submit information in writing directly to the organization for inclusion in the Internet-based registry;

(3) maintain the Internet-based registry in a manner that allows procurement organizations to immediately access organ, tissue, and eye donation information 24 hours a day, seven days a week through electronic and telephonic methods; and

(4) protect the confidentiality and privacy of the individuals providing information to the Internet-based registry, regardless of the manner in which the information is provided.

(h) Except as otherwise provided by Subsection (g)(3) or this subsection, the Department of Public Safety, the organization selected by the commissioner under Subsection (e), or a procurement organization may not sell, rent, or

otherwise share any information provided to the Internet-based registry. A procurement organization may share any information provided to the registry with an organ procurement organization or a health care provider or facility providing medical care to a potential donor as necessary to properly identify an individual at the time of donation.

(i) The Department of Public Safety, the organization selected by the commissioner under Subsection (e), or the procurement organizations may not use any demographic or specific data provided to the Internet-based registry for any fund-raising activities. Data may only be transmitted from the selected organization to procurement organizations through electronic and telephonic methods using secure, encrypted technology to preserve the integrity of the data and the privacy of the individuals providing information.

(j) In each office authorized to issue driver's licenses or personal identification certificates, the Department of Public Safety shall make available educational materials developed by the Texas Organ, Tissue, and Eye Donor Council established under Chapter 113, as added by Chapter 1186, Acts of the 79th Legislature, Regular Session, 2005.

(k) The Department of Public Safety shall remit to the comptroller the money collected under Sections 521.421(g) and 521.422(c), Transportation Code, as provided by those subsections. A county assessor-collector shall remit to the comptroller any money collected under Section 502.1745, Transportation Code, as provided by that section. Money remitted to the comptroller in accordance with those sections that is appropriated to the department must be spent in accordance with the priorities established by the department in consultation with the Texas Organ, Tissue, and Eye Donor Council to pay the costs of:

(1) maintaining, operating, and updating the Internet-based registry and establishing procedures for an individual to be added to the registry; and

(2) designing and distributing educational materials for prospective donors as required under this section.

(l) Any additional money over the amount necessary to accomplish the purposes of Subsections (k)(1) and (2) may be used by the department to provide education under this chapter or may be awarded using a competitive grant process to organizations to conduct organ, eye, and tissue donation education activities in this state. A member of the Texas Organ, Tissue, and Eye Donor Council may not receive a grant under this subsection.

(m) The department shall require the organization selected under Subsection (e) to submit an annual written report to the department that includes:

(1) the number of donors listed on the Internet-based registry;

(2) changes in the number of donors listed on the registry; and

(3) the demographic characteristics of listed donors, to the extent the characteristics may be determined from information provided on donor registry forms submitted by donors to the organization.

(n) To the extent funds are available and as part of the donor registry program, the department shall educate residents about anatomical gifts. The program shall include information about:

(1) the laws governing anatomical gifts, including Subchapter Q, Chapter 521, Transportation Code, Chapter 693, and this chapter;

(2) the procedures for becoming an organ, eye, or tissue donor or donee; and

(3) the benefits of organ, eye, or tissue donation.

(o) In developing the registry program, the department in consultation with the Texas Organ, Tissue, and Eye Donor Council shall solicit broad-based input reflecting recommendations of all interested groups, including representatives of patients, providers, ethnic groups, and geographic regions.

(p) In consultation with the Texas Organ, Tissue, and Eye Donor Council, the department may implement a training program for all appropriate Department of Public Safety and Texas Department of Transportation employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the Internet-based registry. The department shall implement the training program before the date that the registry is operational and shall conduct the training on an ongoing basis for new employees.

(q) The department shall develop a program to educate health care providers and attorneys in this state about anatomical gifts.

(r) The department through the program shall encourage attorneys to provide organ donation information to clients seeking advice for end-of-life decisions.

(s) The department shall encourage medical and nursing schools in this state to include mandatory organ donation education in the schools' curricula.

(t) The department shall encourage medical schools in this state to require a physician in a neurology or neurosurgery residency program to complete an advanced course in organ donation education.

Sec. 692A.021. EFFECT OF ANATOMICAL GIFT ON ADVANCE DIRECTIVE. (a) In this section:

(1) "Advance directive" means a medical power of attorney or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor.

(2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(3) "Health-care decision" means any decision made regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if the agent is not reasonably available, another person authorized by law other than this chapter to make health-care decisions on behalf of the prospective donor, shall act on the prospective donor's behalf to resolve the

conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under Section 692A.009. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor.

(c) If the conflict cannot be resolved, an expedited review of the matter must be initiated by an ethics or medical committee of the appropriate health care facility.

Sec. 692A.022. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact a law substantially similar to this chapter.

Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the provisions of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.), but does not modify, limit, or supersede Section 101(a) of that Act (15 U.S.C. Section 7001(a)), or authorize electronic delivery of any of the notices described in Section 103 of that Act (15 U.S.C. Section 7003(b)).

SECTION 2. Section 241.153, Health and Safety Code, is amended to read as follows:

Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A patient's health care information may be disclosed without the patient's authorization if the disclosure is:

(1) directory information, unless the patient has instructed the hospital not to make the disclosure or the directory information is otherwise protected by state or federal law;

(2) to a health care provider who is rendering health care to the patient when the request for the disclosure is made;

(3) to a transporting emergency medical services provider for the purpose of:

(A) treatment or payment, as those terms are defined by the regulations adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191); or

(B) the following health care operations described by the regulations adopted under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191):

- (i) quality assessment and improvement activities;
- (ii) specified insurance functions;
- (iii) conducting or arranging for medical reviews; or
- (iv) competency assurance activities;

(4) to a member of the clergy specifically designated by the patient;

(5) to a [~~qualified organ or tissue~~] procurement organization as defined in Section 692A.002 [~~692.002~~] for the purpose of making inquiries relating to donations according to the protocol referred to in Section 692A.015 [~~692.013(d)~~];

(6) to a prospective health care provider for the purpose of securing the services of that health care provider as part of the patient's continuum of care, as determined by the patient's attending physician;

(7) to a person authorized to consent to medical treatment under Chapter 313 or to a person in a circumstance exempted from Chapter 313 to facilitate the adequate provision of treatment;

(8) to an employee or agent of the hospital who requires health care information for health care education, quality assurance, or peer review or for assisting the hospital in the delivery of health care or in complying with statutory, licensing, accreditation, or certification requirements and if the hospital takes appropriate action to ensure that the employee or agent:

(A) will not use or disclose the health care information for any other purpose; and

(B) will take appropriate steps to protect the health care information;

(9) to a federal, state, or local government agency or authority to the extent authorized or required by law;

(10) to a hospital that is the successor in interest to the hospital maintaining the health care information;

(11) to the American Red Cross for the specific purpose of fulfilling the duties specified under its charter granted as an instrumentality of the United States government;

(12) to a regional poison control center, as the term is used in Chapter 777, to the extent necessary to enable the center to provide information and education to health professionals involved in the management of poison and overdose victims, including information regarding appropriate therapeutic use of medications, their compatibility and stability, and adverse drug reactions and interactions;

(13) to a health care utilization review agent who requires the health care information for utilization review of health care under Chapter 4201 [~~Article 21.58A~~], Insurance Code;

(14) for use in a research project authorized by an institutional review board under federal law;

(15) to health care personnel of a penal or other custodial institution in which the patient is detained if the disclosure is for the sole purpose of providing health care to the patient;

(16) to facilitate reimbursement to a hospital, other health care provider, or the patient for medical services or supplies;

(17) to a health maintenance organization for purposes of maintaining a statistical reporting system as required by a rule adopted by a state agency or regulations adopted under the federal Health Maintenance Organization Act of 1973, as amended (42 U.S.C. Section 300e et seq.);

(18) to satisfy a request for medical records of a deceased or incompetent person pursuant to Section 74.051(e), Civil Practice and Remedies Code;

(19) to comply with a court order except as provided by Subdivision (20); or

(20) related to a judicial proceeding in which the patient is a party and the disclosure is requested under a subpoena issued under:

(A) the Texas Rules of Civil Procedure or Code of Criminal Procedure; or

(B) Chapter 121, Civil Practice and Remedies Code.

SECTION 3. Section 691.030(d), Health and Safety Code, is amended to read as follows:

(d) The board may transport a body or anatomical specimen to an authorized recipient in another state if the board determines that the supply of bodies or anatomical specimens in this state exceeds the need for bodies or anatomical specimens in this state and if:

(1) the deceased donated his body in compliance with Section 691.028 and at the time of the donation authorized the board to transport the body outside this state; or

(2) the body was donated in compliance with Chapter 692A [~~692~~ (~~Texas Anatomical Gift Act~~)] and the person authorized to make the donation under Section 692A.009 [~~692.004~~] authorized the board to transport the body outside this state.

SECTION 4. Sections 693.002(a)(1), (2), and (4), Health and Safety Code, are amended to read as follows:

(1) On a request from an ~~a~~ qualified organ procurement organization, as defined by ~~in~~ Section 692A.002 [~~692.002~~], the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge may permit the removal of organs from a decedent who died under circumstances requiring an inquest by the medical examiner, justice of the peace, or county judge if consent is obtained pursuant to Sections 692A.005 through 692A.010 or Section 693.003.

(2) If no autopsy is required, the organs to be transplanted shall be released in a timely manner to the qualified organ procurement organization, as defined by ~~in~~ Section 692A.002 [~~692.002~~], for removal and transplantation.

(4) If the medical examiner is considering withholding one or more organs of a potential donor for any reason, the medical examiner shall be present during the removal of the organs. In such case, the medical examiner may request a biopsy of those organs or deny removal of the anatomical gift. If the medical examiner denies removal of the anatomical gift, the medical examiner shall explain in writing the reasons for the denial. The medical examiner shall provide the explanation to:

(A) the qualified organ procurement organization; and

(B) any person listed in Section 692A.009 [~~693.004~~] who consented to the removal.

SECTION 5. Section 693.002(b), Health and Safety Code, is amended to read as follows:

(b) On a request from a [qualified] tissue bank [procurement organization], as defined by ~~in~~ Section 692A.002 [692.002], the medical examiner may permit the removal of tissue believed to be clinically usable for transplants or other therapy or treatment from a decedent who died under circumstances requiring an inquest if consent is obtained pursuant to Sections 692A.005 through 692A.010 or Section 693.003 or, if consent is not required by those sections [that section], no objection by a person listed in Section 692A.009 [693.004] is known by the medical examiner. If the medical examiner denies removal of the tissue, the medical examiner shall explain in writing the reasons for the denial. The medical examiner shall provide the explanation to:

- (1) the [qualified] tissue bank [procurement organization]; and
- (2) the person listed in Section 692A.009 [693.004] who consented to the removal.

SECTION 6. Section 693.003, Health and Safety Code, is amended to read as follows:

Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN CIRCUMSTANCES. ~~[(a) A medical examiner or a person acting on the authority of a medical examiner may not remove a visceral organ unless the medical examiner or person obtains the consent of a person listed in Section 693.004.~~

~~[(b) If a person listed in Section 693.004 is known and available within four hours after death is pronounced, a medical examiner or a person acting on the authority of a medical examiner may not remove a nonvisceral organ or tissue unless the medical examiner or person obtains that person's consent.~~

~~[(c) If a person listed in Section 692A.009 [693.004] cannot be identified and contacted within four hours after death is pronounced and the county court [medical examiner] determines that no reasonable likelihood exists that a person can be identified and contacted during the four-hour period, the county court [medical examiner] may permit the removal of a nonvisceral organ or tissue.~~

SECTION 7. Section 693.005, Health and Safety Code, is amended to read as follows:

Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a civil action brought by a person listed in Section 692A.009 [693.004] who did not object before the removal of tissue or a body part specified by Section 693.002, a medical examiner, justice of the peace, county judge, medical facility, physician acting on permission of a medical examiner, justice of the peace, or county judge, or person assisting a physician is not liable for damages on a theory of civil recovery based on a contention that the plaintiff's consent was required before the body part or tissue could be removed.

SECTION 8. Section 693.006, Health and Safety Code, is amended to read as follows:

Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request from an eye bank, as defined in Section 692A.002 [692.002], the medical examiner, justice of the peace, county judge, or physician designated by the justice of the

peace or county judge may permit the removal of corneal tissue subject to the same provisions that apply to removal of a visceral organ on the request of a ~~[an organ]~~ procurement organization under this subchapter. The provisions of Chapter 692A ~~[this subchapter]~~ relating to immunity and consent apply to the removal of the corneal tissue.

SECTION 9. Sections 521.401(b) and (c), Transportation Code, are amended to read as follows:

(b) The statement of gift may be shown on a donor's driver's license or personal identification certificate or by a card designed to be carried by the donor to evidence the donor's intentions with respect to organ, tissue, and eye donation. A donor card signed by the donor shall be given effect as if executed pursuant to Section 692A.005 ~~[692.003(d)]~~, Health and Safety Code.

(c) Donor cards shall be provided to the department by ~~[qualified]~~ organ ~~[or tissue]~~ procurement organizations, tissue banks, or eye banks, as those terms are defined in Section 692A.002 ~~[692.002]~~, Health and Safety Code, or by the Glenda Dawson Donate Life-Texas ~~[Donor Education, Awareness, and]~~ Registry ~~[Program of Texas]~~ established under Chapter 692A ~~[49]~~, Health and Safety Code. The department shall:

(1) provide to each applicant for the issuance of an original, renewal, corrected, or duplicate driver's license or personal identification certificate who applies in person, by mail, over the Internet, or by other electronic means:

(A) the opportunity to indicate on the person's driver's license or personal identification certificate that the person is willing to make an anatomical gift, in the event of death, in accordance with Section 692A.005 ~~[692.003]~~, Health and Safety Code; and

(B) an opportunity for the person to consent in writing to the department's provision of the person's name, date of birth, driver's license number, most recent address, and other information needed for identification purposes at the time of donation to the organization selected by the commissioner of state health services under Section 692A.020 ~~[Chapter 49]~~, Health and Safety Code, for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and for release to procurement ~~[qualified organ, tissue, and eye bank]~~ organizations; and

(2) provide a means to distribute donor cards to interested individuals in each office authorized to issue driver's licenses or personal identification certificates.

SECTION 10. Section 651.407(f), Occupations Code, is amended to read as follows:

(f) This section does not apply to a dead human body obtained by a school or college of mortuary science under Chapter 691 or 692A ~~[692]~~, Health and Safety Code.

SECTION 11. The following provisions are repealed:

- (1) Chapter 49, Health and Safety Code;
- (2) Chapter 692, Health and Safety Code;
- (3) Section 693.004, Health and Safety Code;
- (4) Section 521.403, Transportation Code; and

(5) Section 521.404, Transportation Code.

SECTION 12. Notwithstanding the repeal of Chapter 49, Health and Safety Code, by this Act, the Glenda Dawson Donate Life-Texas Registry described by that chapter is continued in effect in accordance with Chapter 692A, Health and Safety Code, as added by this Act.

SECTION 13. This Act takes effect September 1, 2009.

**SB 727 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Riddle, the house granted the request of the senate for the appointment of a Conference Committee on **SB 727**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 727**: Vaught, chair; Riddle, Anchia, Geren, and Moody.

**SB 2306 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative D. Miller, the house granted the request of the senate for the appointment of a Conference Committee on **SB 2306**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 2306**: D. Miller, chair; Ritter, Laubenberg, Martinez Fischer, and Button.

**HB 2512 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2512, A bill to be entitled An Act relating to authorization to make an audio recording of a meeting or proceeding arising from a grievance reported by a public school employee.

Representative Aycock moved to concur in the senate amendments to **HB 2512**.

The motion to concur in the senate amendments to **HB 2512** prevailed by (Record 936): 140 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; Coleman; Cook; Corte; Crabb; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; 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; 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; 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.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Giddings; Hughes; Laubenberg; Paxton.

STATEMENTS OF VOTE

When Record No. 936 was taken, I was in the house but away from my desk. I would have voted yes.

Hughes

When Record No. 936 was taken, I was in the house but away from my desk. I would have voted yes.

Paxton

Senate Committee Substitute

CSHB 2512, A bill to be entitled An Act relating to audio recordings of certain grievance proceedings or meetings by school district employees.

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

SECTION 1. Section 11.171, Education Code, is amended to read as follows:

Sec. 11.171. SCHOOL DISTRICT GRIEVANCE POLICY. (a) A school district grievance policy must permit a school district employee to report a grievance against a supervisor that alleges the supervisor's violation of the law in the workplace or the supervisor's unlawful harassment of the employee to a supervisor other than the supervisor against whom the employee intends to report the grievance.

(b) A school district grievance policy must permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of a grievance that complies with the policy is investigated or discussed. The implementation of this subsection may not result in a delay of any timeline provided by the grievance policy and does not require the district to provide equipment for the employee to make the recording.

SECTION 2. This Act takes effect September 1, 2009.

HB 2032 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2032, A bill to be entitled An Act relating to the authority of certain municipalities to use tax revenue for certain venue projects.

Representative England moved to concur in the senate amendments to **HB 2032**.

The motion to concur in the senate amendments to **HB 2032** prevailed by (Record 937): 141 Yeas, 1 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; Coleman; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Harcastle; 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; 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.; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Crabb.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Phillips; Veasey.

STATEMENTS OF VOTE

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

Flynn

When Record No. 937 was taken, I was temporarily out of the house chamber. I would have voted yes.

Veasey

Senate Committee Substitute

CSHB 2032, A bill to be entitled An Act relating to the authority of certain municipalities to use tax revenue for certain venue projects.

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

SECTION 1. Subchapter A, Chapter 334, Local Government Code, is amended by adding Section 334.0082 to read as follows:

Sec. 334.0082. VENUE PROJECTS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that has a population of at least 176,000, that borders the Rio Grande, and that approved a sports and community venue project before January 1, 2009.

(b) Notwithstanding any other law, including Section 334.089, after complying with Section 334.022, a municipality to which this section applies may hold an election under Section 334.024 on the question of approving and implementing a resolution to:

(1) authorize the municipality to plan, acquire, establish, develop, construct, or renovate a convention center and related infrastructure in the city limits of the municipality as part of an existing or previously approved sports and community venue project, regardless of whether the convention center is located on the premises of the existing or previously approved venue project;

(2) impose a tax under Subchapter H at a rate not to exceed two percent of the cost of a room; and

(3) authorize the municipality to finance, operate, and maintain the venue project described by Subdivision (1), including the convention center, using the revenue from any taxes imposed by the municipality under this chapter, including taxes previously approved in relation to the existing or previously approved venue project.

(c) If the resolution is approved by a majority of the votes cast in the election, the municipality may implement the resolution.

SECTION 2. Section 334.2516(a), Local Government Code, is amended to read as follows:

(a) This section applies only to a municipality that:

(1) is located in three counties;

(2) has a population of less than 130,000 as shown by the 2000 federal decennial census [~~120,000~~]; and

(3) acquires by purchase or lease with a term of not less than 20 years an interest in real property that by the terms of the acquisition is required to be maintained as park property.

SECTION 3. Section 351.001(7), Tax Code, is amended to read as follows:

(7) "Eligible central municipality" means a municipality with a population of more than 140,000 [~~440,000~~] but less than 1.5 million that is located in a county with a population of one million or more and that has adopted a capital improvement plan for the expansion of an existing convention center facility.

SECTION 4. Section 1504.003(a), Government Code, is amended to read as follows:

(a) Bonds issued under this subchapter must be secured by a pledge of and be payable from all or a designated part of the revenue from the facility for which the bonds are issued or from additional sources made available by the municipality for that purpose, as provided in the ordinance authorizing or approving the issuance of the bonds.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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

Amend **CSHB 2032** (Senate committee printing) in SECTION 1 of the bill by striking proposed Subsection (a) of Section 334.0082, Local Government Code (page 1, line 16-19), and substituting the following:

Sec. 334.0082. VENUE PROJECTS IN CERTAIN MUNICIPALITIES.

(a) This section applies only to a municipality that:

(1) has a population of at least 176,000 that borders the Rio Grande, and that approved a sports and community venue project before January 1, 2009;
or

(2) is located in a county adjacent to the Texas-Mexico border if:

(A) the county has a population of at least 500,000;

(B) the county does not have a city located within it that has a population of at least 500,000; and

(C) the municipality is the largest municipality in the county described by this subdivision.

FIVE-DAY POSTING RULE SUSPENDED

Representative Gallego moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Criminal Jurisprudence to consider **SB 1028** and pending business.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Criminal Jurisprudence, upon lunch recess today, Desk 92, for a formal meeting, to consider **SB 1028** and pending business.

Transportation, upon lunch recess today, Desk 15, for a formal meeting, to consider **SJR 9** and **SJR 25**.

Elections, upon lunch recess today, Desk 69, for a formal meeting, to consider pending business.

Defense and Veterans' Affairs, upon lunch recess today, Desk 76, for a formal meeting, to consider pending business.

State Affairs, upon lunch recess today, Desk 7, for a formal meeting, to consider **SB 331**, **SB 888**, **SB 1110**, **SB 1145**, **SB 1220**, **SB 1320**, **SB 1692**, and **SB 2236**.

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

RECESS

At 11:49 a.m., the chair announced that the house would stand recessed until 1:05 p.m. today.

AFTERNOON SESSION

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

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 1672 ON THIRD 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 passed by (Record 938): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson; Berman; Bohac; Bolton; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Button; Callegari; Castro; Chisum; Christian; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; 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; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller, D.; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Aycock; Chavez; Dutton; Eissler; Giddings; Howard, C.; Laubenberg; Miklos; Morrison.

STATEMENT OF VOTE

When Record No. 938 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

**SB 1188 ON THIRD READING
(Bonnen - House Sponsor)**

SB 1188, A bill to be entitled An Act relating to the interstate purchase of certain firearms.

SB 1188 was passed by (Record 939): 134 Yeas, 1 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; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hunter; Isett; Jackson; Keffer; Kent; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Riddle; Rios Ybarra; Ritter; Rodriguez; Rose; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Zerwas.

Nays — Burnam.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Crownover; Harper-Brown; Howard, C.; Hughes; Jones; King, P.; Laubenberg; Morrison; Paxton; Taylor.

STATEMENTS OF VOTE

When Record No. 939 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 939 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

When Record No. 939 was taken, I was in the house but away from my desk. I would have voted yes.

Jones

When Record No. 939 was taken, I was in the house but away from my desk. I would have voted yes.

P. King

When Record No. 939 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

When Record No. 939 was taken, I was in the house but away from my desk. I would have voted yes.

Paxton

When Record No. 939 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

SB 495 ON THIRD READING
(Herrero, Ortiz, Hunter, Gonzalez Tourelles,
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 passed by (Record 940): 137 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; 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; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Howard, D.; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; 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(C).

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Harper-Brown; Hopson; Howard, C.; Hughes; King, P.; Laubenberg; Morrison; Riddle.

STATEMENTS OF VOTE

When Record No. 940 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

When Record No. 940 was taken, I was in the house but away from my desk. I would have voted yes.

Hopson

When Record No. 940 was taken, I was in the house but away from my desk. I would have voted yes.

P. King

When Record No. 940 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

When Record No. 940 was taken, I was temporarily out of the house chamber. I would have voted yes.

Riddle

SB 595 ON THIRD 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 passed by (Record 941): 141 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; Coleman; Cook; Corte; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Flynn; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; Kent; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; 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; 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(C).

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Crabb; Harper-Brown; Laubenberg; Riddle.

STATEMENTS OF VOTE

When Record No. 941 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

When Record No. 941 was taken, I was temporarily out of the house chamber. I would have voted yes.

Riddle

SB 1387 ON THIRD 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 passed by (Record 942): 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; 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; 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; Legler; Leibowitz; Lewis; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Miller, S.; Moody; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; 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(C).

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Laubenberg; Morrison; Riddle.

STATEMENTS OF VOTE

When Record No. 942 was taken, I was in the house but away from my desk. I would have voted yes.

Morrison

When Record No. 942 was taken, I was temporarily out of the house chamber. I would have voted yes.

Riddle

SB 546 ON THIRD READING
(Anchia - House Sponsor)

SB 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.

Amendment No. 1

Representative Anchia offered the following amendment to **SB 546**:

Amend **SB 546**, on third reading, in SECTION 1 of the bill, in Section 39.905(a)(3), Utilities Code, as amended by the bill and by the Swinford Amendment on second reading, by striking "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" and substituting "programs, ~~[or]~~ limited, targeted, market-transformation programs, or other commission-approved programs or incentives sufficient for retail electric providers and competitive energy service providers to address major barriers to the achievement of energy efficiency goals under this section and".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Geren offered the following amendment to **SB 546**:

Amend **SB 546** (House Committee Printing) by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly.

SECTION _____. (a) In this section, "laboratory" means the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System.

(b) The laboratory shall conduct a study of outdoor lighting fixtures used by state agencies. The study must examine:

(1) types of outdoor lighting fixtures used by state agencies;

(2) lighting technology that:

(A) achieves substantial energy efficiency compared to currently used technology; and

(B) has a life expectancy of at least 50,000 hours;

(3) price comparisons and return on investment standards for the lighting technologies studied; and

(4) usage considerations as determined by the needs of individual state agencies.

(c) At the laboratory's request, the Texas Facilities Commission shall provide assistance in conducting the study under this section.

(d) At the laboratory's request, a state agency that has considered a lamp as required by Section 2158.182, Government Code, as added by this Act, shall provide data for use in conducting the study under this section.

(e) Not later than September 1, 2010, the laboratory shall prepare a report regarding the results of the study conducted under this section, including the data collected and recommendations, and:

(1) submit the report to the governor, the lieutenant governor, the speaker of the house of representatives, and the clerks of each of the standing committees of the senate and house of representatives with primary jurisdiction over state facilities; and

(2) publish the report on the laboratory's Internet website or otherwise make the report available to the public through the Internet.

Amendment No. 2 was adopted.

Amendment No. 3

On behalf of Representative Dunnam, Representative Gallego offered the following amendment to **SB 546**:

Amend **SB 546** (house committee printing) as follows:

(1) Insert the following appropriately-numbered SECTIONS and renumber any subsequent SECTIONS accordingly:

SECTION _____. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.112 to read as follows:

Sec. 11.112. PROPERTY USED FOR CONTROLLING POLLUTION FROM PUBLIC PROPERTY. A person is entitled to an exemption under this section from taxation of the real and personal property the person owns that is used in connection with the manufacture or production of a product or the provision of a service that prevents, monitors, controls, or reduces air, water, or land pollution if:

(1) the person installs and uses the product, or provides the service, under a contract or other agreement with a governmental entity to capture and convert waste, including gas, from public property; and

(2) the person:

(A) processes and delivers the waste to a common carrier to displace a natural resource; or

(B) processes and converts the waste to electrical or other useful energy for the benefit of the governmental entity.

SECTION _____. Section 11.43(a), Tax Code, is amended to read as follows:

(a) To receive an exemption, a person claiming the exemption, other than an exemption authorized by Section 11.11, 11.112, 11.12, 11.14, 11.145, 11.146, 11.15, 11.16, 11.161, or 11.25 of this code, must apply for the exemption. To apply for an exemption, a person must file an exemption application form with the chief appraiser for each appraisal district in which the property subject to the claimed exemption has situs.

SECTION _____. The changes to Sections 11.112 and 11.43(a), Tax Code, made by this Act, apply only to an ad valorem tax year that begins on or after the effective date of this Act.

(2) On page 16, line 11, strike "and (c)" and substitute ", (c), and (d)".

(3) On page 17, after line 17, insert the following:

(d) Sections 11.112 and 11.43(a), as amended by this Act, take effect January 1, 2010.

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Keffer offered the following amendment to **SB 546**:

Amend **SB 546** by adding the appropriately numbered SECTION as follows and renumbering all other SECTIONS accordingly:

SECTION _____. Chapter 214, Local Government Code, is amended by adding a new Section 214.9015 as follows:

Sec. 214.9015. ENERGY CONSERVATION REQUIREMENTS ON THE TRANSFER OF REAL PROPERTY. (a) A municipality may not impose a criminal penalty on the seller of real property for the failure to perform an energy audit.

Amendment No. 4 was adopted.

SB 546, as amended, was passed by (Record 943): 97 Yeas, 45 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Berman; Bohac; Bolton; Branch; Burnam; Button; Callegari; Castro; Chavez; Chisum; Christian; Coleman; Cook; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; England; Farabee; Farias; Farrar; Fletcher; Flores; Gallego; Geren; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Isett; Jackson; Keffer; Kent; King, P.; King, T.; Leibowitz; Lucio; Madden; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Miller, D.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smithee; Strama; Swinford; Thibaut; Thompson; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Bonnen; Brown, B.; Brown, F.; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Driver; Eissler; Flynn; Gattis; Hamilton; Hancock; Harless; Harper-Brown; Hilderbran; Howard, C.; Hunter; Jones; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Miller, S.; Otto; Parker; Patrick; Paxton; Pitts; Sheffield; Shelton; Smith, T.; Smith, W.; Solomons; Taylor; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Giddings; Hughes; Riddle.

STATEMENTS OF VOTE

I was shown voting no on Record No. 943. I intended to vote yes.

Crownover

I was shown voting yes on Record No. 943. I intended to vote no.

Fletcher

I was shown voting yes on Record No. 943. I intended to vote no.

Geren

When Record No. 943 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

I was shown voting no on Record No. 943. I intended to vote yes.

Jones

When Record No. 943 was taken, I was temporarily out of the house chamber. I would have voted no.

Riddle

I was shown voting no on Record No. 943. I intended to vote yes.

Taylor

SB 1878 ON THIRD 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 passed by (Record 944): 89 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Bolton; Branch; Burnam; Callegari; Castro; Chavez; Coleman; Cook; Crownover; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; England; Farabee; Farias; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jackson; Jones; Keffer; Kent; King, P.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Morrison; Naishtat; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Pitts; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Solomons; Strama; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bonnen; Brown, B.; Brown, F.; Button; Chisum; Christian; Corte; Crabb; Craddick; Creighton; Darby; Davis, J.; Driver; Fletcher; Flynn; Gattis; Geren; Hamilton; Hancock; Harless; Harper-Brown; Hilderbran; Howard, C.; Hunter; Isett; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Madden; Miller, D.; Miller, S.; Otto; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, W.; Smithee; Swinford; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Edwards; Hughes; Orr; Quintanilla; Smith, T.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 944. I intended to vote no.

Callegari

I was shown voting yes on Record No. 944. I intended to vote no.

Cook

I was shown voting yes on Record No. 944. I intended to vote no.

Elkins

When Record No. 944 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

SB 1717 ON THIRD 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 passed by (Record 945): 89 Yeas, 52 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Bolton; Bonnen; Branch; Burnam; Castro; Chavez; Coleman; Cook; Crownover; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Gutierrez; Hardcastle; Hartnett; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Jackson; Jones; Kent; King, P.; King, T.; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Peña; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Corte; Crabb; Craddick; Creighton; Darby; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Harless; Harper-Brown; Hilderbran; Howard, C.; Hughes; Hunter; Isett; King, S.; Kleinschmidt; Kolkhorst; Laubenberg; Legler; Lewis; Madden; Miller, D.; Miller, S.; Orr; Otto; Parker; Patrick; Paxton; Phillips; Riddle; Sheffield; Shelton; Smith, W.; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Hancock; Keffer; McCall; Morrison.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 945. I intended to vote no.

Cook

When Record No. 945 was taken, I was in the house but away from my desk. I would have voted no.

Morrison

I was shown voting no on Record No. 945. I intended to vote yes.

Otto

I was shown voting yes on Record No. 945. I intended to vote no.

T. Smith

SB 37 ON THIRD 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 passed by (Record 946): 128 Yeas, 14 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Bohac; Bolton; Bonnen; Branch; Burnam; Button; Castro; Chavez; Christian; Coleman; Cook; Corte; Crabb; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; England; Farabee; Farias; Farrar; Fletcher; Flores; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Heflin; Hernandez; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard, D.; Hughes; 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.; Moody; Morrison; Naishtat; Oliveira; Olivo; Orr; Ortiz; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pierson; Pitts; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Taylor; Thibaut; Thompson; Truitt; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle; Woolley; Zerwas.

Nays — Berman; Brown, B.; Brown, F.; Callegari; Chisum; Elkins; Flynn; Howard, C.; Hunter; Isett; Miller, S.; Riddle; Sheffield; Weber.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent — Anderson; Edwards.

STATEMENTS OF VOTE

When Record No. 946 was taken, I was in the house but away from my desk. I would have voted yes.

Anderson

I was shown voting no on Record No. 946. I intended to vote yes.

Callegari

I was shown voting no on Record No. 946. I intended to vote yes.

C. Howard

MAJOR STATE CALENDAR SENATE BILLS SECOND READING

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

CSSB 643 ON SECOND READING (Rose - House Sponsor)

CSSB 643, A bill to be entitled An Act relating to the protection and care of individuals with mental retardation; providing criminal penalties.

LEAVE OF ABSENCE GRANTED

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

Pitts on motion of Farabee.

CSSB 643 - (consideration continued)

Amendment No. 1

Representative Rose offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee printing) as follows:

(1) In SECTION 4 of the bill, in amended Section 261.404(a), Family Code (page 2, lines 12 and 13), strike ", to the extent provided by this section,".

(2) In SECTION 4 of the bill, strike amended Sections 261.404(c), (d), (e), and (f), Family Code (page 3, line 11, through page 4, line 23), substitute the following, and reletter subsequent subsections accordingly:

(c) If a report under this section relates to a child with mental retardation receiving services in a state supported living center or the ICF-MR component of the Rio Grande State Center, the department shall, within one hour of receiving the report, notify the facility in which the child is receiving services of the allegations in the report.

(d) If during the course of the department's investigation of reported abuse, neglect, or exploitation a caseworker of the department or the caseworker's supervisor has cause to believe that a child with mental retardation described by Subsection (c) has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section

22.04, Penal Code, the caseworker shall immediately notify the commission's office of inspector general and promptly provide the commission's office of inspector general with a copy of the department's investigation report.

(3) In SECTION 19 of the bill, in added Section 555.057(b)(2), Health and Safety Code (page 36, line 27), strike "unusual incident" and substitute "alleged criminal offense".

(4) In SECTION 19 of the bill, in added Section 555.059(a)(5), Health and Safety Code (page 38, lines 19 and 20), strike "an unusual incident to the inspector general" and substitute "a criminal offense, other than an allegation of abuse, neglect, or exploitation of a resident or client, to the inspector general".

(5) In SECTION 19 of the bill, in added Section 555.059(a)(13), Health and Safety Code (page 40, line 11), strike "from the inspector general or".

(6) In SECTION 19 of the bill, in the heading to added Subchapter D, Chapter 555, Health and Safety Code (page 41, line 19), strike "INVESTIGATIONS" and substitute "DUTIES".

(7) In SECTION 19 of the bill, strike added Section 555.101, Health and Safety Code (page 41, line 20, through page 45, line 11), and substitute the following:

Sec. 555.101. ASSISTING LAW ENFORCEMENT AGENCIES WITH CERTAIN INVESTIGATIONS. The inspector general shall employ and commission peace officers for the purpose of assisting a state or local law enforcement agency in the investigation of an alleged criminal offense involving a resident or client of a center. A peace officer employed and commissioned by the inspector general is a peace officer for purposes of Article 2.12, Code of Criminal Procedure.

(8) In SECTION 19 of the bill, in added Section 555.102(a), Health and Safety Code (page 45, line 13), between "conducted" and "under this subchapter", insert "with the assistance of the inspector general".

(9) In SECTION 19 of the bill, in added Section 555.102(b)(1), Health and Safety Code (page 45, lines 18 and 19), strike "by the inspector general in conducting the investigation" and substitute "during an investigation for which the inspector general provided assistance".

(10) In SECTION 19 of the bill, in added Section 555.102(d), Health and Safety Code (page 46, line 23), strike "conducted by the inspector general".

(11) In SECTION 19 of the bill, in added Section 555.103(b)(1), Health and Safety Code (page 47, line 7), strike "by" and substitute "with the assistance of".

(12) In SECTION 25 of the bill, strike added Section 48.1522(b), Human Resources Code (page 51, line 16, through page 52, line 4), and substitute the following:

(b) If during the course of the department's investigation of reported abuse, neglect, or exploitation a caseworker of the department or the caseworker's supervisor has cause to believe that a disabled person who is a resident or client of a state supported living center or the ICF-MR component of the Rio Grande State Center has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section

22.04, Penal Code, the caseworker shall immediately notify the commission's office of inspector general and promptly provide the commission's office of inspector general with a copy of the department's investigation report.

(13) In SECTION 27 of the bill, in amended Section 48.252(b), Human Resources Code (page 53, lines 2 and 3), strike ", to the extent provided by this section, shall".

(14) In SECTION 27 of the bill, strike added Sections 48.252(c), (d), and (e), Human Resources Code (page 53, line 11, through page 54, line 6), and reletter subsequent subsections accordingly.

(15) In SECTION 30 of the bill, strike added Section 48.256(c), Human Resources Code (page 56, lines 21 through 26).

(16) In SECTION 34 of the bill, in added Section 161.077(a), Human Resources Code (page 59, line 13), strike "and the commission's office of inspector general".

(17) In SECTION 34 of the bill, in added Section 161.077(b), Human Resources Code (page 59, lines 26 and 27), strike "and the commission's office of inspector general".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Rose offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee printing) as follows:

(1) In SECTION 19 of the bill, in added Section 555.002(b)(3), Health and Safety Code (page 24, line 20), strike "all alleged offender residents," and substitute "alleged offender residents who are charged with or convicted of a felony offense or who are alleged by petition or have been found to have engaged in delinquent conduct defined as a felony offense,".

(2) In SECTION 19 of the bill, in added Section 555.002(b)(4), Health and Safety Code (page 24, line 26), between "residents" and "for" insert "described by Subdivision (3) and".

(3) In SECTION 19 of the bill, in added Section 555.002(e), Health and Safety Code (page 25, lines 18 and 19), strike "the forensic state supported living center" and substitute "state supported living centers".

(4) In SECTION 19 of the bill, in added Section 555.003(a), Health and Safety Code (page 26, line 8), strike "the forensic" and substitute "a".

(5) In SECTION 19 of the bill, in added Section 555.003(c)(2), Health and Safety Code (page 26, line 24), strike "forensic".

Amendment No. 2 was adopted.

Amendment No. 3

Representative Rose offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee printing) in SECTION 43 of the bill, by striking Subsection (c) (page 68, lines 15 through 20), and substituting the following:

(c) The change in law made by Section 551.022(e), Health and Safety Code, as added by this Act, and the change in law made by Section 551.0225, Health and Safety Code, as added by this Act, apply to the dismissal of an officer, teacher, or other employee of a state supported living center hired on or after the effective date of this Act. The dismissal of an officer, teacher, or other employee of a state supported living center hired before the effective date of this Act is governed by the law in effect when the officer, teacher, or other employee was hired, and the former law is continued in effect for that purpose.

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Rose offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee report) in SECTION 19 of the bill, in added Section 555.056(c), Health and Safety Code (page 36, lines 2 and 3), strike "and the speaker of the house of representatives" and substitute "the speaker of the house of representatives, and the chairs of the standing committees of the senate and the house of representatives having primary jurisdiction over the Department of Aging and Disability Services".

Amendment No. 4 was adopted.

Amendment No. 5

Representative Rose offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee report) in SECTION 22 of the bill, in added Section 48.007, Human Resources Code (page 49, line 19), between "responsibilities." and "The" insert the following:

During the negotiation of the memorandum of understanding, the agencies shall jointly determine whether the forensic training received by relevant staff of the Department of Family and Protective Services is adequate. Specifically, the agencies shall assess and, if necessary, develop a plan to enhance the ability of department staff to identify and report incidences that constitute a potential criminal offense.

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Cook offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee report) by inserting into the bill the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 29, Education Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. SCHOOL DISTRICT PROGRAM FOR RESIDENTS OF FORENSIC STATE SUPPORTED LIVING CENTER

Sec. 29.451. DEFINITIONS. In this subchapter, "alleged offender resident," "interdisciplinary team," and "state supported living center" have the meanings assigned by Section 555.001, Health and Safety Code.

Sec. 29.452. APPLICABILITY. This subchapter applies only to an alleged offender resident of the forensic state supported living center established under Section 555.002, Health and Safety Code.

Sec. 29.453. SCHOOL DISTRICT SERVICES. (a) A school district shall provide educational services, including services required under Subchapter A, to each alleged offender resident who is under 22 years of age and otherwise eligible under Section 25.001 to attend school in the district. The district shall provide educational services to each alleged offender resident who is 21 years of age on September 1 of the school year and otherwise eligible to attend school in the district until the earlier of:

- (1) the end of that school year; or
- (2) the student's graduation from high school.

(b) The educational placement of an alleged offender resident and the educational services to be provided by a school district to the resident shall be determined by the resident's admission, review, and dismissal committee consistent with federal law and regulations regarding the placement of students with disabilities in the least restrictive environment. The resident's admission, review, and dismissal committee shall:

- (1) inform the resident's interdisciplinary team of a determination the committee makes in accordance with this subsection; and
- (2) consult, to the extent practicable, with the resident's interdisciplinary team concerning such a determination.

Sec. 29.454. BEHAVIOR MANAGEMENT; BEHAVIOR SUPPORT SPECIALISTS. (a) The discipline of an alleged offender resident by a school district is subject to Sections 37.0021 and 37.004 and to federal law governing the discipline of students with disabilities.

(b) A school district in which alleged offender residents are enrolled shall employ one or more behavior support specialists to serve the residents while at school. A behavior support specialist must:

- (1) hold a baccalaureate degree;
- (2) have training in providing to students positive behavioral support and intervention, as determined by the commissioner of education; and
- (3) meet any other requirement jointly determined by the commissioner of education and the commissioner of the Department of Aging and Disability Services.

(c) A behavior support specialist shall conduct for each alleged offender resident enrolled in the school district a functional behavioral assessment that includes:

- (1) data collection, through interviews with and observation of the resident;
- (2) data analysis; and
- (3) development of an individualized school behavioral intervention plan for the resident.

(d) Each behavior support specialist shall:

(1) ensure that each alleged offender resident enrolled in the school district is provided behavior management services under a school behavioral intervention plan based on the resident's functional behavioral assessment, as described by Subsection (c);

(2) communicate and coordinate with the resident's interdisciplinary team to ensure that behavioral intervention actions of the district and of the forensic state supported living center do not conflict;

(3) in the case of a resident who regresses:

(A) ensure that necessary corrective action is taken in the resident's individualized education program or school behavioral intervention plan, as appropriate; and

(B) communicate with the resident's interdisciplinary team concerning the regression and encourage the team to aggressively address the regression;

(4) participate in the resident's admission, review, and dismissal committee meetings in conjunction with:

(A) developing and implementing the resident's school behavioral intervention plan; and

(B) determining the appropriate educational placement for each resident, considering all available academic and behavioral information;

(5) coordinate each resident's school behavioral intervention plan with the resident's program of active treatment provided by the forensic state supported living center to ensure consistency of approach and response to the resident's identified behaviors;

(6) provide training for school district staff and, as appropriate, state supported living center staff in implementing behavioral intervention plans for each resident; and

(7) remain involved with the resident during the school day.

(e) Section 22.0511 applies to a behavior support specialist employed under this section by a school district.

Sec. 29.455. MEMORANDUM OF UNDERSTANDING. (a) A school district in which alleged offender residents are enrolled in school and the forensic state supported living center shall enter into a memorandum of understanding to:

(1) establish the duties and responsibilities of the behavior support specialist to ensure the safety of all students and teachers while educational services are provided to a resident at a school in the district; and

(2) ensure the provision of appropriate facilities for providing educational services and of necessary technological equipment if a resident's admission, review, and dismissal committee determines that the resident must receive educational services at the forensic state supported living center.

(b) A memorandum of understanding under Subsection (a) remains in effect until superseded by a subsequent memorandum of understanding between the school district and the forensic state supported living center or until otherwise rescinded.

Sec. 29.456. FAILURE OF SCHOOL DISTRICT AND CENTER TO AGREE. (a) If a school district in which alleged offender residents are enrolled in school and the forensic state supported living center fail to agree on the services required for residents or responsibility for those services, the district or center may refer the issue in disagreement to the commissioner of education and the commissioner of the Department of Aging and Disability Services.

(b) If the commissioner of education and the commissioner of the Department of Aging and Disability Services are unable to bring the school district and forensic state supported living center to agreement, the commissioners shall jointly submit a written request to the attorney general to appoint a neutral third party knowledgeable in special education and mental retardation issues to resolve each issue on which the district and the center disagree. The decision of the neutral third party is final and may not be appealed. The district and the center shall implement the decision of the neutral third party. The commissioner of education or the commissioner of the Department of Aging and Disability Services shall ensure that the district and the center implement the decision of the neutral third party.

Sec. 29.457. FUNDING. (a) In addition to other funding to which a school district is entitled under this code, each district in which alleged offender residents attend school is entitled to an annual allotment of \$5,100 for each resident in average daily attendance or a different amount for any year provided by appropriation.

(b) Not later than December 1 of each year, a school district that receives an allotment under this section shall submit a report accounting for the expenditure of funds received under this section to the governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the standing committees of the senate and house of representatives with primary jurisdiction regarding persons with mental retardation and public education, and each member of the legislature whose district contains any portion of the territory included in the school.

Sec. 29.458. RULES. The commissioner may adopt rules as necessary to administer this subchapter.

SECTION ____. Subchapter L, Chapter 29, Education Code, as added by this Act, applies beginning with the school year in which the Department of Aging and Disability Services begins operating the Mexia State Supported Living Center as the forensic state supported living center as required by Section 555.002, Health and Safety Code, as added by this Act.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Christian offered the following amendment to **CSSB 643**:

Amend **CSSB 643**:

1. On page 5 line 13 between "from" and "department" insert "a private vendor or".

2. On page 6 line 17 between "from" and "any" insert "a private vendor or".

3. By adding the following appropriately numbered SECTION and renumbering the SECTIONS accordingly:

SECTION _____. Section 411.082, Government Code, is amended to read as follows:

Sec. 411.082. DEFINITIONS. In this subchapter:

(1) "Administration of criminal justice" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

(2) "Criminal history record information" means information collected about a person by a private vendor or criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. The term does not include:

(A) identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or

(B) driving record information maintained by the department under Subchapter C, Chapter 521, Transportation Code.

(3) "Criminal justice agency" means:

(A) a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice; or

(B) a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation.

(4) "Criminal justice purpose" means:

(A) an activity that is included in the administration of criminal justice; or

(B) screening of applicants for employment with a criminal justice agency.

(Eissler in the chair)

Amendment No. 7 - Point of Order

Representative F. Brown raised a point of order against further consideration of Amendment No. 7 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. 7 was withdrawn.

Amendment No. 8

Representative Naishtat offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee printing) in SECTION 43 of the bill, by striking Subsection (c) (page 68, lines 15 through 20), and substituting the following:

(c) The change in law made by Section 551.022(e), Health and Safety Code, as added by this Act, and the change in law made by Section 551.0225, Health and Safety Code, as added by this Act, apply to the dismissal of an officer, teacher, or other employee of a state supported living center hired on or after the effective date of this Act. The dismissal of an officer, teacher, or other employee of a state supported living center hired before the effective date of this Act is governed by the law in effect when the officer, teacher, or other employee was hired, and the former law is continued in effect for that purpose.

Amendment No. 8 was withdrawn.

Amendment No. 9

Representatives Coleman, Aycocock, Hernandez, Herrero, Naishtat, and Rose offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee printing) on page 21, line 26, between "employee" and the period, by inserting "for good cause".

Amendment No. 9 was adopted.

Amendment No. 10

Representative Herrero offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee report) in SECTION 22 of the bill, in added Section 48.007, Human Resources Code (page 49, line 19), between "responsibilities." and "The" insert the following:

During the negotiation of the memorandum of understanding, the agencies shall jointly determine whether the forensic training received by relevant staff of the Department of Family and Protective Services is adequate. Specifically, the agencies shall assess and, if necessary, develop a plan to enhance the ability of department staff to identify and report incidences that constitute a potential criminal offense.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Herrero offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee report) in SECTION 19 of the bill, in added Section 555.059(a), Health and Safety Code, immediately following added Subdivision (6) (page 39, line 1), by adding the following new Subdivision (7) and renumbering the current Subdivision (7) and subsequent subdivisions in that subsection accordingly:

- (7) conduct biennial on-site audits at each center of:
 - (A) the ratio of direct care employees to residents;
 - (B) the provision and adequacy of training to:
 - (i) center employees; and
 - (ii) direct care employees; and
 - (C) if the center serves alleged offender residents, the provision of specialized training to direct care employees;

Amendment No. 11 was adopted.

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 2:30 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:

Ways and Means, 2:30 p.m. today, 3W.9, for a formal meeting, to consider pending business.

FIVE-DAY POSTING RULE SUSPENDED

Representative Thompson moved to suspend the five-day posting rule to allow the Committee on Licensing and Administrative Procedures to consider **HCR 220, SB 2558, and SB 2580.**

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Licensing and Administrative Procedures, upon final recess today, E2.012, for a public hearing, to consider **HCR 220, SB 2558, and SB 2580.**

CSSB 643 - (consideration continued)**Amendment No. 12**

Representative Isett offered the following amendment to **CSSB 643**:

Amend **CSSB 643** (house committee printing), in SECTION 39 of the bill, (page 64, between lines 23 and 24), by adding the following new Subdivision (1) to the section and renumbering subsequent subdivisions accordingly:

- (1) the types of training required by federal law;

Amendment No. 12 was adopted.

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 **SB 8 and SB 10.**

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Public Health, 8 a.m. tomorrow, E2.012, for a public hearing, to consider **SB 8, SB 10, and posted business.**

CSSB 643 - (consideration continued)**CSSB 643 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE ISETT: Chairman Rose, we've had some private conversations, but just for legislative intent, I'd like to ask you just a couple of questions. The first one is with respect to Section 551.0552 of the bill. It's the notification requirement, and the bill reads, for "serious incidence," that every parent or guardian would be notified. Is that correct?

REPRESENTATIVE ROSE: That is correct. And the reason why "serious" is in there is so that parents and guardians and family aren't notified for general, less-than-serious incidents, because you don't want to over-notify families. You want to adequately notify them when serious abuse occurs. And that's the intent of that provision of the bill. Yes, sir.

ISETT: Okay, and there is some sort of hurdle that you have in your mind, or contemplated by rule, on when that threshold is met?

ROSE: Right. There's always a balance on how specific you want to get in statute. The intent is that serious incidents have to be reported, and it has been represented to me that that is current practice by the agency. The reason why this is in the bill before us is that I want to be sure that the agency is statutorily required to notify families and guardians when a serious incident occurs, because they deserve to hear directly, swiftly, and accurately what has occurred.

ISETT: I agree with you, and I appreciate your position on that. Briefly, I'd like you to comment on—in Section 40 of the bill, you take the civil rights, what is currently the civil rights officer, out of every campus, and replace it with a new consumer rights division.

ROSE: Assistant ombudsman.

ISETT: An assistant ombudsman. Could you just kind of walk me through your thinking on that? My understanding is, those civil rights officers can apply for that new ombudsman position.

ROSE: They can, and being specifically in the bill, it will require a civil rights officer to be terminated, but then they are permitted to apply for that job. There is a great deal of overlap there. The intention though, and you can see the enumerated list of duties that an assistant ombudsman and ombudsman's office will have—it's important that we have somebody who's on the ground of the state-supported living center, whose responsibilities, as enumerated, are to make sure that the systems are correct. For example, we had the people who were accused of committing the abuse and charged with reporting it after it had occurred, and that's a breakdown that occurred in Corpus that we've all seen, but it's occurred countless times we don't even know about. So it's important to have an assistant ombudsman on each campus to make sure, one of their duties, that those reporting systems are done right.

ISETT: So it's a way to have these incidents addressed outside the normal chain of command or chain of direction?

ROSE: That's right, and then communications, of course, with that assistant ombudsman, will be confidential in nature so that an employee or a family member can feel at peace when they go report that neglect or abuse. That's important. That hasn't been something that I think in standard has been in practice.

ISETT: Well, I thank you for your comments, and I thank you for the work that you've done on this on behalf of the parents who have kids in the state school facilities. I'm fortunate enough to have one in Lubbock that provides services for a large geographic area, and it's important—these institutions are important. But I think more importantly is that the residents of those facilities are safe. So I appreciate your work.

REMARKS ORDERED PRINTED

Representative Isett moved to print remarks between Representative Rose and Representative Isett.

The motion prevailed.

CSSB 643 - REMARKS

REPRESENTATIVE HERRERO: Thank you, Mr. Speaker. Members, I'm standing before you urging you to vote in support of **SB 643**. As a representative for District 34, which includes the Corpus Christi State School, I know that a lot of you know that it's made the headlines. I feel that it was not necessary for us to have to address these measures statutorily in order for the state to meet its legal, ethical, and moral obligation of caring for persons with intellectual disabilities. That being the case, I do believe that this bill is a step in the right direction.

Some of the provisions in this bill are already currently being applied in the Corpus Christi State School, so that we no longer have any more of these "fight club" incidents. It's important, that as it may be, that we put into statute some of these policies and procedures to further ensure that individuals with intellectual disabilities are no longer the subject of abuse, neglect, and exploitation.

Some of these measures were measures that could have been implemented as far back as 2007. For example, the security cameras in common places—I feel that we could have avoided some of the incidents that occurred. You can never have a foolproof policy or procedure, but the point here is this: that the state needs to be proactive in making sure that we take care of our state's most vulnerable population. And in doing so, we have to make sure that we have employees that are paid a good salary; that we have employees that are respected and thanked for the countless years of service that they have provided in caring for persons with disabilities. At the same time, we must also make sure that we rid ourselves of those bad apples—those employees that took it upon themselves to carry out these deplorable, despicable acts—acts that are unacceptable and intolerable.

In order to do that, we must make sure that we provide our state school employees with adequate training. Not just two weeks of training when they get hired, but continuing training after they are, in fact, working in the state school—this bill does that. This bill provides for continuing training for those

state school employees, and it's important to make sure that we continue to protect individuals in our state schools. But this bill goes beyond that, as well, and makes certain that, in caring for persons with intellectual disabilities, we do so not just only in the state school settings, but as far as the community settings, as well. We send a message with this bill to those employees that ignore and take for granted those obligations in caring for persons with intellectual disabilities—that if you do so, there is now a heightened increase in penalty, to the second-degree felony, if you carry out any more of those despicable, deplorable acts.

To further assist persons in the state school setting, the independent ombudsman and the assistant will not only be individuals that are there to assist, but they will be individuals with proper training and experience—and this bill provides for that. This bill further ensures that individual family members who have loved ones in the state facilities and the community setting are made aware of incidents that may cause or create fear or harm in their loved ones.

This bill should not be viewed as the end of the state's involvement, or commitment, or dedication, to persons with intellectual disabilities. This bill should be the beginning of the state finally meeting its legal, ethical, and moral obligation of caring for persons in our state, that are our state's most vulnerable population. As legislators, we decide the state's budget, and I call on all of you to please provide our agencies with the resources and funds necessary to allow them to carry out their tasks and not tie their hands by not providing them with the necessary resources, because if we wish to not repeat history again, we must make sure that we exhaust every available resource and infinite amount of energy to ensure that the state, once and for all, protects our state's most vulnerable population. And with that commitment, members, I ask that you vote in support of this bill and that we support other measures that will once and for all ensure the safety and well-being of our state's most vulnerable population. Thank you.

REMARKS ORDERED PRINTED

Representative Ortiz moved to print remarks by Representative Herrero.

The motion prevailed.

CSSB 643 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE OLIVO: Chairman Rose, I just want to establish legislative intent for this. I know one of the things that was done with this bill is that we're not only protecting people with intellectual disabilities that are in the state schools, but also in community. Is it correct that we're doing some things like, for example, reviewing mortality rates in both the state schools and community providers in this legislation?

REPRESENTATIVE ROSE: The mortality reviews, as it came over from the senate, applied only to the state schools applied to the private ICF/MR setting and to the HCS group home setting, which is extraordinary and, I think, very positive.

OLIVO: We're also going to require the community homes to be visited unannounced at least once a year. Is that correct?

ROSE: Every HCS group home will have an unannounced annual check by DADS—very, I think, groundbreaking, and very positive for the safety of those individuals in those settings, also.

OLIVO: Another thing that's really critical is creating a database. That's really never been done before—we've done it with the state schools, but not with community. That's something else we're adding to this particular legislation. Is that correct?

ROSE: Yes, and also—I don't want to get ahead of you—a big portion of the community oversight is that investigations of abuse and neglect and exploitation that arise at private ICF/MRs—thousands of Texans are in that setting—will be investigated. Not by those private ICF/MRs, but by DFPS investigators.

OLIVO: Well, Mr. Chairman, I want to thank you for working with us. This was a long, hard road, but you took in cognizance the importance that people, whether they live in state schools or community, that we take care—that we're advocates for them and for the disabled.

REMARKS ORDERED PRINTED

Representative Olivo moved to print remarks between Representative Rose and Representative Olivo.

The motion prevailed.

CSSB 643, as amended, was passed to third reading.

SB 643 - JOINT SPONSORS ADDED

Representative Rose moved to suspend Rule 8, Section 5 of the House Rules to add Representative Phillips, Representative Herrero, Representative Ortiz, and Representative Naishtat as joint sponsors to **SB 643**.

The motion prevailed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the Committee on Ways and Means:

P. King on motion of Morrison.

COMMITTEE GRANTED PERMISSION TO MEET

Representative McReynolds requested permission for the Committee on Corrections to meet while the house is in session, at 3 p.m. today, in 3W.9, for a formal meeting, to consider **SB 1374** and **SB 1844**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Corrections, 3 p.m. today, 3W.9, for a formal meeting, to consider **SB 1374** and **SB 1844**.

CSSB 1003 ON SECOND READING
(Flynn - House Sponsor)

CSSB 1003, A bill to be entitled An Act relating to the continuation and functions of the Office of State-Federal Relations and the administrative attachment of that agency to the office of the governor.

CSSB 1003 was passed to third reading.

GENERAL STATE CALENDAR
SENATE BILLS
SECOND READING

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

SB 39 ON SECOND READING
(Zerwas - House Sponsor)

SB 39, A bill to be entitled An Act relating to health benefit plan coverage for routine patient care costs for enrollees participating in certain clinical trials.

Amendment No. 1

Representative Zerwas offered the following amendment to **SB 39**:

Amend **SB 39** (engrossed version) as follows:

(1) On page 3, between lines 20 and 21, insert the following and reletter the subsequent sections accordingly:

(D) for a specified disease or diseases;

Amendment No. 1 was adopted.

Amendment No. 2

Representative Zerwas offered the following amendment to **SB 39**:

Amend **SB 39** (house committee report) as follows:

In Section 1 of the bill, strike Sec. 1379.002(c) (page 2, lines 19-22).

Amendment No. 2 was adopted.

SB 39, as amended, was passed to third reading. (Flynn recorded voting no.)

SB 745 ON SECOND READING
(Solomons - House Sponsor)

SB 745, A bill to be entitled An Act relating to state travel policies and procedures for the reimbursement or payment of travel expenses.

SB 745 was passed to third reading.

SB 572 ON SECOND READING
(Branch - House Sponsor)

SB 572, A bill to be entitled An Act relating to transportation safety training requirements for certain child-care providers.

Amendment No. 1

Representative Branch offered the following amendment to **SB 572**:

Amend **SB 572** (house committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. This Act shall be known as Jacob's Law.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Branch offered the following amendment to **SB 572**:

Amend **SB 572** as follows:

(1) In SECTION 1 of the bill, in added Section 42.0421(e), Human Resources Code (page 1, line 7, house committee printing), strike "The" and substitute "In addition to other training required by this section, the".

(2) In SECTION 1 of the bill, in added Section 42.0421(e), Human Resources Code (page 1, line 8, house committee printing), strike "family home," and substitute "registered family home,".

Amendment No. 2 was adopted.

SB 572, as amended, was passed to third reading. (Christian and Phillips recorded voting no.)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

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

CSSB 28 ON SECOND READING (Deshotel - House Sponsor)

CSSB 28, A bill to be entitled An Act relating to the use of a computer for an unauthorized purpose.

Amendment No. 1

Representative Deshotel offered the following amendment to **CSSB 28**:

Amend **CSSB 28** (house committee printing) as follows:

(1) In SECTION 4 of the bill, strike proposed Section 324.055(e), Business & Commerce Code (page 3, line 21, through page 4, line 2), and substitute the following:

(e) The following persons may bring a civil action against a person who violates this section:

(1) a person who is acting as an Internet service provider and whose network is used to commit a violation under this section; or

(2) a person who has incurred a loss or disruption of the conduct of the person's business, including for-profit or not-for-profit activities, as a result of the violation.

(2) In SECTION 4 of the bill, in proposed Section 324.055(f)(2), Business & Commerce Code (page 4, line 7), strike "Subsection (h)" and substitute "Subsection (g)".

(3) In SECTION 4 of the bill, strike proposed Section 324.055(g), Business & Commerce Code (page 4, lines 13-15).

(4) In SECTION 4 of the bill, in proposed Section 324.055(h), Business & Commerce Code (page 4, line 16), strike "h" and substitute "g".

(5) In SECTION 4 of the bill, in proposed Section 324.055(i), Business & Commerce Code (page 4, line 21), strike "i" and substitute "h".

(6) In SECTION 4 of the bill, in proposed Section 324.055(j), Business & Commerce Code (page 4, line 25), strike "j" and substitute "i".

(7) In SECTION 4 of the bill, in proposed Section 324.055(k), Business & Commerce Code (page 5, line 1), strike "k" and substitute "j".

Amendment No. 1 was adopted.

CSSB 28, as amended, was passed to third reading.

SB 68 ON SECOND READING

(Darby, Homer, and Leibowitz - House Sponsors)

SB 68, A bill to be entitled An Act relating to licensing and inspection requirements of the Department of Family and Protective Services for certain facilities and homes providing child care; providing penalties.

SB 68 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOPSON: What is a single talent exemption?

REPRESENTATIVE DARBY: The exemption is meant for programs that provide exclusive training and do not provide other services that could be viewed as daycare.

HOPSON: Would this include baseball, basketball, cheerleading, dancing, football, gymnastics, martial arts, soccer, and swimming?

DARBY: Yes.

HOPSON: Are advanced training facilities exempt?

DARBY: Yes, providing that they don't offer enhanced services that a licensed childcare service would provide.

REMARKS ORDERED PRINTED

Representative Hopson moved to print remarks between Representative Darby and Representative Hopson.

The motion prevailed.

Amendment No. 1 (Committee Amendment No. 1)

Representative Darby offered the following committee amendment to **SB 68**:

Amend **SB 68** (senate engrossment) as follows:

(1) In SECTION 4 of the bill, in the recital for that section (page 8, line 26), strike "Subsection (g-1)" and substitute "Subsections (g-1) and (g-2)".

(2) In SECTION 4 of the bill, in amended Section 42.042, Human Resources Code (page 9, between lines 18 and 19), insert the following:

(g-2) The executive commissioner shall adopt specific rules and minimum standards, including standards relating to background check information, for a child-care facility that is located in a temporary shelter, including a family violence shelter or homeless shelter, in which an adult, accompanied by a child related to the adult or a child for whom the adult is the managing conservator, may temporarily reside and that provides care for less than 24 hours a day for a child accompanying an adult temporarily residing in the shelter while the adult is not present at the shelter. In adopting the rules and minimum standards under this section, the executive commissioner shall:

(1) consider the special circumstances and needs of families that seek temporary shelter;

(2) consider the role of the shelter in assisting and supporting families in crisis; and

(3) distinguish between a child-care facility that provides care only for children temporarily residing in the shelter and a child-care facility that also provides care for children who are not temporarily residing in the shelter.

(3) In SECTION 16 of the bill, immediately after Subsection (c) of that section (page 17, between lines 17 and 18), insert the following:

(d) The change in law made by this Act by which a child-care facility located in a temporary shelter that provides care only for children temporarily residing in the shelter is required to be licensed under Chapter 42, Human Resources Code, as amended by this Act, takes effect on the later of:

(1) the date on which the executive commissioner of the Health and Human Services Commission adopts minimum standards for those child-care facilities under Section 42.042(g-2), Human Resources Code, as added by this Act; or

(2) September 1, 2010.

(e) The change in law made by this Act by which a child-care facility located in a temporary shelter that provides care for children temporarily residing in the shelter and other children is required to be licensed under Chapter 42, Human Resources Code, as amended by this Act, takes effect on the effective date of this Act.

(f) The executive commissioner of the Health and Human Services Commission shall adopt rules and minimum standards as required by Section 42.042(g-2), Human Resources Code, as added by this Act, as soon as practicable after the effective date of this Act, but not later than September 1, 2010.

Amendment No. 1 was adopted.

Amendment No. 2 (Committee Amendment No. 2)

Representative Darby offered the following committee amendment to **SB 68**:

Amend **SB 68** (senate engrossment) in SECTION 4 of the bill, by striking amended Section 42.042(i), Human Resources Code (page 9, lines 19 through 25), and substituting the following:

(i) Before adopting minimum standards, the department shall:

(1) convene a temporary work group to advise the department regarding the proposed standards, composed of at least six members who represent the diverse geographic regions of this state, including:

(A) a department official designated by the commissioner to facilitate the work group's activities;

(B) a person with demonstrated expertise or knowledge regarding the different types and classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards;

(C) a parent with experience related to one of the different types or classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards; and

(D) a representative of a nonprofit entity licensed under Chapter 42; and

~~(2) [present the proposed standards to the State Advisory Committee on Child Care Facilities for review and comment, and shall]~~ send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to ~~[the committee and]~~ the department.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Darby offered the following amendment to **SB 68**:

Amend **SB 68** (House Committee Printing) as follows:

(1) In SECTION 1 of the bill, in the recital for that section (page 1, line 7), strike "(7)," and substitute "(4), (7),".

(2) In SECTION 1 of the bill, in amended Section 42.002, Human Resources Code (page 1, between lines 8 and 9), insert the following:

(4) "General residential operation [~~Child care institution~~]" means a child-care facility that provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment centers, emergency shelters, and therapeutic camps.

(3) In SECTION 1 of the bill, in amended Section 42.002(19), Human Resources Code (page 2, lines 7 and 8), strike "child-care institutions" and substitute "general residential operations [~~child care institutions~~]".

(4) In SECTION 3 of the bill, in the recital for that section (page 2, lines 25 and 26), strike "Subsection (b), Section 42.041, Human Resources Code, is" and substitute "Subsections (b) and (c), Section 42.041, Human Resources Code, are".

(5) In SECTION 3 of the bill, immediately following amended Section 42.041(b), Human Resources Code (page 8, between lines 24 and 25), insert the following:

(c) A single license that lists addresses and the appropriate facilities may be issued to a general residential operation [~~child care institution~~] that operates noncontiguous facilities that are across the street from, in the same city block as,

or on the same property as one another and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

(6) In SECTION 4 of the bill, in the recital for that section (page 8, line 26) as amended by Committee Amendment No. 1, strike "(g)" and substitute "(f), (g),".

(7) In SECTION 4 of the bill, in amended Section 42.042, Human Resources Code, as amended by Committee Amendment Nos. 1 and 2, immediately after the recital (page 8, after line 27), insert the following:

(f) In promulgating minimum standards for the provision of child-care services, the department shall recognize the various categories of services, including services for specialized care, the various categories of children and their particular needs, and the differences in the organization and operation of child-care facilities and general residential operations [~~institutions~~]. Standards for general residential operations [~~child care institutions~~] must require an intake study before a child is placed in an operation [~~institution~~]. The intake study may be conducted at a community mental health and mental retardation center.

(8) In SECTION 4 of the bill, in amended Section 42.042(g), Human Resources Code (page 9, lines 5 and 6), strike "child-care institutions" and substitute "general residential operations [~~child care institutions~~]".

(9) In SECTION 7 of the bill, in amended Section 42.0461(a), Human Resources Code (page 11, lines 19 and 20) strike "child care institution" and substitute "general residential operation [~~child care institution~~]".

(10) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 42, Human Resources Code, is amended by adding Section 42.003 to read as follows:

Sec. 42.003. REFERENCE TO CHILD-CARE INSTITUTION. A reference in law to a "child-care institution" means a general residential operation.

SECTION _____. Section 42.0422, Human Resources Code, is amended to read as follows:

Sec. 42.0422. RESTRAINT AND SECLUSION. A person providing services to a resident of a general residential operation [~~child care institution~~], including a state-operated facility that is a residential treatment center or a general residential operation [~~child care institution~~] serving children with mental retardation, shall comply with Chapter 322, Health and Safety Code, and the rules adopted under that chapter.

SECTION _____. Section 42.063(d), Human Resources Code, is amended to read as follows:

(d) An employee or volunteer of a general residential operation [~~child care institution~~], child-placing agency, foster home, or foster group home shall report any serious incident directly to the department if the incident involves a child under the care of the operation [~~institution~~], agency, or home.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Darby offered the following amendment to **SB 68**:

Amend **SB 68** (house committee printing) as follows:

(1) In SECTION 14 of the bill, in Subdivision (1) of that section (page 15, line 26) strike "and".

(2) In SECTION 14 of the bill, in Subdivision (2) of that section (page 15, line 27), between "42.0431" and the period, insert the following:
; and

(3) Subsections (a-1), (d), and (e), Section 42.056

(3) Add the following appropriately numbered SECTIONS to the bill and renumber the SECTIONS of the bill accordingly:

SECTION _____. Section 40.006, Human Resources Code, is amended to read as follows:

Sec. 40.006. APPLICATION OF OTHER LAWS. (a) The department is subject to Chapters 551, 2001, and 2002, Government Code.

(b) The department is not required to comply with Chapter 53, Occupations Code, in issuing a license or conducting a background check under Chapter 42 or 43.

SECTION _____. Section 42.056, Human Resources Code, is amended by amending Subsections (a), (a-2), (b), (b-1), (c), (f), (g), (h), (i), and (j) and adding Subsections (a-3), (a-4), and (a-5) to read as follows:

(a) In accordance with rules adopted by the executive commissioner [~~department~~], the director, owner, or operator of a child-care facility, child-placing agency, or family home shall, when applying to operate a child-care facility or child-placing agency or when listing or registering a family home and at least once during each 24 months after receiving a license, listing, registration, or certification of approval, submit to the department for use in conducting background and criminal history checks the name of:

(1) ~~the name of~~ the director, owner, and operator of the facility, agency, or home;

(2) ~~and the name of~~ each person employed at the facility, agency, or home;

(3) each prospective employee of the facility, agency, or home;

(4) each current or prospective foster parent providing foster care through a child-placing agency;

(5) each prospective adoptive parent seeking to adopt through a child-placing agency;

(6) each person at least 14 years of age, other than a client in care, who:

(A) is counted in child-to-caregiver ratios in accordance with the minimum standards of the department;

(B) will reside in a prospective adoptive home if the adoption is through a child-placing agency;

(C) has unsupervised access to children in care at the facility or family home; or

(D) resides in the facility or family home; or [~~and~~]

(7) ~~(2) the name of~~ each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at a ~~the~~ facility, family ~~or~~ home, or prospective adoptive home, while children are being provided care.

(a-2) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a day-care center shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a), unless the person is only required to have the person's name submitted based on criteria specified by Subsection (a)(7).

(a-3) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-placing agency, foster home, or foster group home must, before a child for whom the department is the managing conservator is placed with the agency or in the home, submit a complete set of fingerprints of the following persons:

(1) a person who applies to be a foster or adoptive parent, including a person who has previously adopted a child unless the person is also verified as a foster or adoptive home; and

(2) a person who is 18 years of age or older and who lives in the home of a person who applies to be a foster or adoptive parent.

(a-4) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-care facility or family home shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a) if:

(1) the person resided in another state during the five years preceding the date the person's name was required to be submitted under Subsection (a); or

(2) the director, owner, or operator has reason to suspect that the person has a criminal history in another state.

(a-5) The rules adopted by the executive commissioner under Subsections (a-2), (a-3), and (a-4):

(1) must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for conducting a criminal history check; ~~and~~

(2) may require that the fingerprints be submitted electronically through an applicant fingerprinting service center; and

(3) may allow the department to waive the submission of fingerprints required by this section if:

(A) the person for whom the submission is required has:

(i) a fingerprint-based criminal history record check on file with the department; or

(ii) a fingerprint-based criminal history clearinghouse record, as provided by Section 411.0845, Government Code, that is accessible to the department through the Department of Public Safety of the State of Texas; and

(B) the date on which the current submission of fingerprints is required occurs before the second anniversary of a previous name-based criminal history check of the person.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection ~~[Subsections]~~ (a) ~~[and (a-1)]~~;

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(b-1) In addition to any other background or criminal history check conducted under Subsection (b), for each person whose fingerprints are ~~[name is]~~ submitted ~~[by the director, owner, or operator of a day care center]~~ under Subsection (a-2), (a-3), or (a-4) ~~[Subsection (a)]~~, the department shall conduct a state and Federal Bureau of Investigation criminal history check by:

(1) submitting the person's fingerprints ~~[provided under Subsection (a-2)]~~, or causing the fingerprints to be submitted electronically ~~[as authorized by that subsection]~~, to the Department of Public Safety for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by that department under Section 411.114, Government Code, and by the Federal Bureau of Investigation and any other criminal justice agency under Section 411.087, Government Code.

(c) The department by rule shall require a child-care facility, child-placing agency, or registered family home to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

(f) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a ~~[residential child care]~~ facility or family home to the person submitting the request.

(g) Except as otherwise provided by this subsection, a person whose name is submitted ~~[by the director, owner, or operator of a day care center]~~ under Subsection (a) may not provide direct care or have direct access to a child in a facility or family home ~~[day care center]~~ before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. A person may be employed at a facility or family home ~~[day care center]~~ and may provide direct care or have direct access to a child in the facility or family home ~~[day care center]~~ before the person's criminal history check under Subsection (b-1) is completed if:

(1) the facility or family home is experiencing a staff shortage;

(2) the state criminal history check and the background check using the department's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the facility or family home ~~[day care center]~~; and

(3) ~~[(2)]~~ the person's fingerprints are submitted as soon as possible, but not later than the 30th day after the earliest of the date on which the person first:

(A) provides direct care to a child;
(B) has direct access to a child; or
(C) is hired [day care center is experiencing a staffing shortage
~~that, if the day care center were not allowed to employ the person until~~
~~completion of the federal criminal history check, would result in a staff to child~~
~~ratio that violates the department's minimum standards].~~

(h) If the results of a criminal history check under Subsection (b-1) for a person employed by a facility or family home [day care center] during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the facility or family home [day care center], the director, owner, or operator of the facility or family home [day care center] shall immediately terminate the person's employment.

(i) A director, owner, or operator of a facility or family home [day care center] commits an offense if the director, owner, or operator knowingly:

(1) fails to submit to the department information about a person as required by this section and department rules for use in conducting background and criminal history checks with respect to the person; and

(2) employs the person at the facility or family home [day care center] or otherwise allows the person to regularly or frequently stay or work at the facility or family home [day care center] while children are being provided care.

(j) A director, owner, or operator of a facility or family home [day care center] commits an offense if, after the date the director, owner, or operator receives notice from the department that, based on the results of a person's background or criminal history check, the person is precluded from being present at the facility or family home [day care center], the director, owner, or operator knowingly:

(1) employs the person at the facility or family home [day care center];

or
(2) otherwise allows the person to regularly or frequently stay or work at the facility or family home [day care center] while children are being provided care.

SECTION _____. The changes in law made by this Act to Sections 42.056(i) and (j), Human Resources Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 4 was adopted.

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).

SB 68 - (consideration continued)**Amendment No. 5**

Representative Hartnett offered the following amendment to **SB 68**:

Amend **SB 68** (house committee printing) as follows:

(1) In SECTION 3 of the bill, strike amended Section 42.041(b)(7), Human Resources Code (page 3, line 20, through page 4, line 6), and substitute the following:

(7) ~~[subject to Subsection (b-1),] an educational facility that is accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes in grades prekindergarten ~~[kindergarten]~~ and above~~;~~ ~~an after school program operated directly by an accredited educational facility, or an after school program operated by another entity under contract with the educational facility, if the Texas Education Agency, the Southern Association of Colleges and Schools, or the other accreditation body, as applicable, has approved the curriculum content of the after school program operated under the contract];~~~~

(2) In SECTION 3 of the bill, in Section 42.041(b)(9), Human Resources Code (page 4, line 15), strike "kindergarten or preschool" and substitute "prekindergarten or kindergarten ~~[or preschool]~~".

(3) In SECTION 3 of the bill, in added Section 42.041(b)(21), Human Resources Code (page 8, line 19), strike "; or" and substitute ";\":

(4) In SECTION 3 of the bill, in added Section 42.041(b)(22), Human Resources Code (page 8, line 24), strike the period and substitute the following:

;

;

(23) a before-school or after-school program operated by an educational facility that is accredited by the Texas Education Agency, or a before-school or after-school program operated by an entity under a contract with that educational facility, if the program:

(A) requires all children to be under the direct supervision of a staff person at all times;

(B) requires all children to be signed in and out by a staff person;

(C) requires a staff person to verify the identity of a nonparent who takes possession of a child from the program;

(D) requires all injuries or illnesses that require medical attention to be reported to the principal of the educational facility;

(E) maintains a written list of symptoms, illnesses, and diseases that require exclusion from attendance;

(F) keeps all medications that are administered to children in the program under locked control;

(G) requires training for all staff, including:

(i) a high school diploma, general education development certificate, or certificate of high school equivalency;

(ii) emergency procedures training;

(iii) 15 hours of training annually in child development, health and safety, and discipline; and

(iv) field trip procedure training;

(H) requires monthly fire drills for the program; and

(I) maintains records of the following:

(i) a list of all children in attendance that is accurate at all times;

(ii) parent contact information that is regularly updated to reflect the correct contact information;

(iii) a list for each child of the child's allergies;

(iv) all reported injuries or illnesses;

(v) written parental permission for transportation of a child;

(vi) written parental permission to administer medication to a child;

(vii) the medications administered to a child;

(viii) written parental permission to obtain emergency medical care for a child; and

(ix) written parental permission for a person who is a nonparent to take possession of a child from the program;

(24) a before-school or after-school program operated by an educational facility that is accredited by the Southern Association of Colleges and Schools or an accreditation body that is a member of the Texas Private School Accreditation Commission, or a before-school or after-school program operated by an entity under contract with that educational facility if the Southern Association of Colleges and Schools or the accreditation body that is a member of the Texas Private School Accreditation Commission, as applicable, has approved the curriculum content of the before-school or after-school program; or

(25) a before-school or after-school program operated by an educational facility that is accredited by the Texas Education Agency that does not charge tuition or fees, or a before-school or after-school program operated by an entity under a contract with that educational facility that does not charge tuition or fees.

AMENDMENT NO. 5 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HERRERO: This is, I believe, the bill that you had before the Human Services Committee, is that correct?

REPRESENTATIVE HARTNETT: This is the version that was voted out of the committee, that's correct.

HERRERO: Right. I had some concerns about this bill, and I think I had expressed those concerns to you in trying to work with you on this bill, do you recall that?

HARTNETT: That may be true, but why don't you tell us what your concerns are now.

HERRERO: The concerns that I had then, which are still the ones that I have now, deal with after school programs that don't currently charge for having—

HARTNETT: They're exempt.

HERRERO: That's what I recall you mentioning, and so we talked to TEA and asked them specifically, and what we got from TEA was that—

HARTNETT: This amendment does not affect them.

HERRERO: Well, TEA told us contrary to that. They said it would affect them because if you turn to page two of your amendment, specifically lines 18 through 25, Subsection (g). Under TEA, there's certain requirements that after school programs, such as 21st Century Grant program, for example, in Robstown Independent School District—they don't charge for having the children attend the after school program, and so TEA has certain requirements for them to follow. But if your amendment were to be adopted, additional requirements would be required of them, even if they don't charge for attending this program. Specifically, it referenced 15 hours of training annually in child development, health and safety—

HARTNETT: I don't mean to cut you off, but Subsection 25 exempts them, on page 3, line 28.

HERRERO: Okay, so is anything pertaining to this amendment, pertaining to any existing program at a school facility?

HARTNETT: Yes, this affects public school before and after school programs that charge money.

HERRERO: Right, but if you have an after school program that does not charge—

HARTNETT: It is exempt under Subparagraph 25.

HERRERO: So, any sort of retraining requirement or any other provision provided for in this amendment is not applicable to that existing school program, correct?

HARTNETT: Correct.

HERRERO: Would that also be the case of any new school-run program?

HARTNETT: If they don't charge, they are exempt.

HERRERO: And by "charge" you mean receive any monies from anyone?

HARTNETT: Charge tuition or fees.

HERRERO: Right, so what if they receive monies in running their program, whether through a state grant or a federal grant?

HARTNETT: They would still be exempt. This is charging the families tuition or fees.

HERRERO: Okay, and is that a minimal fee or is it any fee? Any amount whether it's one penny or more?

HARTNETT: That's right, any fee.

HERRERO: Okay, do you know if—that exemption within your amendment, Section 25—was that something that was part of your bill that went before the Human Services Committee?

HARTNETT: That part was in the version that passed the committee.

HERRERO: Do you know why the Texas Catholic Conference would be opposed to this amendment?

HARTNETT: I had an extensive conversation with Jennifer at the TCC, and basically her main concern was there might be some unintended consequence, but she could not give me any specific issue with this amendment other than separating public schools and private schools. They don't like that concept, and so I'm amenable to dealing with that, but basically as far as these standards, she couldn't give me any reason to oppose it.

HERRERO: But they are, in fact, opposing it, correct?

HARTNETT: That's my understanding.

HERRERO: Okay, and I think they're making that known through a flyer that they're circulating on the house floor, and I just didn't know if you knew the specific reasons for that.

HARTNETT: I've spent 10 minutes trying to understand it, and it's mainly, "there might be something that might happen from this, but we can't tell you what it is, Representative Hartnett."

HERRERO: If I could get further legislative intent—are you aware of the 21st Century after school program?

HARTNETT: Not right off, no.

HERRERO: Okay, it's a program offered at different school districts, including the Robstown Independent School District, among others, and District 34, which is the district that I represent. Is it your intent that the 21st Century program be exempt from the provisions of this amendment and the subsequent law that would be carried out?

HARTNETT: If they do not charge tuition or fees to the families, they are exempt. If they do charge fees, but they do this laundry list of basic safety and health standards, they do not have to be licensed, and they are exempt.

HERRERO: So, one of those two things then, right? If you charge, then you're falling under the provisions of this amendment, and if you do and you currently meet those guidelines as set out by your proposed amendment, you're still exempt. If you don't charge, then you are exempt.

HARTNETT: Correct.

HERRERO: And when you say, "they don't charge," who is "they" that would not charge?

HARTNETT: The school district.

HERRERO: What if the school works in conjunction with another program, like the Boys and Girls Club, or the YMCA, or the YWCA?

HARTNETT: Again, if that contractor does not charge tuition or fees, they are still exempt.

HERRERO: And what if the person that they sign up with is the actual school district, but the contractor—as you mentioned, YMCA or Boys and Girls Club—does charge? Would they be subject to this provision?

HARTNETT: They would have to comply with these safety standards or be licensed.

REPRESENTATIVE JACKSON: Representative Hartnett, you're familiar, I think, with a program in my district where the city actually comes in after school and uses the school and takes care of children at the school, using some of the same school workers, but the city pays for it. Would this be included in this?

HARTNETT: Does it charge money, do you know?

JACKSON: The city pays money.

HARTNETT: Okay, well this amendment only affects public school districts, so it would not affect the city.

JACKSON: It would not affect the city, if the city has a program using the schools.

HARTNETT: Correct.

REMARKS ORDERED PRINTED

Representative Herrero moved to print remarks between Representative Hartnett and Representative Herrero.

The motion prevailed.

Representative Jackson moved to print remarks between Representative Hartnett and Representative Jackson.

The motion prevailed.

(P. King now present)

Representative Rose moved to table Amendment No. 5.

The motion to table prevailed.

SB 68, as amended, was passed to third reading. (Button, D. Miller, and Weber recorded voting no.)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Moody requested permission for the Committee on Environmental Regulation to meet while the house is in session, at 5 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Environmental Regulation, 5 p.m. today, 3W.9, for a formal meeting, to consider pending business.

**SB 82 ON SECOND READING
(Moody - House Sponsor)**

SB 82, A bill to be entitled An Act relating to a fee imposed as a condition of community supervision for an offense involving family violence and to certain nonsubstantive revisions involving court fees.

SB 82 was passed to third reading.

**SB 78 ON SECOND READING
(Smithee - House Sponsor)**

SB 78, A bill to be entitled An Act relating to promoting awareness and education about the purchase and availability of health coverage.

Amendment No. 1

Representative Taylor offered the following amendment to **SB 78**:

Amend **SB 78** (house committee report) as follows:

(1) In SECTION 1 of the bill, in Section 524.003, as amended and redesignated by the bill, Insurance Code (page 2, line 4), strike "health coverage products" and substitute "health insurance coverage".

(2) In SECTION 1 of the bill, in amended Section 524.053(a) as amended and redesignated by the bill, Insurance Code (page 3, lines 5 and 6), strike "~~[this state, including information about health savings accounts and compatible high deductible health benefit plans]~~" and substitute "[~~this state~~], including information about health savings accounts and compatible high deductible health benefit plans".

(3) In SECTION 1 of the bill, in added Section 524.054(a), Insurance Code (page 4, line 1), strike "health coverage products" and substitute "health insurance coverage".

(4) In SECTION 1 of the bill, in added Section 524.054(b), Insurance Code (page 4, lines 4 and 6), strike "health coverage products" each place the phrase appears and substitute "health insurance coverage".

Amendment No. 1 was adopted.

SB 78, as amended, was passed to third reading. (Weber recorded voting no.)

**SB 93 ON SECOND READING
(Castro - House Sponsor)**

SB 93, A bill to be entitled An Act relating to tuition and fee exemptions for certain military personnel and their dependents.

Amendment No. 1

Representatives Farias, Gallego, and C. Turner offered the following amendment to **SB 93**:

Amend **SB 93** (House committee report) as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 5 through 7), and substitute:

SECTION 1. Section 54.203, Education Code, is amended by amending Subsections (a), (b), (b-1), (d), (g), and (h) and adding Subsections (a-1), (a-2), and (k) to read as follows:

(2) In SECTION 1 of the bill, in amended Section 54.203, Education Code (page 3, between lines 13 and 14), insert the following:

(a-2) The exemptions provided for in Subsection (a) also apply to the spouse of:

(1) a member of the armed forces of the United States:

(A) who was killed in action;

(B) who died while in service;

(C) who is missing in action;

(D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or

(E) who became totally disabled for purposes of employability according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; or

(2) a member of the Texas National Guard or the Texas Air National Guard who:

(A) was killed since January 1, 1946, while on active duty either in the service of this state or the United States; or

(B) is totally disabled for purposes of employability according to the disability ratings of the Department of Veterans Affairs, regardless of whether the member is eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(3) In SECTION 1 of the bill, in amended Section 54.203, Education Code, strike amended Subsection (b-1) (page 4, lines 12 through 16) and substitute:

(b-1) To qualify for an exemption under Subsection (a-2) or (b), the spouse or child ~~[a person must be a citizen of Texas and]~~ must be classified as a resident under Subchapter B on ~~[have resided in the state for at least 12 months immediately preceding]~~ the date of the spouse's or child's ~~[person's]~~ registration.

(4) In SECTION 1 of the bill, in amended Section 54.203, Education Code (page 4, between lines 22 and 23), insert the following:

(g) The governing board of a junior college district may establish a fee for extraordinary costs associated with a specific course or program and may provide that the exemptions provided by this section ~~[Subsections (a) and (b)]~~ do not apply to this fee.

(h) The governing board of each institution of higher education shall electronically report to the Texas Higher Education Coordinating Board the information required by Section 61.0516 relating to each individual receiving an

exemption from fees and charges under Subsection (a), (a-2), or (b). The institution shall report the information not later than December 31 of each year for the fall semester, May 31 of each year for the spring semester, and September 30 of each year for the summer session.

(5) Strike SECTION 2 of the bill (page 5, lines 4 through 13) and substitute:

SECTION 2. Section 54.203, Education Code, as amended by this Act, applies beginning with tuition, dues, fees, and other charges for the 2009 fall semester. If a person who becomes eligible for an exemption in that semester under that section has paid the tuition, dues, fees, and other charges for that semester, the institution of higher education shall refund to the student the amount of those charges paid by the person in the amount of the exemption. Tuition, dues, fees, and other charges for a term or semester before the 2009 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted.

Amendment No. 2

Representative McClendon offered the following amendment to **SB 93**:

Amend **SB 93** (house committee report) in SECTION 1 of the bill as follows:

(1) In amended Section 54.203(a)(3), Education Code (page 2, line 11), strike "and" and substitute "[~~and~~"]".

(2) At the end of Section 54.203(a)(4)(G), Education Code (page 3, line 4), between "federal law" and the period, insert the following:
; and

(5) all persons who:

(A) were honorably discharged from the Texas State Guard after serving on active duty in the Texas State Guard by call or order of the governor under Section 431.053, Government Code, excluding training, for a cumulative period of more than 90 days; and

(B) served a portion of the active duty described by Paragraph (A) on or after September 1, 1971

Amendment No. 2 was adopted.

Amendment No. 3

Representative Herrero offered the following amendment to **SB 93**:

Amend **SB 93** (House committee report) as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 5 through 7), and substitute:

SECTION 1. Section 54.203, Education Code, is amended by amending Subsections (a), (b), (b-1), (d), and (g) and adding Subsections (a-1), (k), (l), and (m) to read as follows:

(2) In SECTION 1 of the bill, in amended Section 54.203, Education Code (page 4, between lines 22 and 23), insert the following:

(g) The governing board of a junior college district may establish a fee for extraordinary costs associated with a specific course or program and may provide that the exemptions provided by this section [~~Subsections (a) and (b)~~] do not apply to this fee.

(k) The Texas Higher Education Coordinating Board by rule shall prescribe procedures to allow a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the maximum number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person. The procedures shall provide:

(1) the manner in which a person may waive the exemption and designate a child to receive the exemption;

(2) a procedure permitting the person to designate a different child to receive the exemption if the child previously designated to receive the exemption did not use the exemption under this section for all of the assigned portion of credit hours; and

(3) a method of documentation to enable institutions of higher education to determine the eligibility of the designated child to receive the exemption.

(1) To be eligible to receive an exemption under Subsection (k), the child must:

(1) be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education;

(2) make satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the policy of the institution's financial aid department, except that the institution may not require the child to enroll in a minimum course load; and

(3) be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed, except that the Texas Higher Education Coordinating Board by rule shall prescribe procedures by which a child who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching that age may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

(3) In SECTION 1 of the bill, in added Section 54.203(k), Education Code (page 4, line 23), strike "(k)" and substitute "(m)".

(4) Strike SECTION 2 of the bill (page 5, lines 4 through 13).

(5) Add the following SECTIONS to the bill, appropriately numbered, and renumber subsequent SECTIONS accordingly:

SECTION _____. This Act shall be known as the "Hazlewood Legacy Act."

SECTION _____. Subsections (e) and (e-1), Section 54.203, Education Code, as amended by Chapters 443 (**HB 125**) and 1334 (**SB 1640**), Acts of the 80th Legislature, Regular Session, 2007, are reenacted and amended to read as follows:

(e) The exemption from tuition, fees, and other charges provided for by this section [in Subsection (a)] does not apply to a person who at the time of registration is entitled to receive educational benefits under federal legislation that may be used only for the payment of tuition and fees if the value of those benefits received in a semester or other term is equal to or exceeds the value of the exemption for the same semester or other term. If the value of federal benefits that may be used only for the payment of tuition and fees and are received in a semester or other term does not equal or exceed the value of the exemption for the same semester or other term, the person is entitled to receive both those federal benefits [the federal benefit] and the exemption in the same semester or other term. The combined amount of the federal benefit that may be used only for the payment of tuition and fees plus the amount of the exemption received in a semester or other term may not exceed the cost of tuition and fees for that semester or other term. [A person is covered by the exemption if the person's right to benefits under federal legislation is extinguished at the time of the person's registration, except that a person may not receive an exemption from fees under this section if the person's right to benefits under federal legislation is extinguished because the person is in default of repayment of a loan made to the person under a federal program to provide or guarantee loans for educational purposes.]

(e-1) A person may not receive an exemption under this section if the person is in default on a loan made or guaranteed for educational purposes by the State of Texas.

SECTION _____. (a) Section 54.203, Education Code, as amended by this Act, applies beginning with tuition, dues, fees, and other charges for the 2009 fall semester. If a person who becomes eligible for an exemption in that semester under that section has paid the tuition, dues, fees, and other charges for that semester, the institution of higher education shall refund to the student the amount of those charges paid by the person in the amount of the exemption. Tuition, dues, fees, and other charges for a term or semester before the 2009 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) The Texas Higher Education Coordinating Board shall prescribe the procedures required by Sections 54.203(k) and (l), Education Code, as added by this Act, as soon as practicable after the effective date of this Act. For that purpose, the coordinating board may adopt the initial rules prescribing those procedures in the manner provided by law for emergency rules.

Amendment No. 3 was adopted.

(Bohac in the chair)

SB 93, as amended, was passed to third reading by (Record 947): 81 Yeas, 50 Nays, 4 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Bolton; Bonnen; Branch; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; England; Farabee; Farias; Farrar; Flores; Gallego; Geren; Giddings; Gonzales; Guillen; Gutierrez; Hamilton;

Harper-Brown; Hernandez; Herrero; Hochberg; Hodge; Homer; Hopson; Howard, D.; Kent; King, P.; King, T.; Kolkhorst; Laubenberg; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Moody; Morrison; Naishtat; Olivo; Ortiz; Paxton; Peña; Phillips; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Ritter; Rodriguez; Rose; Smith, W.; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Berman; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Hancock; Hardcastle; Harless; Hartnett; Heflin; Howard, C.; Hunter; Isett; Jackson; Keffer; Kleinschmidt; Legler; Lewis; Madden; Merritt; Miller, D.; Miller, S.; Orr; Otto; Parker; Patrick; Riddle; Sheffield; Shelton; Smith, T.; Smithee; Swinford; Truitt; Weber; Woolley; Zerwas.

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

Absent, Excused — Cohen; Frost; Kuempel; Vaught.

Absent, Excused, Committee Meeting — Pitts.

Absent — Crabb; Crownover; Gonzalez Toureilles; Hughes; Jones; King, S.; McCall; Oliveira; Solomons; Taylor.

STATEMENTS OF VOTE

When Record No. 947 was taken, I was in the house but away from my desk. I would have voted no.

Crownover

I was shown voting no on Record No. 947. I intended to vote yes.

Heflin

I was shown voting no on Record No. 947. I intended to vote yes.

Keffer

I was shown voting no on Record No. 947. I intended to vote yes.

Otto

I was shown voting no on Record No. 947. I intended to vote yes.

T. Smith

When Record No. 947 was taken, I was in the house but away from my desk. I would have voted no.

Solomons

When Record No. 947 was taken, I was in the house but away from my desk. I would have voted no.

Taylor

SB 79 ON SECOND READING
(Smithee - House Sponsor)

SB 79, A bill to be entitled An Act relating to specialty certification for insurance agents serving certain employer groups.

SB 79 was passed to third reading.

SB 223 ON SECOND READING
(Thompson - House Sponsor)

SB 223, A bill to be entitled An Act relating to allowing a person who successfully completes a term of deferred adjudication community supervision to be eligible for a pardon.

Amendment No. 1

Representative Thompson offered the following amendment to **SB 223**:

Amend **SB 223** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) of this section; or

(B) convicted and subsequently pardoned; ~~or~~

(2) each of the following conditions exist:

(A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

(ii) the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

(C) the person has not been convicted of a felony in the five years preceding the date of the arrest; or

(3) the person is placed on deferred adjudication community supervision under Section 5, Article 42.12, for the offense for which the person was arrested, if the judge subsequently discharges the person and dismisses the proceedings and the person is subsequently pardoned for the offense.

(b) The change in law made by this section in amending Article 55.01(a), Code of Criminal Procedure, applies to a defendant seeking expunction of records and files relating to an arrest regardless of whether the arrest occurred before, on, or after the effective date of this Act.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Thompson offered the following amendment to **SB 223**:

Amend **SB 223** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) of this section; or

(B) convicted and subsequently pardoned; ~~or~~

(2) each of the following conditions exist:

(A) an indictment or information charging the person with commission of a felony has not been presented against the person for an offense arising out of the transaction for which the person was arrested or, if an indictment or information charging the person with commission of a felony was presented, the indictment or information has been dismissed or quashed, and:

(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

(ii) the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

(C) the person has not been convicted of a felony in the five years preceding the date of the arrest; or

(3) the person is placed on deferred adjudication community supervision under Section 5, Article 42.12, for the offense for which the person was arrested, if the judge subsequently discharges the person and dismisses the proceedings and the person is subsequently pardoned for the offense.

(b) The change in law made by this section in amending Article 55.01(a), Code of Criminal Procedure, applies to a defendant seeking expunction of records and files relating to an arrest regardless of whether the arrest occurred before, on, or after the effective date of this Act.

Amendment No. 2 was adopted.

SB 223, as amended, was passed to third reading.

SB 283 ON SECOND READING
(Shelton - House Sponsor)

SB 283, A bill to be entitled An Act relating to the membership and activities of local school health advisory councils.

Representative Shelton moved to postpone consideration of **SB 283** until 10 a.m. Wednesday, May 20.

The motion prevailed.

SB 359 ON SECOND READING
(Eiland - House Sponsor)

SB 359, A bill to be entitled An Act relating to punishment for certain offenses committed in a disaster area or an evacuated area.

Amendment No. 1

Representative Eiland offered the following amendment to **SB 359**:

Amend **SB 359** (house committee printing) in SECTION 1 of the bill as follows:

(1) In proposed Section 12.50(a), Penal Code (page 1, line 12), strike "is" and substitute "was, at the time of the offense".

(2) In proposed Section 12.50(a)(1), Penal Code (page 1, line 13), strike "considered to be a disaster area by" and substitute "subject to a declaration of a state of disaster made by".

(3) In proposed Section 12.50(a)(1)(B), Penal Code (page 1, line 18), immediately following the underlined semicolon, insert "or".

(4) Strike proposed Section 12.50(a)(1)(D), Penal Code (page 1, lines 22-23).

Amendment No. 1 was adopted.

SB 359, as amended, was passed to third reading.

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).

SB 286 ON SECOND READING
(Kolkhorst, J. Davis, and D. Howard - House Sponsors)

SB 286, A bill to be entitled An Act relating to a health passport for Medicaid recipients.

Representative Kolkhorst moved to postpone consideration of **SB 286** until 8 a.m. Friday, May 22.

The motion prevailed.

SB 395 ON SECOND READING
(Lucio - House Sponsor)

SB 395, A bill to be entitled An Act relating to creation of the Early Childhood Health and Nutrition Interagency Council.

SB 395 was passed to third reading. (Anderson, Berman, Button, Christian, Corte, Flynn, Kleinschmidt, D. Miller, Phillips, and Riddle recorded voting no.)

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Public Health, upon final recess today, Desk 123, for a formal meeting, to consider pending business.

SB 328 ON SECOND READING
(Phillips - House Sponsor)

SB 328, A bill to be entitled An Act relating to the civil and criminal consequences of operating a motor vehicle or a watercraft while intoxicated or under the influence of alcohol.

Amendment No. 1

Representative Phillips offered the following amendment to **SB 328**:

Amend **SB 328** (House committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Section 521.341, Transportation Code, is amended to read as follows:

Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION. Except as provided by Sections 521.344(d)-(i), a license is automatically suspended on final conviction of the license holder of:

(1) an offense under Section 19.05, Penal Code, committed as a result of the holder's criminally negligent operation of a motor vehicle;

(2) an offense under Section 38.04, Penal Code, if the holder used a motor vehicle in the commission of the offense;

(3) an offense under Section 49.04, 49.045, or 49.08, Penal Code;

(4) an offense under Section 49.07, Penal Code, if the holder used a motor vehicle in the commission of the offense;

(5) an offense punishable as a felony under the motor vehicle laws of this state;

- (6) an offense under Section 550.021;
- (7) an offense under Section 521.451 or 521.453; or
- (8) an offense under Section 19.04, Penal Code, if the holder used a motor vehicle in the commission of the offense.

(b) Sections 521.342(a) and (b), Transportation Code, are amended to read as follows:

(a) Except as provided by Section 521.344, the license of a person who was under 21 years of age at the time of the offense, other than an offense classified as a misdemeanor punishable by fine only, is automatically suspended on conviction of:

(1) an offense under Section 49.04, 49.045, or 49.07, Penal Code, committed as a result of the introduction of alcohol into the body;

(2) an offense under the Alcoholic Beverage Code, other than an offense to which Section 106.071 of that code applies, involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;

(3) a misdemeanor offense under Chapter 481, Health and Safety Code, for which Subchapter P does not require the automatic suspension of the license;

(4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or

(5) an offense under Chapter 485, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of an abusable volatile chemical.

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of that article. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

(c) Sections 521.344(a), (c), and (i), Transportation Code, are amended to read as follows:

(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

(1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court according to the following schedule:

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

(B) not less than 180 days or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code; or

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(c) The court shall credit toward the period of suspension a suspension imposed on the person for refusal to give a specimen under Chapter 724 if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this chapter. The court may not extend the credit to a person:

(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

(2) whose period of suspension is governed by Section 521.342(b).

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Section 13, Article 42.12, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Section 13, Article 42.12, Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

(d) Sections 13(h) and (n), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate

persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(n) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who was [~~is~~] younger than 21 years of age at the time of the offense and was convicted for an offense under Sections 49.04-49.08, Penal Code, shall:

(1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and

(2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.

(e) The changes in law made by this section to Sections 521.341, 521.342, and 521.344, Transportation Code, and Section 13, Article 42.12, Code of Criminal Procedure, apply only to an offense committed on or after the effective date of this Act. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before the effective date of this Act.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Gattis offered the following amendment to **SB 328**:

Amend **SB 328** (House committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. This Act shall be known as the Nicole "Lilly" Lalime Act.

SECTION _____. Article 18.01, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsection (j) to read as follows:

(c) A search warrant may not be issued under Article 18.02(10) ~~[pursuant to Subdivision (10) of Article 18.02 of this code]~~ unless the sworn affidavit required by Subsection (b) ~~[of this article]~~ sets forth sufficient facts to establish probable cause: (1) that a specific offense has been committed, (2) that the specifically described property or items that are to be searched for or seized constitute evidence of that offense or evidence that a particular person committed that offense, and (3) that the property or items constituting evidence to be searched for or seized are located at or on the particular person, place, or thing to be searched. Except as provided by Subsections (d), ~~[and]~~ (i), and (j) ~~[of this article]~~, only a judge of a municipal court of record or a county court who is an attorney licensed by the State of Texas, a statutory county court judge, a district court judge, a judge of the Court of Criminal Appeals, including the presiding judge, or a justice of the Supreme Court of Texas, including the chief justice, may issue warrants under Article 18.02(10) ~~[pursuant to Subdivision (10), Article 18.02 of this code]~~.

(j) Any magistrate who is an attorney licensed by this state may issue a search warrant under Article 18.02(10) to collect a blood specimen from a person who:

(1) is arrested for an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code; and

(2) refuses to submit to a breath or blood alcohol test.

SECTION _____. Sections 724.012(b) and (d), Transportation Code, are amended to read as follows:

(b) A peace officer shall require the taking of a specimen of the person's breath or blood under any of the following circumstances if:-

~~[(1)]~~ the officer arrests the person for an offense under Chapter 49, Penal Code, involving the operation of a motor vehicle or a watercraft and the person refuses the officer's request to submit to the taking of a specimen voluntarily;~~;~~

~~(1)~~ ~~[(2)]~~ the person was the operator of a motor vehicle or a watercraft involved in an accident that the officer reasonably believes occurred as a result of the offense and,~~;~~

~~[(3)]~~ at the time of the arrest, the officer reasonably believes that as a direct result of the accident:

(A) an individual has died or will die; ~~or~~

(B) an individual other than the person has suffered serious bodily injury; or

(C) an individual other than the person has suffered bodily injury and been transported to a hospital or other medical facility for medical treatment;

(2) the offense for which the officer arrests the person is an offense under Section 49.045, Penal Code; or

(3) at the time of the arrest, the officer possesses or receives reliable information from a credible source that the person:

(A) has been previously convicted of or placed on deferred adjudication community supervision for an offense under Section 49.045, 49.07, or 49.08, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections; or

(B) on two or more occasions, has been previously convicted of or placed on deferred adjudication community supervision for an offense under Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections ~~and~~

~~[(4) the person refuses the officer's request to submit to the taking of a specimen voluntarily].~~

(d) In this section, "bodily injury" and "serious bodily injury" have has the meanings ~~meaning~~ assigned by Section 1.07, Penal Code.

SECTION _____. Section 724.017, Transportation Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) If the blood specimen was taken according to recognized medical procedures, the ~~The~~ person who takes the blood specimen under this chapter, the facility that employs the person who takes the blood specimen, or the hospital where the blood specimen is taken~~;~~ is immune from civil liability ~~[not liable]~~ for damages arising from the taking of the blood specimen at the request or order of the peace officer or pursuant to a search warrant ~~[to take the blood specimen]~~ as provided by this chapter and is not subject to discipline by any licensing or accrediting agency or body ~~[if the blood specimen was taken according to recognized medical procedures]~~. This subsection does not relieve a person from liability for negligence in the taking of a blood specimen. The taking of a

specimen from a person who objects to the taking of the specimen or who is resisting the taking of the specimen does not in itself constitute negligence and may not be considered evidence of negligence.

(d) A person whose blood specimen is taken under this chapter in a hospital is not considered to be present in the hospital for medical screening or treatment unless the appropriate hospital personnel determine that medical screening or treatment is required for proper medical care of the person.

(2) In SECTION 12 of the bill (page 7, line 12), strike "The changes in law to Chapter 524" and substitute the following:

(a) The change in law to Article 18.01, Code of Criminal Procedure, applies only to a search warrant issued on or after the effective date of this Act. A search warrant issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

(b) The changes in law to Chapter 524 and Section 724.012

Amendment No. 2 was adopted.

Amendment No. 3

Representative S. Miller offered the following amendment to **SB 328**:

Amend **SB 328** (house committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Section 601.072, Transportation Code, is amended by adding Subsections (a-2) and (a-3) to read as follows:

(a-2) A person convicted of an offense relating to the operating of a motor vehicle while intoxicated must maintain, in addition to the minimum coverage required by this section, additional liability insurance coverage to establish financial responsibility under this chapter. The amount of liability coverage required increases by \$25,000 for each conviction.

(a-3) In this section, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section 49.09, Penal Code.

SECTION _____. Section 2151.102(a), Insurance Code, is amended to read as follows:

(a) The association shall provide for the assignment of insurance to an authorized insurer for a person required by Chapter 601, Transportation Code, including Section 601.072, Transportation Code, to show proof of financial responsibility for the future.

(2) In SECTION 12 of the bill, between "SECTION 12." and "The changes" (page 7, line 12), insert "(a)".

(3) In SECTION 12 of the bill, between "Transportation Code," and "apply" (page 7, line 13), insert "and Section 601.072, Transportation Code,".

(4) Immediately following SECTION 12 of the bill (page 7, between lines 19 and 20), insert:

(b) The change in law made by Section 2151.102(a), Insurance Code, applies only to an automobile insurance policy that is delivered, issued for delivery, or renewed by the Texas Automobile Insurance Plan Association on or after the effective date of this Act. An automobile insurance policy that is

delivered, issued for delivery, or renewed by the Texas Automobile Insurance Plan Association before the effective date of this Act is covered by the law in effect at the time the automobile insurance policy was delivered, issued for delivery, or renewed by the Texas Automobile Insurance Plan Association, and that law is continued in effect for that purpose.

(5) Renumber SECTIONS of the bill appropriately.

LEAVE OF ABSENCE GRANTED

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

Laubenberg on motion of Kleinschmidt.

SB 328 - (consideration continued)

Amendment No. 3 was withdrawn.

SB 328, as amended, was passed to third reading.

(Speaker in the chair)

SB 472 ON SECOND READING

(Deshotel, Thibaut, and Thompson - House Sponsors)

SB 472, A bill to be entitled An Act relating to notice required before and period to vacate after foreclosure sale of real property.

Amendment No. 1

Representative Deshotel offered the following amendment to **SB 472**:

Amend **SB 472** (house committee report) as follows:

(1) In SECTION 2 of the bill, in the recital (page 2, line 16), between "adding Subsections" and "(d-1)", insert "(b-2), (b-3), (b-4),".

(2) In SECTION 2 of the bill, in amended Section 51.002, Property Code (page 3, between lines 3 and 4), insert the following:

(b-2) In addition to the notice required under Subsection (b), the county clerk of each county in which the property is located shall provide for notice of the sale to be published in a newspaper of general circulation in the county at least once each week for four consecutive weeks before the date of the sale, with the first publication appearing at least 28 days and not more than 35 days before the date of the sale. The notice must designate the place of the sale and provide a brief description of the property sufficient to identify the location of the property. If all or part of the property is located in a county in which more than 90 percent of residential properties have affordable access to electronic publishing media obtained by broadband technology or the equivalent, the notice must also be posted on the newspaper's Internet website. This subsection does not prohibit a newspaper in a county that does not satisfy that criteria from posting the notice on the newspaper's Internet website or prohibit the county clerk from requesting such a posting, if the published notice is published as the notice of record. The form of the notice must be substantially similar to the following:

NOTICE OF SALE: FORECLOSED PROPERTY

On the _____ day of _____, 20____, a foreclosure proceeding was issued on a deed of trust against said lienholder(s), as shown below, by filing a foreclosure proceeding with the county clerk of _____ County, Texas, as prescribed by law on the following property located in _____ County, Texas, which said lienholder _____ (lienholder's name) ought to pay. The lienholder(s) and all interested parties are hereby given notice that a foreclosure auction on said property will be conducted on _____ (month/day/year), between the hours of 10 a.m. and 4 p.m. at the _____ (name of facility, with city, state, and zip code).

(Name of mortgage holder, representative, telephone number, and address, including city, state, zip code, and any e-mail address).

(b-3) The newspaper in which the notice is published under Subsection (b-2) must hold a second class periodicals mailing permit and be published regularly and continuously in a county in which the property is located. The cost of the notice required under Subsection (b-2) may not exceed the lowest classified rate paid by users for comparable space in the newspaper in which the public notice appears, including all cash discounts, multiple insertion discounts, and similar benefits extended to the newspaper's regular customers. A newspaper that publishes the notice shall submit a bill for publication with a clipping of the published notice and verified statement of the publisher that:

(1) states the charge;

(2) certifies that the rate charged is the newspaper's lowest published rate for classified advertising; and

(3) certifies the number and dates of the publication.

(b-4) Not later than the 25th day following the date of the sale of real property under this section, the lender or the lender's attorney shall execute and file with the county clerk of each county in which the property is located an affidavit that includes the publisher's affidavit required under Subsection (b-3) and states the facts of the sale procedure.

Amendment No. 1 was withdrawn.

(Paxton in the chair)

Amendment No. 2

Representative Castro offered the following amendment to **SB 472**:

Amend **SB 472** (house committee report) as follows:

(1) In SECTION 2 of the bill, in the recital (page 2, line 16), between "(d-1)," and "(i)", insert "(d-2),".

(2) In SECTION 2 of the bill, in amended Section 51.002, Property Code (page 4, between lines 17 and 18), insert the following:

(d-2) For purposes of Subsection (d-1)(8), a "person authorized to act for the servicer of the debt relating to the debt" means a person who has:

(1) access to information regarding the status of the debt, including receipt, application, and status of payments, charges, and related escrow accounts; and

(2) authority to:

(A) correct billing or payment application errors;

(B) waive late fees and other fees; and

(C) enter into binding agreements and other agreed resolutions to settle a default and avoid a foreclosure.

(3) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 51, Property Code, is amended by adding Sections 51.0023, 51.012, 51.013, and 51.014 to read as follows:

Sec. 51.0023. RETURN OF CERTAIN PAYMENTS AFTER NOTICE OF SALE. (a) A mortgage servicer that receives a payment from the debtor after giving notice of sale under Section 51.002(b) shall return the payment not later than the 10th day after the date of the foreclosure sale if the foreclosure sale occurs on the date provided in the notice of sale.

(b) This section applies only to a lien on residential real property occupied by the debtor as the debtor's homestead.

Sec. 51.012. WAIVER. (a) Except as provided by Subsection (b), a provision of a contract, agreement, or other document that purports to waive a right of a debtor or exempt a mortgage servicer, mortgagee, trustee, substitute trustee, or government official from a duty under this chapter or Chapter 24 is void.

(b) After a foreclosure sale, an occupant of the property sold at the foreclosure sale may waive a right or remedy under Chapter 24 if the waiver is in writing, signed and dated by the occupant, and provided in exchange for consideration given to the occupant.

Sec. 51.013. COMMUNICATION WITH DEBTOR OR DEBTOR'S REPRESENTATIVE AFTER NOTICE OF DEFAULT. (a) After a notice of default is sent under Section 51.002(d) and a written authorization to communicate with a third party is received by the mortgage servicer from the debtor, a mortgage servicer shall communicate and negotiate with a third party who provides assistance to the debtor, including a family member, licensed attorney, or housing counseling agency approved by the United States Department of Housing and Urban Development.

(b) The notice described in Subsection (a) may be sent through the United States Postal Service or by hand delivery or electronic means.

(c) This section applies only to a lien on residential real property occupied by the debtor as the debtor's homestead.

Sec. 51.014. COURT APPROVAL BEFORE NOTICE OF FORECLOSURE SALE OF CERTAIN LOANS. (a) A mortgage servicer may send a notice of sale under Section 51.002(b) only as authorized by a court order under Rule 736, Texas Rules of Civil Procedure.

(b) This section applies only to a debt secured by the debtor's residence that:

(1) has a variable interest rate with a final maturity date of 15 years or more that has an initial fixed rate for a term of less than five years, with a subsequent increase in the initial rate of two percent or more;

(2) permits an increase in the interest rate if the borrower defaults on any debt or obligation other than a debt secured by the debtor's residence; or

(3) permits periodic payments that are less than the amount of accrued interest on the scheduled payment date.

(Speaker in the chair)

LEAVES OF ABSENCE GRANTED

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

Branch on motion of Hamilton.

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

Homer on motion of Farabee.

SB 472 - (consideration continued)

The vote of the house was taken on the adoption of Amendment No. 2 and the vote was announced yeas 67, 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 948): 64 Yeas, 70 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; England; Farias; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Hernandez; Herrero; Hochberg; Hodge; Howard, D.; Jackson; Kent; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Miklos; Moody; Naishtat; Olivo; Ortiz; Peña; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Rodriguez; Rose; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bonnen; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Farabee; Fletcher; Flynn; Gattis; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Heflin; Hopson; Howard, C.; Hughes; Hunter; Isett; Jones; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Legler; Lewis; Madden; McCall; Merritt; Miller, D.; Miller, S.; Morrison; Orr; Otto; Parker; Patrick; Phillips; Riddle; Ritter; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Weber; Woolley; Zerwas.

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

Absent, Excused — Branch; Cohen; Frost; Homer; Kuempel; Laubenberg; Vaught.

Absent, Excused, Committee Meeting — Pitts.

Absent — Bolton; Corte; Crabb; Edwards; Hilderbran; Oliveira.

The speaker stated that Amendment No. 2 failed of adoption by the above vote.

STATEMENTS OF VOTE

When Record No. 948 was taken, I was temporarily out of the house chamber. I would have voted no.

Hilderbran

When Record No. 948 was taken, I was in the house but away from my desk. I would have voted yes.

Oliveira

(Homer now present)

Amendment No. 3

Representative Thompson offered the following amendment to **SB 472**:

Amend **SB 472** on page 3, line 9, after "lien" insert "the amount of the default broken down by category if the default is monetary".

Amendment No. 3 was adopted. (The vote was reconsidered on May 19, and Amendment No. 3 was withdrawn.)

LEAVE OF ABSENCE GRANTED

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

Otto on motion of Orr.

SB 472 - (consideration continued)

Amendment No. 4

Representative Solomons offered the following amendment to **SB 472**:

Amend **SB 472** (house committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 3, line 21), strike "printed" and substitute "conspicuously printed".

(2) In SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 3, lines 21 and 22), strike "canary yellow or a similarly colored yellow".

(3) In SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 3, line 23), strike "affixed to" and substitute "affixed to or enclosed with".

Amendment No. 4 was adopted.

Amendment No. 5

Representative Hernandez offered the following amendment to **SB 472**:

Amend **SB 472** (house committee printing) in SECTION 2 of the bill, in added Section 51.002(d-1), Property Code (page 4, between lines 8 and 9), by inserting the following appropriately numbered subdivision and renumbering subsequent subdivisions accordingly:

() a description of the availability of counseling by a housing counselor employed by an agency approved by the United States Department of Housing and Urban Development and the methods to obtain that counseling;

Amendment No. 5 was adopted. (Phillips recorded voting no.)

Amendment No. 6

Representative Orr offered the following amendment to **SB 472**:

Amend **SB 472** (house committee printing) as follows:

(1) In SECTION 2 of the bill, strike added Section 51.002(d-1)(7), Property Code (page 4, lines 12 through 13), and renumber existing subdivisions of that subsection accordingly.

(2) Strike SECTION 3 of the bill (page 5, lines 12 through 23).

Amendment No. 6 was adopted.

Amendment No. 7

Representative Thibaut offered the following amendment to **SB 472**:

Amend **SB 472** (house committee printing) as follows:

(1) In SECTION 5 of the bill (page 7, line 9), strike "The changes" and substitute "Except as provided by this Act, the changes".

(2) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS of the bill accordingly:

SECTION _____. Chapter 51, Property Code, is amended by adding Section 51.013 to read as follows:

Sec. 51.013. WAIVER. A provision of a contract, agreement, or other document that purports to waive a right of a debtor or exempt a mortgage servicer, mortgagee, trustee, substitute trustee, or government official from a duty under this chapter is void.

SECTION _____. Section 51.013, Property Code, as added by this Act, applies only to a contract, agreement, or other document entered into on or after the effective date of this Act. A contract, agreement, or other document entered into before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 7 was adopted. (Phillips recorded voting no.) (The vote was reconsidered later today, and Amendment No. 7 was amended by Amendment No. 17 and was adopted, as amended. The vote was again reconsidered on May 19, and Amendment No. 7, as amended, was withdrawn.)

Amendment No. 8

Representative Rodriguez offered the following amendment to **SB 472**:

Amend **SB 472** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. RESIDENTIAL MORTGAGE SERVICERSSUBCHAPTER A. GENERAL PROVISIONS

Sec. 397.001. DEFINITION. In this chapter, "mortgage servicer" has the meaning assigned by Section 51.0001, Property Code.

Sec. 397.002. APPLICABILITY. This chapter applies only to a loan secured by a first lien on residential real property that is not a federally related mortgage loan, as defined by 12 U.S.C. Section 2602.

[Sections 397.003-397.050 reserved for expansion]

SUBCHAPTER B. DEBTOR REQUESTS FOR INFORMATION

Sec. 397.051. RECORDKEEPING. A mortgage servicer shall maintain written or electronic records of each written request for information regarding a dispute or error involving the debtor's account until the loan is paid in full, otherwise satisfied, or sold.

Sec. 397.052. PROVISION OF GENERAL INFORMATION ON REQUEST. (a) A mortgage servicer shall provide the following to a debtor in response to a debtor's written request:

(1) a copy of the original note or, if the original note is unavailable, an affidavit of lost note; and

(2) a statement that:

(A) identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the debtor, and other activity on the loan, including any escrow or suspense account activity; and

(B) covers the two years preceding the receipt of the request or the period for which the servicer has serviced the loan, whichever is shorter.

(b) If the mortgage servicer claims that delinquent or outstanding sums were owed on the loan before the two-year period preceding the receipt of the request under Subsection (a) or before the servicer began servicing the loan, whichever is shorter, the servicer shall provide an account history beginning with the earliest month for which the servicer claims outstanding sums were owed on the loan and ending on the date of the request for information. For purposes of this subsection, the date of the request for information is presumed to be not later than the 30th day before the date the servicer receives the request.

(c) A mortgage servicer must provide a statement under Subsection (a) on or before the 25th business day after the date the servicer receives a written request from the debtor that:

(1) includes or otherwise enables the servicer to identify the name and account of the debtor; and

(2) includes a statement that the account is or may be in error or otherwise provides sufficient detail to the servicer regarding information sought by the debtor.

Sec. 397.053. PROVISION OF INFORMATION REGARDING DISPUTE OR ERROR. (a) A mortgage servicer shall provide a written statement to a debtor in response to a debtor's written request for information regarding a dispute or error involving the debtor's account that includes the following information, if requested:

(1) whether the account is current and an explanation of any default and the date the account went into default;

(2) the current balance due on the loan, including the principal due, the amount of any funds held in a suspense account, the amount of any escrow balance known to the servicer, and whether there are any escrow deficiencies or shortages known to the servicer;

(3) the identity, address, and other relevant information about the current holder, owner, or assignee of the loan; and

(4) the telephone number and mailing address of a servicer representative with the information and authority to answer questions and resolve disputes.

(b) A mortgage servicer must provide a statement under Subsection (a) on or before the 10th day after the date the servicer receives a written request from the debtor that:

(1) includes or otherwise enables the servicer to identify the name and account of the debtor; and

(2) includes a statement that the account is or may be in error or otherwise provides sufficient detail to the servicer regarding information sought by the debtor.

[Sections 397.054-397.100 reserved for expansion]

SUBCHAPTER C. REMEDIES

Sec. 397.101. ENFORCEMENT GENERALLY. The Department of Savings and Mortgage Lending, the attorney general, or any party to a loan to which this chapter applies may enforce this chapter.

Sec. 397.102. ACTION BY DEBTOR. In addition to any other legal and equitable remedy available, a debtor injured by a violation of this chapter may bring an action for recovery of actual damages, including reasonable attorney's fees.

Amendment No. 8 was adopted. (Phillips recorded voting no.) (The vote was reconsidered on May 19, and Amendment No. 8 was withdrawn.)

Amendment No. 9

Representative Veasey offered the following amendment to **SB 472**:

Amend **SB 472** by inserting into the bill the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 343, Finance Code, is amended by adding Section 343.103 to read as follows:

Sec. 343.103. INFORMATION CONCERNING ACTIONS TO PREVENT FORECLOSURE ON RESIDENTIAL REAL PROPERTY. (a) The finance commission shall make available to homeowners written information concerning actions the owner may take to prevent foreclosure. The information must include actions that may be taken to prevent foreclosure by an owner who:

(1) is concerned that the owner will be unable to make a home loan payment when the payment becomes due; or

(2) has missed making a home loan payment that has become due.

(b) The finance commission shall by rule require that a person purchasing a home financed by a home loan is required at the closing on the home to sign an acknowledgement that the person has received the information described by Subsection (a).

(c) The finance commission shall post on the commission's Internet website the information described by Subsection (a).

Amendment No. 9 was adopted. (Phillips recorded voting no.) (The vote was reconsidered on May 19, and Amendment No. 9 was withdrawn.)

Amendment No. 10

Representatives Gallego and Thompson offered the following amendment to **SB 472**:

Amend **SB 472** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 118, Local Government Code, is amended by adding Section 118.026 to read as follows:

Sec. 118.026. NOTICE OF FORECLOSURE SALE. (a) A county clerk shall collect a \$150 fee for a notice of sale filed under Section 51.002(b)(2), Property Code, from the holder of the security instrument, unless the holder is the original grantee of the security instrument. If a property has more than one notice of sale filed for the property and the fee has not been refunded under Subsection (e), the county clerk may not collect more than \$150 fee from the holder of the security instrument under this subsection.

(b) The county clerk shall keep a separate record of the fees collected under this section and shall remit the fees to the county treasurer not later than the deadline provided by Section 113.022. The county may retain not more than five percent of the fees for the county's costs for implementing and administering this section.

(c) On or before the last day of the month following each calendar quarter, the county treasurer shall remit to the comptroller the money from all fees collected during the preceding quarter, except as provided by Subsection (b) or (e).

(d) The comptroller shall deposit the money received under Subsection (c) in the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent.

(e) The county treasurer shall refund a \$150 fee collected under Subsection (a) not later than the 60th day after the date the refund is requested if:

(1) the foreclosure sale is canceled; and

(2) the holder of the security instrument provides to the county clerk:

(A) documentation establishing that the foreclosure sale was canceled; and

(B) an affidavit signed by a designated representative of the holder of the security instrument indicating that the holder has not received reimbursement from the mortgagor for the fee.

SECTION _____. The change in law made by Section 118.026, Local Government Code, as added by this Act, applies only to a notice of sale filed on or after the effective date of this Act. A notice filed before the effective date of this Act is governed by the law in effect when the notice was filed, and the former law is continued in effect for that purpose.

(Bohac in the chair)

COMMITTEE GRANTED PERMISSION TO MEET

Representative McCall requested permission for the Committee on Calendars to meet while the house is in session, at 5:45 p.m. today, in 3W.9, for a formal meeting, to consider the calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 5:45 p.m. today, 3W.9, for a formal meeting, to consider the calendar.

LEAVE OF ABSENCE GRANTED

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

Edwards on motion of Giddings.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Gonzales requested permission for the Committee on Border and Intergovernmental Affairs to meet while the house is in session, during bill referral today, in 3W.9, to consider **SB 2253** and pending business.

Permission to meet was granted.

SB 472 - (consideration continued)

Amendment No. 11

Representative Thompson offered the following amendment to Amendment No. 10:

Amend Amendment No. 10 by Gallego to **SB 472**, on page 2, between lines 18 and 19, by inserting the following:

(f) The person filing a notice of sale may not recover a fee paid under this section from the debtor who owns the property subject to the notice of sale.

Amendment No. 11 was adopted.

Amendment No. 10, as amended, failed of adoption by (Record 949): 59 Yeas, 68 Nays, 3 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Eiland; England; Farabee; Farias; Farrar; Flores; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Gutierrez; Hernandez; Herrero; Hochberg; Hodge; Homer; Howard, D.; Kent; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Pickett; Pierson; Quintanilla; Raymond; Rios Ybarra; Rodriguez; Rose; Strama; Thibaut; Thompson; Turner, C.; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bonnen; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Legler; Lewis; Madden; McCall; Merritt; Miller, D.; Miller, S.; Morrison; Orr; Parker; Patrick; Paxton; Phillips; Riddle; Ritter; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Weber; Woolley; Zerwas.

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

Absent, Excused — Branch; Cohen; Edwards; Frost; Kuempel; Laubenberg; Vaught.

Absent, Excused, Committee Meeting — Otto; Pitts.

Absent — Bolton; Corte; Crabb; Dutton; Guillen; Hamilton; Heflin; King, S.; McReynolds; Peña; Turner, S.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Border and Intergovernmental Affairs, during bill referral today, 3W.9, for a formal meeting, to consider **SB 2253** and pending business.

SB 472 - (consideration continued)

Amendment No. 12

Representative Y. Davis offered the following amendment to **SB 472**:

Amend **SB 472** (house committee printing) as follows:

(1) In Section 5 of the bill (page 7, line 9), strike "The changes in law made by this Act" and substitute "Sections 24.005 and 51.002, Property Code, as amended by this Act, and Section 51.0022, Property Code, as added by this Act,".

(2) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS of the bill accordingly:

SECTION ____ Subchapter D, Chapter 2306, Government Code, is amended by adding Section 2306.084 to read as follows:

Sec. 2306.084. MORTGAGE DEFAULT AND FORECLOSURE DATA COLLECTION AND REPORT. (a) The board shall prescribe the form and content of the form to be filed with the department under Section 51.0023, Property Code, and procedures for a person to submit the sworn form to the department electronically.

(b) The form prescribed for submission by a mortgage servicer under Section 51.0023(a), Property Code, must request information about the property, the debtor, and other facts surrounding the foreclosure, including:

(1) the type of lien being foreclosed, as listed in Section 50, Article XVI, Texas Constitution;

(2) the initial interest rate of the loan;

(3) the origination and maturity dates of the loan;

(4) the initial amount of the debt;

(5) whether the loan allows negative amortization or allows the payment of interest only;

(6) whether the interest rate could change and, if so, the minimum and maximum rates, the index used, the amount of the margin, how often the rate could adjust, how much the rate could adjust, and the current interest rate being charged;

(7) whether the loan allows for a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payments;

(8) whether the loan has a prepayment penalty or a universal default provision in which it allows for a change in the interest rate when there is a default by the debtor on any obligation to the lender or any other lender or there is a decrease in the debtor's credit score;

(9) the type of default;

(10) demographics of the debtor;

(11) whether the property was the debtor's residence;

(12) the zip code of the property subject to sale; and

(13) any other information the department finds appropriate to request from the mortgage servicer.

(c) The department shall make the data submitted under Section 51.0023, Property Code, available to the public on the department's Internet website.

(d) Not later than January 1 of each year, the department shall submit a report to the governor, lieutenant governor, speaker of the house of representatives, and attorney general regarding the data collected under Section 51.0023, Property Code. The department shall make the report required under this subsection available to the public on the department's Internet website.

SECTION ____. Chapter 51, Property Code, is amended by adding Section 51.0023 to read as follows:

Sec. 51.0023. DATA COLLECTION REGARDING RESIDENTIAL PROPERTY OCCUPIED BY TENANT. (a) A mortgage servicer who files a notice of sale under Section 51.002(b) regarding residential real property known by the mortgage servicer to be occupied by a tenant must submit to the Texas Department of Housing and Community Affairs a completed and sworn form

prescribed by the board of the department under Section 2306.084(b), Government Code. The form must be submitted electronically in the manner prescribed by the board.

(b) If information requested by the form is unknown by the mortgage servicer, the mortgage servicer must provide the information that is known and submit an affidavit to the Texas Department of Housing and Community Affairs based on personal knowledge that the mortgage servicer made a diligent inquiry and has been unable to locate the information requested.

SECTION _____. (a) Not later than November 1, 2009, the board of the Texas Department of Housing and Community Affairs shall prescribe the forms and procedures required by Section 2306.084, Government Code, as added by this Act.

(b) Section 51.0023, Property Code, as added by this Act, applies only to a sale of residential real property in which notice of sale under Section 51.002, Property Code, is provided on or after December 1, 2009. A sale in which notice of sale is provided before December 1, 2009, is subject to 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 adopted.

LEAVE OF ABSENCE GRANTED

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

Corte on motion of Hilderbran.

SB 472 - (consideration continued)

Amendment No. 13

On behalf of Representative Solomons, Representative Deshotel offered the following amendment to **SB 472**:

Amend **SB 472** (house committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 24.005(b-1), Property Code (page 2, lines 7 - 9), strike "deliver to the tenant not later than 24 hours after the time of the foreclosure sale" and substitute "give a tenant at least ten days' written notice to vacate before the purchaser may file a forcible detainer suit. The notice must be sent by certified mail and must include notice on a separate page"

(2) In SECTION 1 of the bill, in added Section 24.005(b-1), Property Code (page 2, line 13) of the bill, between "failure to" and "pay rent", insert "comply with the terms of the lease agreement, including the obligation to".

(3) In SECTION 1 of the bill, in added Section 24.005(b-1), Property Code (page 2, lines 13 and 14), strike ", including a late fee, as of the date of the sale"

(4) In SECTION 1 of the bill, in added Section 24.005(b-1), Property Code (page 2, line 14), after the period, insert the following:

The notice under this section is deemed delivered when the notice is deposited in the United States mail, postage prepaid and addressed to "tenant" or "occupant." The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

(5) In SECTION 2 of the bill, in added Section 51.002 (d-1), Property Code (page 3, line 21 and 22), strike "canary yellow or a similarly colored yellow".

(6) In SECTION 2 of the bill, in added Section 51.002 (d-1), Property Code (page 3, line 23), after the period, insert "The notice must be in English and Spanish and in conspicuous, bold, or underlined print."

(7) In SECTION 2 of the bill, in added Section 51.002 (i), Property Code (page 4, line 24), after "(B)" insert the following:

complies with the other material provisions of the lease agreement;

(C)

(8) In SECTION 2 of the bill, in added Section 51.002 (i), Property Code (page 4, line 25), strike "(C)" and substitute "(D)".

Amendment No. 13 was adopted.

Amendment No. 14

Representative Herrero offered the following amendment to **SB 472**:

Amend **SB 472** by adding the following SECTION, numbered appropriately, and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Chapter 51, Property Code, is amended by adding Section 51.015 to read as follows:

Sec. 51.015. SALE OF CERTAIN PROPERTY OWNED BY MEMBER OF THE MILITARY. (a) In this section:

(1) "Active duty military service" means:

(A) service as a member of the armed forces of the United States;

and

(B) with respect to a member of the Texas National Guard or the National Guard of another state or a member of a reserve component of the armed forces of the United States, active duty under an order of the president of the United States.

(2) "Dwelling" means a residential structure or manufactured home that contains one to four family housing units.

(3) "Military servicemember" means:

(A) a member of the armed forces of the United States;

(B) a member of the Texas National Guard or the National Guard of another state serving on active duty under an order of the president of the United States; or

(C) a member of a reserve component of the armed forces of the United States who is on active duty under an order of the president of the United States.

(4) "Person" has the meaning assigned by Section 311.005, Government Code.

(b) This section applies only to an obligation:

(1) that is secured by a mortgage, deed of trust, or other contract lien on real property or personal property that is a dwelling owned by a military servicemember;

(2) that originates before the date on which the servicemember's active duty military service commences; and

(3) for which the servicemember is still obligated.

(c) In an action filed during a military servicemember's period of active duty military service or during the nine months after the date on which that service period concludes to foreclose a lien or otherwise enforce an obligation described by Subsection (b), the court may after a hearing and on the court's own motion, and shall on the application by a servicemember whose ability to comply with the obligations of the contract secured by the lien is materially affected by the servicemember's military service:

(1) stay the proceedings for a period of time as justice and equity require; or

(2) adjust the obligations of the contract secured by the lien to preserve the interests of all parties.

(d) A sale, foreclosure, or seizure of property under a mortgage, deed of trust, or other contract lien described by Subsection (b) may not be conducted during the military servicemember's period of active duty military service or during the nine months after the date on which that service period concludes unless the sale, foreclosure, or seizure is conducted under:

(1) a court order issued before the sale, foreclosure, or seizure; or

(2) an agreement that complies with Subsection (e).

(e) A military servicemember may waive the servicemember's rights under this section only as provided by this subsection. The waiver must be:

(1) in writing in at least 12-point type;

(2) executed as an instrument separate from the obligation to which the waiver applies; and

(3) made under a written agreement:

(A) executed during or after the servicemember's period of active duty military service; and

(B) specifying the legal instrument to which the waiver applies and, if the servicemember is not a party to the instrument, the servicemember concerned.

(f) A person commits an offense if the person knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by Subsection (d). An offense under this subsection is a Class A misdemeanor.

(g) On application to a court, a dependent of a military servicemember is entitled to the protections of this section if the dependent's ability to comply with an obligation that is secured by a mortgage, deed of trust, or other contract lien on real property or personal property that is a dwelling is materially affected by the servicemember's military service.

(h) A court that issues a stay or takes any other action under this section regarding the enforcement of an obligation that is subject to this section may grant a similar stay or take similar action with respect to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation.

(i) If a judgment or decree is vacated or set aside wholly or partly under this section, the court may also set aside or vacate, as applicable, the judgment or decree with respect to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation that is subject to the judgment or decree.

(j) This section does not prevent a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person, whether primarily or secondarily liable on an obligation, of the protections provided under Subsections (h) and (i). A waiver described by this subsection is effective only if it is executed as an instrument separate from the obligation with respect to which it applies. If a waiver under this subsection is executed by an individual who after the execution of the waiver enters active duty military service, or by a dependent of an individual who after the execution of the waiver enters active duty military service, the waiver is not valid after the beginning of the period of the active duty military service unless the waiver was executed by the individual or dependent during the applicable period described by 50 U.S.C. App. Section 516, as that section existed on January 1, 2009.

(b) The change in law made by this section applies only to a sale, foreclosure, or seizure of property under a judgment in an action filed on or after the effective date of this section or with respect to which a notice of default is given under Section 51.002(d), Property Code, on or after the effective date of this section. A sale, foreclosure, or seizure under a judgment in an action filed before the effective date of this section or with respect to which notice of default is given before the effective date of this section is governed by the law in effect immediately before the effective date of this section, and that law is continued in effect for that purpose.

Amendment No. 14 was adopted. (C. Howard and Phillips recorded voting no.) (The vote was reconsidered on May 19, and Amendment No. 14 was withdrawn.)

Amendment No. 15

Representative Castro offered the following amendment to **SB 472**:

Amend **SB 472** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 51, Property Code, is amended by adding Section 51.013 to read as follows:

Sec. 51.013. COMMUNICATION WITH DEBTOR OR DEBTOR'S REPRESENTATIVE AFTER NOTICE OF DEFAULT. (a) After a notice of default is sent under Section 51.002(d) and a written authorization to communicate with a third party is received by the mortgage servicer from the

debtor, a mortgage servicer shall communicate and negotiate with a third party who provides assistance to the debtor, including a family member, licensed attorney, or housing counseling agency approved by the United States Department of Housing and Urban Development.

(b) The notice described in Subsection (a) may be sent through the United States Postal Service or by hand delivery or electronic means.

(c) This section applies only to a lien on residential real property occupied by the debtor as the debtor's homestead.

Amendment No. 15 was adopted. (The vote was reconsidered on May 19, and Amendment No. 15 was withdrawn.)

Amendment No. 16

Representative Castro offered the following amendment to **SB 472**:

Amend **SB 472** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumber the remaining SECTIONS accordingly:

SECTION _____. Chapter 51, Property Code, is amended by adding Section 51.0023, to read as follows:

Sec. 51.0023. RETURN OF CERTAIN PAYMENTS AFTER NOTICE OF SALE. (a) A mortgage servicer that receives a payment from the debtor after giving notice of sale under Section 51.002(b) shall return the payment not later than the 10th day after the date of the foreclosure sale if the foreclosure sale occurs on the date provided in the notice of sale.

(b) This section applies only to a lien on residential real property occupied by the debtor as the debtor's homestead.

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).

SB 472 - (consideration continued)

Amendment No. 16 was withdrawn.

Amendment No. 7 - Vote Reconsidered

Representative Thibaut moved to reconsider the vote by which Amendment No. 7 was adopted.

The motion to reconsider prevailed.

Amendment No. 17

Representative Thibaut offered the following amendment to Amendment No. 7:

Amend Floor Amendment No. 7 to **SB 472** by Thibaut, in proposed Section 51.013, Property Code, by striking "or exempt a mortgage servicer, mortgagee, trustee, substitute trustee, or government official" and substituting "to exempt a mortgage servicer".

Amendment No. 17 was adopted.

Amendment No. 7, as amended, was adopted.

Amendment No. 18

Representative Castro offered the following amendment to **SB 472**:

Amend **SB 472** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumber the remaining SECTIONS accordingly:

SECTION _____. Chapter 51, Property Code, is amended by adding Section 51.0023, to read as follows:

Sec. 51.0023. RETURN OF CERTAIN PAYMENTS AFTER NOTICE OF SALE. (a) A mortgage servicer that receives a payment from the debtor after giving notice of sale under Section 51.002(b) shall return the payment not later than the 10th day after the date of the foreclosure sale if the foreclosure sale occurs on the date provided in the notice of sale.

(b) This section applies only to a lien on residential real property occupied by the debtor as the debtor's homestead.

Amendment No. 18 was adopted. (Phillips recorded voting no.) (The vote was reconsidered on May 19, and Amendment No. 18 was withdrawn.)

LEAVES OF ABSENCE GRANTED

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

Crabb on motion of Truitt.

The following members were granted leaves of absence for the remainder of today to attend a meeting of the Conference Committee on **SB 1**:

McClendon on motion of Peña.

Raymond on motion of Peña.

SB 472 - (consideration continued)

The vote of the house was taken on the passage to third reading of **SB 472**, as amended, and the vote was announced yeas 67, nays 66.

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 950): 62 Yeas, 67 Nays, 4 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bolton; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Eiland; England; Farabee; Farias; Farrar; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Gutierrez; Heflin; Hernandez; Herrero; Hochberg; Hodge; Homer; Howard, D.; Kent; Leibowitz; Lucio; Maldonado; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McReynolds; Menendez; Miklos; Moody; Naishtat; Oliveira; Olivo; Ortiz; Peña; Pierson; Quintanilla; Rios Ybarra; Rodriguez; Rose; Strama; Thibaut; Thompson; Turner, C.; Turner, S.; Veasey; Villarreal; Vo; Walle.

Nays — Anderson; Aycock; Berman; Bonnen; Brown, B.; Brown, F.; Button; Callegari; Chisum; Christian; Cook; Craddick; Crownover; Darby; Davis, J.; Driver; Eissler; Elkins; Fletcher; Flynn; Gattis; Geren; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Hughes; Hunter; Isett; Jackson; Jones; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Legler; Lewis; Madden; McCall; Merritt; Miller, D.; Miller, S.; Morrison; Parker; Patrick; Paxton; Phillips; Riddle; Ritter; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Swinford; Taylor; Truitt; Weber; Woolley; Zerwas.

Present, not voting — Mr. Speaker; Bohac(C); Creighton; Orr.

Absent, Excused — Branch; Cohen; Corte; Crabb; Edwards; Frost; Kuempel; Laubenberg; Vaught.

Absent, Excused, Committee Meeting — McClendon; Otto; Pitts; Raymond.

Absent — Dutton; Flores; King, S.; Pickett.

The chair stated that **SB 472**, as amended, failed to pass to third reading by the above vote.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 950. I intended to vote present, not voting.

Guillen

I was shown voting yes on Record No. 950. I intended to vote no.

Heflin

(Oliveira in the chair)

FIVE-DAY POSTING RULE SUSPENDED

Representative Phillips moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Transportation to consider **SB 52, SB 129, SB 249, SB 448, SB 505, SB 521, SB 581, SB 883, SB 896, SB 897, SB 952, SB 1266, SB 1353, SB 1382, SB 1389, SB 1426, SB 1508, SB 1570, SB 1609, SB 1615, SB 1616, SB 1759, SB 1984, SB 2017, SB 2018, SB 2153, and SB 2569.**

The motion prevailed.

Representative Hunter moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Judiciary and Civil Jurisprudence to consider **SB 2554.**

The motion prevailed.

Representative Rose moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Human Services to consider **HB 188, SB 1663, SB 1824, SB 2407,** and previously posted bills.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Merritt requested permission for the Committee on Public Safety to meet while the house is in session, during bill referral today, in E2.014, for a public hearing.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Land and Resource Management, upon final recess today, Desk 1, for a formal meeting, to consider **SB 18** and pending business.

Insurance, upon final recess today, 1W.14, for a formal meeting, to consider **SB 1007**.

Judiciary and Civil Jurisprudence, upon final recess today, E2.010, for a public hearing, to consider **SB 2554**.

Human Services, 8 a.m. tomorrow, E2.030, for a public hearing, to consider **HB 188, SB 1663, SB 1824, SB 2407**, and posted bills.

Transportation, 8 a.m. tomorrow, E2.014, for a public hearing, to consider **SB 52, SB 129, SB 249, SB 448, SB 505, SB 521, SB 581, SB 883, SB 896, SB 897, SB 952, SB 1266, SB 1353, SB 1382, SB 1389, SB 1426, SB 1508, SB 1570, SB 1609, SB 1615, SB 1616, SB 1759, SB 1984, SB 2017, SB 2018, SB 2153, and SB 2569**.

PROVIDING FOR RECESS

Representative Peña moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house recess until 10 a.m. tomorrow in memory of John Austin Peña of Edinburg.

The motion prevailed.

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

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

RECESS

In accordance with a previous motion, the house, at 6:44 p.m., recessed until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

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

List No. 1

HR 1784 (By Maldonado), Promoting greater public awareness of hemophilia and von Willebrand disease.

To Public Health.

HR 2097 (By T. Smith), In memory of Sergeant Jonathan A. Markham of Bedford.

To Rules and Resolutions.

HR 2098 (By T. Smith), In memory of U.S. Army Sergeant Wesley R. Durbin of Hurst.

To Rules and Resolutions.

HR 2099 (By Chavez), Commemorating the 50th anniversary of the El Paso Alpha Delta Chapter of the Alpha Delta Kappa international honorary organization of women educators.

To Rules and Resolutions.

HR 2100 (By Chavez), Congratulating students from Cielo Vista Elementary School in El Paso for placing second in the state Destination ImagiNation competition.

To Rules and Resolutions.

HR 2101 (By Chavez), Honoring the Centro de Salud Familiar La Fe for its noteworthy history of serving the residents of El Paso.

To Rules and Resolutions.

HR 2102 (By Branch), In memory of Laura Louise McClung of Dallas.

To Rules and Resolutions.

HR 2103 (By C. Turner), Congratulating Amy Hobbie of Crowley on being named Secondary Teacher of the Year by the Association of Texas Professional Educators.

To Rules and Resolutions.

HR 2104 (By C. Turner), Congratulating Nelda Patton of Mansfield on her induction into the Texas Rodeo Cowboy Hall of Fame in 2009.

To Rules and Resolutions.

HR 2105 (By C. Turner), Congratulating students from Ben Barber Career and Technology Academy in Mansfield for their success at the SkillsUSA Texas State Championships in Corpus Christi.

To Rules and Resolutions.

HR 2106 (By Cook), Honoring Homer Wasson and Zane Stites for their distinguished service on the Navarro College Board of Trustees.

To Rules and Resolutions.

HR 2107 (By Alonzo), Congratulating Dunia Borga of Dallas for receiving the Local DFW Award at the first Flavors of Passion Awards in Dallas.

To Rules and Resolutions.

HR 2108 (By Alonzo), Congratulating Polo Becerra of Houston for receiving the State Award (Texas) at the first Flavors of Passion Awards in Dallas.

To Rules and Resolutions.

HR 2109 (By Alonzo), Congratulating Jesse T. Perez of Atlanta for receiving the National Award at the first Flavors of Passion Awards in Dallas.

To Rules and Resolutions.

HR 2110 (By Alonzo), Congratulating Roberto Santibanez for receiving the Lifetime Achievement Award at the first Flavors of Passion Awards in Dallas.

To Rules and Resolutions.

HR 2112 (By Alvarado), Honoring Rosa Walker for her contributions to Texas on the occasion of the inaugural Rosa Walker Award for Leadership event.

To Rules and Resolutions.

HR 2113 (By Alvarado), In memory of Rogelio M. Barba of Eagle Pass.

To Rules and Resolutions.

HR 2114 (By Alvarado), Honoring Rosalinda R. Ybanez on her election as the first Hispanic female president of the Houston Police Organization of Spanish Speaking Officers.

To Rules and Resolutions.

HR 2115 (By Hughes), In memory of Jason Lee Hightower of Winnsboro.

To Rules and Resolutions.

HR 2116 (By Miklos), In memory of U.S. Army Staff Sergeant Clay Allen Craig of Clarksville, Tennessee.

To Rules and Resolutions.

HR 2117 (By Merritt), Honoring Dorothy Khoury of Longview for her extensive volunteerism and her service to the Gregg County Republican Party.

To Rules and Resolutions.

HR 2118 (By Dutton), Congratulating LaDaJa Woodfork on being named an honoree at the 2009 Reginald Keith Guillory Scholarship Luncheon.

To Rules and Resolutions.

HR 2119 (By Dutton), Congratulating Khristle Flake on her receipt of a 2009 Reginald Keith Guillory Scholarship.

To Rules and Resolutions.

HR 2120 (By Dutton), Congratulating Jamesia Fransaw on being named an honoree at the 2009 Reginald Keith Guillory Scholarship Luncheon.
To Rules and Resolutions.

HR 2121 (By Dutton), Congratulating Arthur A. Davis III on being named an honoree at the 2009 Reginald Keith Guillory Scholarship Luncheon.
To Rules and Resolutions.

HR 2122 (By Dutton), Congratulating Sydney L. Reed on being named an honoree at the 2009 Reginald Keith Guillory Scholarship Luncheon.
To Rules and Resolutions.

HR 2123 (By Dutton), Congratulating Briaa' Iyana Lee on being named an honoree at the 2009 Reginald Keith Guillory Scholarship Luncheon.
To Rules and Resolutions.

HR 2124 (By Hughes), In memory of U.S. Army Specialist Tracy Clint Willis of San Antonio.
To Rules and Resolutions.

HR 2125 (By Kleinschmidt), Recognizing exchange student Nicholas Devernois of Monbalen, Aquitaine, France, as an honorary Texan.
To Rules and Resolutions.

HR 2126 (By Martinez), In memory of Roy N. Davis of Weslaco.
To Rules and Resolutions.

HR 2127 (By Harper-Brown), Congratulating Max Whitley, Richard Knoll, Marlene Steward, and F. M. Gilbert of Entertainment Series of Irving for winning the 2009 Irving Trivia contest, "The City and the Man."
To Rules and Resolutions.

HR 2128 (By Eiland), Congratulating Verna Trammel on being named a 2009 Unsung Hero by the Galveston County Daily News.
To Rules and Resolutions.

HR 2129 (By Eiland), Congratulating Dr. Fred M. Zaunbrecher on being named a 2009 Unsung Hero by the Galveston County Daily News.
To Rules and Resolutions.

HR 2130 (By Eiland), Commemorating the 120th anniversary of Macedonia Missionary Baptist Church in Galveston.
To Rules and Resolutions.

HR 2131 (By Eiland), Honoring Joe Compian on his selection as an Unsung Hero by the Galveston County Daily News in 2009.
To Rules and Resolutions.

HR 2132 (By Eiland), Honoring Eleanor Grant on her selection as a 2009 Unsung Hero by the Galveston County Daily News.
To Rules and Resolutions.

HR 2133 (By Eiland), Congratulating Aurora Corona Solis on being named a 2009 Unsung Hero by the Galveston County Daily News.
To Rules and Resolutions.

HR 2134 (By Eiland), Congratulating Greg Valentine on his selection as a 2009 Unsung Hero by the Galveston County Daily News.

To Rules and Resolutions.

HR 2135 (By Legler), Congratulating Marcus Edward Puckett of Pasadena on attaining the rank of Eagle Scout.

To Rules and Resolutions.

HR 2136 (By Herrero), Congratulating the powerlifting team from Bishop High School on winning the Texas High School Powerlifting Association Division 3 state championship.

To Rules and Resolutions.

HR 2137 (By Herrero), Commemorating the 10th anniversary of Texas CHIP.

To Rules and Resolutions.

HR 2138 (By Leibowitz), Congratulating Celeste Alvarez on being named the 2009 salutatorian of Southside High School.

To Rules and Resolutions.

HR 2139 (By Leibowitz), Congratulating David J. Castillo on being named the 2009 valedictorian of Southside High School.

To Rules and Resolutions.

HR 2140 (By Leibowitz), Congratulating Maxine Benke of Helotes on being named Grand Marshal of the community's 2009 Cornyval Parade.

To Rules and Resolutions.

HR 2141 (By Rios Ybarra), Honoring the Ladies Auxiliary of Falfurrias for its work in support of the United States armed forces.

To Rules and Resolutions.

HR 2142 (By Callegari), Congratulating Lori Gasaway of Houston on her 50th birthday.

To Rules and Resolutions.

HR 2143 (By Isett), In memory of longtime Lubbock and statewide volunteer Betty Price Anderson.

To Rules and Resolutions.

HR 2144 (By Isett), In memory of Christine L. Shinn of Lubbock.

To Rules and Resolutions.

HR 2145 (By Isett), Congratulating the Texas Tech Meat Animal Evaluation Team for winning first place at the 2009 National Meat Animal Evaluation Contest.

To Rules and Resolutions.

HR 2146 (By Morrison), Honoring the Bluebonnet Youth Ranch near Yoakum on its 40th anniversary.

To Rules and Resolutions.

HR 2148 (By Gonzalez Toureilles), Congratulating Lenora and Frank Benavides of Beeville on the occasion of their 55th wedding anniversary.

To Rules and Resolutions.

HR 2149 (By Gonzalez Toureilles), Honoring U.S. Army Sergeant Benjamin Alexander Salinas, Sr., of Alice for his service to his country.

To Rules and Resolutions.

HR 2150 (By Gonzalez Toureilles), Commending Sergeant First Class Gilbrando Garza of Alice for his service in Iraq.

To Rules and Resolutions.

HR 2151 (By Gonzalez Toureilles), Commending U.S. Army Sergeant Melissa Diaz Carrasco of Ben Bolt for her service in behalf of this nation.

To Rules and Resolutions.

HR 2152 (By Gonzalez Toureilles), In memory of Homer E. Dean, Jr., of Alice.

To Rules and Resolutions.

HR 2153 (By Gonzalez Toureilles), Honoring R. David Guerrero of Jim Wells County for being named the 2009 District Clerk of the Year for Region 8 by the County and District Clerks Association of Texas.

To Rules and Resolutions.

HR 2154 (By Gonzalez Toureilles), Congratulating the Three Rivers High School Bulldogs football team on its successful season in 2008.

To Rules and Resolutions.

HR 2155 (By Gonzalez Toureilles), Congratulating the George West High School Longhorn football team on its success during the 2008 season.

To Rules and Resolutions.

HR 2156 (By Gonzalez Toureilles), Congratulating the Alice High School football team on its perfect season in 2008.

To Rules and Resolutions.

HR 2158 (By Jackson), Recognizing Gregory S. Hirsch for his service on the Addison City Council.

To Rules and Resolutions.

HR 2160 (By Bonnen), Congratulating Jack Hays of West Columbia on his induction into the Ronnie Bell Hall of Honor by the Greater Houston Football Coaches Association.

To Rules and Resolutions.

HR 2161 (By Bonnen), Honoring the Founders' Garden Club of Brazoria County on the 75th anniversary of its founding.

To Rules and Resolutions.

HR 2162 (By Ortiz), Commending Gloria Pizana Caceres for her service as chief of staff in the office of Representative Solomon Ortiz, Jr.

To Rules and Resolutions.

HR 2163 (By Ortiz), Commending Stacey Barrera for her work as constituent liaison in the office of Representative Solomon Ortiz, Jr.

To Rules and Resolutions.

HR 2164 (By Ortiz), Commending Will Krueger for his work as legislative director in the office of Representative Solomon Ortiz, Jr.

To Rules and Resolutions.

HR 2165 (By Ortiz), Honoring Monica "Desiree" Castro for her service in the office of State Representative Solomon Ortiz, Jr.

To Rules and Resolutions.

HR 2166 (By Ortiz), Honoring Curtis Smith for his service as an intern in the office of Representative Solomon Ortiz, Jr.

To Rules and Resolutions.

HR 2168 (By Marquez), Honoring Salvador Balcorta of El Paso for his outstanding service to his community as CEO of Centro de Salud Familiar La Fe.

To Rules and Resolutions.

HR 2169 (By Castro), Congratulating Clifton Ellis on being named the 2009 Boys Basketball Coach of the Year by the San Antonio Express-News.

To Rules and Resolutions.

HR 2170 (By Castro), Congratulating Marc Helkey on being named 2009 Boys Soccer Coach of the Year by the San Antonio Express-News.

To Rules and Resolutions.

HR 2171 (By Castro), Congratulating Mike Floyd on being named the 2009 Girls Basketball Coach of the Year by the San Antonio Express-News.

To Rules and Resolutions.

HR 2172 (By Castro), Congratulating Mark Jedow on being named the 2009 Swimming and Diving Coach of the Year by the San Antonio Express-News.

To Rules and Resolutions.

HR 2173 (By Castro), Congratulating Gina Dylla on being named 2009 Girls Soccer Coach of the Year by the San Antonio Express-News.

To Rules and Resolutions.

SB 1960 to Natural Resources.

SJR 43 to Ways and Means.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 32

HB 205, HB 360, HB 406, HB 523, HB 536, HB 582, HB 652, HB 865, HB 968, HB 1079, HB 1203, HB 1364, HB 1433, HB 1466, HB 1629, HB 1684, HB 1731, HB 1793, HB 1805, HB 1918, HB 2055, HB 2219, HB 2314, HB 2440, HCR 118, HCR 162, HCR 210, HCR 211

Senate List No. 32

SB 61, SB 63, SB 254, SB 1415, SB 1506, SB 1661, SB 2038, SCR 58, SCR 68, SCR 69, SCR 71

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

Monday, May 18, 2009

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

- | | | |
|--|--------|-----------------|
| HCR 10 | Pena | SPONSOR: Ellis |
| Commemorating the 200th anniversary of the birth of Abraham Lincoln. | | |
| HCR 65 | Isett | SPONSOR: Duncan |
| Honoring Dr. James R. Reckner on his retirement from Texas Tech University. | | |
| HCR 85 | Weber | SPONSOR: Hegar |
| Declaring March 10, 2009, as Matagorda County Day at the State Capitol. | | |
| HCR 94 | Dutton | SPONSOR: Ellis |
| Proclaiming April 2009 as Jazz Appreciation Month in Texas. | | |
| HCR 97 | Isett | SPONSOR: Duncan |
| Welcoming German exchange student Carolin Bosche on the occasion of her visit to the State Capitol on March 16 and 17, 2009. | | |
| HCR 141 | Isett | SPONSOR: Duncan |
| Congratulating Stacie George of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock. | | |
| HCR 142 | Isett | SPONSOR: Duncan |
| Congratulating Cathy Pope of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock. | | |
| HCR 143 | Isett | SPONSOR: Duncan |

Congratulating Jennifer McGrew of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 144 Isett SPONSOR: Duncan
Congratulating Mitzi Jo Hopper Ziegner of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 145 Isett SPONSOR: Duncan
Congratulating Christina Esperat of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 146 Isett SPONSOR: Duncan
Congratulating Sally Kipyego of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 147 Isett SPONSOR: Duncan
Congratulating Melinda Corwin of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 165 Homer SPONSOR: Eltife
In memory of Gratie Mae Potts of Clarksville.

HCR 167 Homer SPONSOR: Eltife
In memory of Robert Brownfield of Paris, Texas.

HCR 169 Homer SPONSOR: Eltife
In memory of Patsy Bell Rosson of Paris, Texas.

HCR 170 Homer SPONSOR: Eltife
In memory of Jimmy E. Upton of Blossom.

HCR 178 Isett SPONSOR: Duncan
Congratulating Louise Hopkins Underwood of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 179 Isett SPONSOR: Duncan
Congratulating Margarita Olivarez of Lubbock on earning a 2009 Women of Excellence Award from the YWCA of Lubbock.

HCR 189 Homer SPONSOR: Eltife
Designating April 23, 2009, as Lamar County Day at the State Capitol.

HCR 190 Homer SPONSOR: Eltife
In memory of volunteer firefighter Joe Pat Jordan of Pine Forest.

HCR 191 Homer SPONSOR: Eltife
Honoring the memory of William S. "Pete" Long of Hopkins County.

HCR 195 Homer SPONSOR: Eltife
In memory of Robert Dale House of Johntown.

HCR 196 Homer SPONSOR: Eltife
In memory of Judy Broach Hammonds of Mount Pleasant.

HCR 197 Homer SPONSOR: Eltife
In memory of Paul Alford Middleton of Annona.

HCR 198 Homer SPONSOR: Eltife
In memory of Hubert H. Wiley of Clarksville.

HCR 199 Homer SPONSOR: Eltife

In memory of George I. Richardson of Paris, Texas.

HCR 200 Homer SPONSOR: Eltife
Honoring the life of Gratie Mae Potts of Clarksville.

HCR 201 Homer SPONSOR: Eltife
In memory of Doris L. Joplin of Powderly.

HCR 202 Homer SPONSOR: Eltife
In memory of Dorthy Matthews of Mount Pleasant.

HCR 203 Homer SPONSOR: Eltife
In memory of Lessie Nelson of Mount Vernon.

HCR 206 Homer SPONSOR: Eltife
In memory of Christian Tyler Dunn-Donihoo of Mount Pleasant.

HCR 207 Homer SPONSOR: Eltife
In memory of Jack Ray Stevenson of Bogata.

HCR 208 Homer SPONSOR: Eltife
In memory of Herbert Hugh Campbell of Paris.

HCR 212 Homer SPONSOR: Eltife
In memory of J. B. Lowry of Paris, Texas.

HCR 215 Homer SPONSOR: Eltife
In memory of Alvis Leo Caldwell of Paris, Texas.

HCR 221 Isett SPONSOR: Ogden
Honoring Church of the Hills for its spiritual support during the 81st Legislative Session.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 18, 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 549 Raymond SPONSOR: Zaffirini
Relating to an affirmative defense to prosecution for certain sex offenses.

HB 1232 Menendez SPONSOR: Van de Putte
Relating to establishing a local behavioral health intervention pilot project.

(Amended)

HB 1965 Darby SPONSOR: Seliger
Relating to permits to control protected wildlife; providing a penalty.
(Committee Substitute)

HB 2259 Crownover SPONSOR: Duncan
Relating to the plugging of certain inactive oil or gas wells.
(Amended)

HB 2530 Harless SPONSOR: Davis,
Wendy
Relating to the authority of a county assessor-collector or the Texas Department of Transportation to refuse to register certain vehicles.

HB 2591 Thompson SPONSOR: Hegar
Relating to the regulation of property tax consultants.
(Committee Substitute/Amended)

HB 2640 Smith, Todd SPONSOR: Watson
Relating to the regulation of motor vehicle manufacturers and distributors.
(Amended)

HB 2877 Sheffield SPONSOR: Fraser
Relating to liability insurance closed claim reports.

HB 3218 Naishtat SPONSOR: Zaffirini
Relating to the filing of sworn complaints with the Texas Ethics Commission.
(Amended)

HB 3303 Kent SPONSOR: Zaffirini
Relating to the use of information and records acquired during a fatality review and investigation.

HB 3435 Hamilton SPONSOR: Jackson,
Mike
Relating to exempting certain utility property from impact fees and assessments in certain water districts.
(Committee Substitute)

HB 3951 Turner, Chris SPONSOR: Davis,
Wendy
Relating to requiring a public institution of higher education to designate or employ a person trained in student financial assistance programs for military veterans and their families.
(Amended)

HB 4029 Marquez SPONSOR: Shapleigh
Relating to written authorization for the release of certain health care information.
(Amended)

HCR 226 Truitt SPONSOR: Shapleigh
Commemorating the 125th anniversary of the Lucchese Boot Company.

SB 2583 West
Relating to coverage under a meet and confer agreement for certain municipal firefighters and police officers.

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

SB 1005 (31 Yeas, 0 Nays)

SB 1122 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 434

Senate Conferees: Wentworth - Chair/Carona/Shapiro/Shapleigh/Watson

SB 956

Senate Conferees: West - Chair/Duncan/Hinojosa/Ogden/Shapiro

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 18, 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:

HB 962 Guillen SPONSOR: Zaffirini
Relating to the purchase of library goods and services by public junior colleges.
(Amended)

HB 1096 Vo SPONSOR: Van de Putte
Relating to the provision of notice regarding the availability of higher education textbooks through multiple retailers.
(Amended)

HB 1789 Maldonado SPONSOR: Ogden
Relating to the use of municipal hotel occupancy tax revenue to enhance and upgrade sports facilities, coliseums, and multiuse facilities in certain municipalities.
(Committee Substitute/Amended)

HB 2063 Callegari SPONSOR: Duncan
Relating to the enforcement of rules by a groundwater conservation district.
(Committee Substitute)

HB 3108

Parker

SPONSOR: Harris

Relating to an interim study of recreational boating safety in Texas.

(Committee Substitute)

SB 1960

Wentworth

Relating to increased oversight, openness, transparency, and accountability for water supply or sewer service corporations.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Monday, May 18, 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 688

Wentworth

Relating to the mitigation of the impact of residential development in public school districts.

SB 1263

Watson

Relating to certain mass transit entities.

SB 1822

Fraser

Relating to erecting an off-premise sign adjacent to and visible from certain roads, including Farm-to-Market Road 1431 between the eastern city limits of the city of Marble Falls and the boundary line between Burnet and Travis Counties and roads that follow the route of El Camino Real de Tierra Adentro.

SB 1912

Duncan

Relating to the disclosure of personally identifiable information under the public information law.

SB 2350

Ogden

Relating to the payment and distribution of consumer assistance funds in an action by the attorney general.

SB 2584

Patrick, Dan

Relating to the reporting of certain felons incarcerated in Texas jails to federal authorities.

SJR 43

Lucio

Proposing a constitutional amendment to authorize the voters of an emergency services district that has been authorized by those voters to impose an ad valorem tax at a rate not to exceed 10 cents on the \$100 valuation to authorize by election, after an audit and a capital improvements plan, the levy of an additional ad valorem tax, at a rate not to exceed five cents on the \$100 valuation, for the construction or acquisition of fire stations, equipment, and other property.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 15

Corrections - **SB 1362**

County Affairs - **SB 229, SB 376, SB 524, SB 530, SB 575, SB 1033, SB 1059, SB 1368, SB 1485, SB 1554, SB 1574, SB 1614, SB 1712, SB 2058, SB 2072, SB 2093, SB 2197, SB 2472, SB 2473, SB 2479, SB 2531**

Criminal Jurisprudence - **SB 912**

Culture, Recreation, and Tourism - **SB 205, SB 1586, SB 1745**

Elections - **SB 1402, SB 1795, SB 1807, SB 1808, SB 2242**

Environmental Regulation - **SB 1693, SB 2445**

Higher Education - **SB 175**

Human Services - **SB 72**

Insurance - **SB 842, SB 1168**

Judiciary and Civil Jurisprudence - **SB 233, SB 279, SB 491, SB 1930, SB 2217**

Licensing and Administrative Procedures - **SB 693, SB 707, SB 1617, SB 2341**

Natural Resources - **SB 660, SB 860, SB 2314, SB 2456, SJR 50**

Public Education - **SB 197, SB 199, SB 1344, SB 2270**

Transportation - **SB 348, SB 520, SB 855, SB 898, SB 1264, SB 1992**

Urban Affairs - **SB 585, SB 1474, SB 1619, SB 1876, SB 1896**

ENGROSSED

May 15 - HB 2224, HB 55

May 17 - HB 141, HB 148, HB 206, HB 279, HB 358, HB 425, HB 451, HB 464, HB 466, HB 489, HB 507, HB 518, HB 534, HB 662, HB 732, HB 801, HB 836, HB 856, HB 1055, HB 1209, HB 1221, HB 1283, HB 1295, HB 1299, HB 1306, HB 1326, HB 1343, HB 1396, HB 1527, HB 1581, HB 1596, HB 1599, HB 1665, HB 1686, HB 1720, HB 1937, HB 1946, HB 1976, HB 2012, HB 2035, HB 2038, HB 2053, HB 2128, HB 2142, HB 2163, HB 2190, HB 2223, HB 2232, HB 2245, HB 2466, HB 2668, HB 2690, HB 2708, HB 2826, HB 2828, HB 2839, HB 2884, HB 2962, HB 3002, HB 3069, HB 3086, HB 3112, HB 3201, HB 3206, HB 3222, HB 3223, HB 3335, HB 3419, HB 3445, HB 3489, HB 3669, HB 3676, HB 3804, HB 3875, HB 4281, HB 4438, HB 4446, HB 4560, HB 4562, HB 4685, HB 4698, HB 4704, HB 4715, HB 4724, HB 4741, HB 4751, HB 4771, HB 4778, HB 4783, HB 4785, HB 4799, HB 4800, HB 4803, HB 4808, HB 4812, HB 4814, HB 4815, HB 4818, HB 4829, HB 4831

ENROLLED

May 15 - HB 415, HB 703, HB 704, HB 1510, HB 1622, HB 1923, HB 1990, HB 2020, HB 2071, HB 2569, HB 3661, HB 3765, HCR 204

SENT TO THE GOVERNOR

May 15 - HB 415, HB 703, HB 704, HB 1510, HB 1622, HB 1923, HB 1990, HB 2020, HB 2071, HB 2569, HB 3661, HB 3765, HCR 204